# TABLE OF CONTENTS

December 02, 2002 Volume 26, Issue 48

## PROPOSED RULES

**ILLINOIS COMMERCE COMMISSION**  
Standards for Customer-Provided Inside Wiring (CPIW) (General Order 216)  
83 Ill. Adm. Code 740 Repealer ........................................16995

**CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF**  
Merit and Fitness  
80 Ill. Adm. Code 302 ......................................................17007

**INSURANCE, DEPARTMENT OF**  
Annual Audited Financial Report  
50 Ill. Adm. Code 925 ......................................................17016

**NUCLEAR SAFETY, DEPARTMENT OF**  
Standards for Protection Against Radiation  
32 Ill. Adm. Code 340 ......................................................17032

**POLLUTION CONTROL BOARD**  
General Rules  
35 Ill. Adm. Code 101 ......................................................17034
Regulatory and Informational Hearings and Proceedings  
35 Ill. Adm. Code 102 ......................................................17070
Enforcement  
35 Ill. Adm. Code 103 ......................................................17087
Regulatory Relief Mechanisms  
35 Ill. Adm. Code 104 ......................................................17097
Appeals of Final Decisions of State Agencies  
35 Ill. Adm. Code 105 ......................................................17109
Proceedings Pursuant to Specific Rules or Statutory Provisions  
35 Ill. Adm. Code 106 ......................................................17117
Tax Certifications  
35 Ill. Adm. Code 125 ......................................................17129
Identification and Protection of Trade Secrets and Other  
Non-Disclosable Information  
35 Ill. Adm. Code 130 ......................................................17134

**PUBLIC AID, DEPARTMENT OF**  
Hospital Services  
89 Ill. Adm. Code 148 ......................................................17143

## ADOPTED RULES

**AGRICULTURE, DEPARTMENT OF**  
Land Application Authorization Program  
8 Ill. Adm. Code 258 ......................................................17155

**HUMAN SERVICES, DEPARTMENT OF**  
Temporary Assistance for Needy Families  
89 Ill. Adm. Code 112 ......................................................17182  
General Assistance
89 Ill. Adm. Code 114 ............................................................ 17198

HUMAN RIGHTS, DEPARTMENT OF
Access to Information
2 Ill. Adm. Code 926 ............................................................ 17212

Procedures of the Department of Human Rights
56 Ill. Adm. Code 2520 ............................................................ 17217

PROFESSIONAL REGULATION, DEPARTMENT OF
Nursing and Advanced Practice Nursing Act - Registered Professional Nurse and Licensed Practical Nurse
68 Ill. Adm. Code 1300 ............................................................ 17225

REVENUE, DEPARTMENT OF
Income Tax
86 Ill. Adm. Code 100 ............................................................ 17250

EMERGENCY RULES
NUCLEAR SAFETY, DEPARTMENT OF
Standards for Protection Against Radiation
32 Ill. Adm. Code 340 ............................................................ 17273

PERemptory RULES
CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF
Pay Plan
80 Ill. Adm. Code 310 ............................................................ 17280

NOTICE OF CORRECTIONS TO NOTICE ONLY
DEAF AND HARD OF HEARING COMMISSION, ILLINOIS
Rulemaking, Public Information and Organization
2 Ill. Adm. Code 3300 ............................................................ 17313

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SECOND NOTICES RECEIVED
No Second Notices were received ........................................ 17314

EXECUTIVE ORDERS AND PROCLAMATIONS
PROCLAMATIONS
November 14, 2002, as Diabetes Awareness Day
02 – 581 ........................................................................ 17315
Commendation to the Men and Women of Commonwealth Edison for their Sacrifice and Courage as we recognize their efforts on Veteran’s Day, November 11, 2002
02 – 582 ........................................................................ 17315
October 2002 as Ultrasound Awareness Month
02 – 583 ........................................................................ 17316
November 21-30, 2002, as Family Week
02 – 584 ........................................................................ 17316
October 4-7, 2002, as Annunciation Greek Orthodox Church Days
02 – 585 ........................................................................ 17317
November 2002 as Chronic Obstructive Pulmonary Disease Awareness Month
02 – 586 ........................................................................ 17317
December 7, 2002, as Dr. Robert Gaylen Good Day
02 – 587  ................................................................. 17318
October 31, 2002, as "Trick-Or-Treat for UNICEF" Day
02 – 588  ................................................................. 17318
November 13, 2002, as Postpartum Depression Awareness Day
02 – 589  ................................................................. 17319

ISSUES INDEX  I – 1

Editor’s Notes:

Issue  3 - January  10, 2003:  Data through December  31, 2002 (Annual)
Issue  15 - April  11, 2003:  Data through March  31, 2003 (1st Quarter)
Issue  28 - July  11, 2003:  Data through June  30, 2003 (2nd Quarter)
Issue  41 - October 10, 2003:  Data through September  29, 2003 (3rd Quarter)
Issue  2 - January  9, 2004:  Data through December  29, 2003 (Annual)

If I may draw your attention to:

1 Ill. Adm. Code 100.130 Illinois Administrative Code Organization

b)4)  When a Part is repealed, the Index Department will enter that Part into a Table of Repealed Parts that will be published along with other supplementary materials to the Code (indexes, etc.). For two years after the date of a Part's repeal, the headings and Main Source Note will be maintained at that Part's location within the body of the Code. After two years, the headings and Main Source Note will be removed from the body of the Code.

1 Ill. Adm. Code 100.500 Requirements for Filing

b)  Rules to be placed on file shall be titled ILLINOIS ADMINISTRATIVE CODE preceded by the appropriate Chapter number followed by the General Act number, centered on a solid line exactly one inch from the top of the page. The acronym for the State agency shall appear at the far left on the header line. On the right hand side of the solid line shall be the appropriate Part or Section number. Each Section shall begin on a new page.
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. The Register will also contain the Cumulative Index and Sections Affected Indices will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are the end of March, June, Sept, Dec.

Rulemaking activity consist of proposed or adopted new rules; amendments to or repeaters 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 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’

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

2002 REGISTER SCHEDULE VOLUME # 26

<table>
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<th>Copy Due by 4:30 pm</th>
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<td>Issue 1</td>
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<td>January 04, 2002</td>
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<td>September 09, 2002</td>
<td>September 20, 2002</td>
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<td>Issue 5</td>
<td>January 22, 2002</td>
<td>February 01, 2002</td>
<td>Issue 42</td>
<td>October 07, 2002</td>
<td>October 18, 2002</td>
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<td>January 28, 2002</td>
<td>February 08, 2002</td>
<td>Issue 43</td>
<td>October 14, 2002</td>
<td>October 25, 2002</td>
</tr>
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<td>February 15, 2002</td>
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<td>November 01, 2002</td>
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<td>November 12, 2002</td>
<td>November 22, 2002</td>
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<td></td>
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<td>March 29, 2002</td>
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<td>December 13, 2002</td>
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<td>April 05, 2002</td>
<td>Issue 51</td>
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<td>Issue 15</td>
<td>April 01, 2002</td>
<td>April 12, 2002</td>
<td>Issue 52</td>
<td>December 16, 2002</td>
<td>December 27, 2002</td>
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<td>April 29, 2002</td>
<td>May 10, 2002</td>
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<td>May 06, 2002</td>
<td>May 17, 2002</td>
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<td>May 20, 2002</td>
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<td>June 17, 2002</td>
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<td>July 05, 2002</td>
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<td>July 12, 2002</td>
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<td>July 22, 2002</td>
<td>August 02, 2002</td>
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<td>Issue 32</td>
<td>July 29, 2002</td>
<td>August 09, 2002</td>
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<td>August 05, 2002</td>
<td>August 16, 2002</td>
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<td>August 26, 2002</td>
<td>September 06, 2002</td>
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<td>September 02, 2002</td>
<td>September 13, 2002</td>
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Printed by authority of the State of Illinois

July 2001 - 675 - GA - 82
1) **Heading of the Part:** Standards for Customer-Provided Inside Wiring (CPIW) (General Order 216)

2) **Code Citation:** 83 Ill. Adm. Code 740

3) **Section Numbers:**
   - 740.10 Repeal
   - 740.15 Repeal
   - 740.20 Repeal
   - 740.30 Repeal
   - 740.40 Repeal
   - 740.50 Repeal
   - 740.60 Repeal
   - 740.70 Repeal
   - TABLE A Repeal
   - TABLE B Repeal
   - TABLE C Repeal

4) **Statutory Authority:** Implementing Section 8-501 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/8-501 and 10-101]

5) **A Complete Description of the Subjects and Issues Involved:** In 1983, the Commission adopted 83 Ill. Adm. Code 740, "Standards for Customer-Provided Inside Wiring (CPIW)". These rules set forth minimum technical, material and quality of work standards applicable to the provision of inside wiring for connection to basic telephone exchange service.

   On September 30, 1987, in the Third Interim Order in Docket 86-0278, Commission ordered Illinois local exchange carriers to detariff installation and maintenance of simple and complex inside wiring and transfer any inventories and/or assets and applicable reserves solely dedicated to those operations to the account for non-regulated investments. The action of the Commission is consistent with the policy of the Federal Communications Commission, which detariffed the installation and maintenance of inside wiring in CC Docket Nos. 79-105 and 82-681.

   With the detariffing of customer-provided inside wiring, it is appropriate to repeal these rules.

6) **Will this proposed repealer replace an emergency repealer currently in effect?** No
ILLINOIS COMMERCE COMMISSION
NOTICE OF PROPOSED REPEALER

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

8) Does this proposed repealer contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objective: This proposed repealer neither creates nor expands any State mandate on units of local government, school districts, or community college districts.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the Illinois Register in Docket 02-0730, with:

   Donna M. Caton
   Chief Clerk
   Illinois Commerce Commission
   527 East Capitol Avenue
   Springfield IL  62701
   (217)782-7434

12) Initial Regulatory Flexibility Analysis:

   A) Types of small businesses, small municipalities and not for profit corporations affected: This repealer will not affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This repealer will not affect any small municipalities or not for profit corporations.

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

   C) Types of professional skills necessary for compliance: None

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

The full text of the Proposed Repealer begins on the next page:
NOTICE OF PROPOSED REPEALER

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 740
STANDARDS FOR CUSTOMER-PROVIDED INSIDE WIRING (CPIW)
(GENERAL ORDER 216) (REPEALED)

Section 740.10  Scope and Application
a) This Part sets forth minimum technical, material and quality of work standards applicable to the provision of inside wiring for connection to basic telephone exchange service. For basic telephone exchange service, wiring must be used only with Federal Communications Commission (FCC) registered or grandfathered non-button and/or single button telephone sets and associated ancillary devices. The FCC registration identification is prominently located on the telephone set.
b) The standards set forth in this Part are subject to change as FCC policy, legislative or technological methods evolve.
c) Customer-provided inside wiring must comply with applicable national, state or
ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED REPEALER

local building and electrical codes. Article 800, entitled "Communication Circuits", of the National Electrical Code is also hereby incorporated by reference and must be complied with in those areas where no other local building or electrical code exists. Copies of the National Electrical Code may be obtained from the Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, New York 10017.

d) This standard recognizes that telephone companies may have varying transmission and installation requirements that must be met.

e) All reference to customer-provided inside wiring within this Part shall mean wiring within the same building structure. Where wiring facilities are to be extended to other structures, the customer should contact the local telephone company for protection requirements to insure the extension of facilities meets industry standards for customer protection.

f) The specifications contained in this Part apply to customer-provided inside wiring on individual line basic telephone exchange service. For party-line service, contact the local telephone company for detail connection instruction.

g) The adoption of these standards shall in no way preclude the Commission from altering or amending them, in whole or in part, or from requiring or authorizing rules containing other provisions whenever it shall be deemed in the public interest to do so.

WARNING: Telephone wire can conduct electricity; therefore, caution should be exercised to avoid contact. (See Cautions, Section 740.30(d).)

Section 740.15 Citation to the Code of Federal Regulations

Adoption by reference of standards listed in the Code of Federal Regulations (CFR) refers to the edition of the Code as of October 1, 1983. This Part does not adopt any later amendments or editions.

Section 740.20 Material Information

a) Wire

1) The wire should be of a type commercially available and identified as telephone wire.

2) The wire should contain no fewer than 4 conductors, each of which has insulation in an industry standard color coding format.

3) Two-pair wire shall be twisted in a 4-conductor spiral or as two twisted pairs to form the cable. Three-pair or larger wire shall have the conductors twisted together to form pairs and then grouped together to
ILLINOIS COMMERCe COMMISSION

NOTICE OF PROPOSED REPEALER

form the cable.
4) The cable shall be covered with a jacket of polyvinylchloride or a functionally equivalent compound which has a 1500 volt Root Mean Square minimum breakdown rating.
5) Each conductor shall be solid annealed copper individually insulated with distinctly colored high density polyethylene or functionally equivalent compound. Wire gauge shall be no less than 24 and no greater than 22.

b) Jacks and Plugs
All jacks and plugs used in conjunction with customer inside wire must comply with 47 CFR 31.

c) Mounting Devices and Spacing Intervals
Mounting devices of a type to maintain the integrity of the wire insulation should be used to secure the wire at intervals frequent enough to protect the wire from external damage. Typical fasteners and spacing intervals between fasteners are shown in Table A.

d) Special Items and Information
Additional information on wiring or equipment can be obtained from the serving telephone company or vendors of telephone equipment.

Section 740.30 Installation Information

a) Demarcation Jack
1) Customer-Provided Inside Wiring (CPIW) shall be connected to the telephone line at the demarcation point by a customer-owned plug which mates with a standard jack (which must comply with Part 68, FCC Rules) provided and maintained by the telephone company. The demarcation point shall remain accessible to both the telephone company and the customer.
2) Newly constructed single-family dwelling demarcation point shall normally be placed within 6 feet of the power company service entrance.
3) Existing single-family dwelling demarcation point shall normally be within 6 feet of the existing telephone company service entrance or at an existing telephone outlet nearest the service entrance. On existing structures, the demarcation jack will be installed as set forth in the rules and regulations of the local telephone company.
4) For multi-family dwellings, including apartments and highrise buildings, the demarcation jack will be located at a point mutually agreeable between the telephone company and the builder, the owner or the owner's representative, in compliance with local or national building codes (new and existing construction). On existing structures, the demarcation jack
ILLINOIS REGISTER 17000 02

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED REPEALER

will be installed as defined by the tariff of the local telephone company.

b) Customer-Provided Jacks and Wire
   1) Customer-provided jacks will be in compliance with Part 68 of the FCC Rules wherever a telephone set is to be connected to the ends of Customer-Provided Inside Wiring. This will provide for easy connection, disconnection and testing of customer-provided telephone equipment and wiring.
   2) Connections between wire and jacks, plugs or connecting blocks should maintain the continuity of the color code (e.g., red wire connected to "R" terminal and on to red wire, green wire connected to "T" terminal and on to green wire, etc.).

c) Wiring Restrictions
   1) Jacks or other connections to Customer-Provided Inside Wiring shall not be placed in outlets or junction boxes containing other electrical wiring.
   2) Customer-Provided Inside Wiring shall not be placed in the same pipe, conduit or compartment containing other electrical wiring.
   3) Wiring between buildings and/or different building areas is not covered by these standards. For wiring information between buildings, contact the local telephone company.
   4) Where wiring facilities are to be extended to other building structures, the customer should contact the local telephone company for protection requirements to insure the extension of facilities meets industry standards for customer protection.

d) Cautions
   1) Telephone connections may have a varying electric voltage on the bare conductors and terminal screws. Therefore, customer-provided wiring should not be installed or maintained without first disconnecting inside wiring at the demarcation jack and any other power source.
   2) When installing or testing a low voltage transformer used as a power supply for dial lights, speaker phones, etc., and if such transformer is connected to wiring common to various locations, caution must be observed not to have bodily contact with the electrical outlet prongs of the transformer. Potentially hazardous electrical shock may occur during such contact if another transformer is connected to the same wires at a second location.
   3) When drilling through walls, floors or ceilings to place Customer-Provided Inside Wiring, caution must be observed to avoid contact with concealed hazards such as other electrical wiring, gas pipes, steam pipes, water pipes, etc.
   4) Prior to installing Customer-Provided Inside Wiring in recreational
trailers, mobile homes and metal-sided buildings, caution should be observed to assure that foreign or hazardous voltages are not present on metal siding, framework or other conducting surfaces.

5) Protectors, ground wiring and attachments, placed by the telephone company, shall not be connected to, disturbed, removed or otherwise modified by the customer.

WARNING: Where wiring facilities are to be extended to other building structures, the customer should contact the local telephone company for protection requirements to insure that the extension of facilities meets industry standards for customer protection.

WARNING: Where wiring facilities are to be installed in areas of potential explosions due to dust and fumes (Example—elevator dust, gases, petroleum fumes, etc.), caution should be used. The installation of Customer-Provided Inside Wiring in hazardous locations shall comply with Articles 500 through 516, and Article 517, Section G, of the National Electrical Code, or in accordance with relevant sections of the local building codes having jurisdiction.

Section 740.40 Testing Information

Upon completing a new installation or any changes/additions to the Customer-Provided Inside Wiring, the customer should perform the following operational tests at each newly installed location.

a) Originating Calls
1) A functioning telephone should be plugged into the newly installed jacks.
2) Upon lifting the handset, dial tone should be heard.
3) Upon hearing dial tone, a local telephone number should be dialed. Upon answer by the called party, a normal conversation should be able to be conducted without hearing difficulty by either party.

b) Receiving Calls
1) The customer's telephone number should be called (from another line, such as a friend, neighbor, etc.).
2) When the customer's telephone number is called, every telephone equipped with a ringer should sound.
3) The telephone handset should be lifted and a normal conversation held without hearing difficulty by either party.

c) Testing Failures
If any step of the outlined test procedures cannot be completed with the results indicated, then the integrity of the newly installed Customer-Provided Inside Wiring is questionable. This can be verified by performing the test in (d) below.

d) Trouble Verification
NOTICE OF PROPOSED REPEALER

The Customer-Provided Inside Wiring should be unplugged from the telephone company-provided demarcation jack. The functioning telephone should be plugged into the telephone company-provided demarcation jack and tests (a) and (b) above conducted. If the indicated results, such as dial tone are obtained, then trouble exists in the Customer-Provided Inside Wiring. If the telephone does not operate, contact the local telephone company.

Section 740.50 Responsibility of Customer for Customer-Provided Inside Wiring

The customer will be liable for a "Maintenance of Service" charge when a trouble fault is found by the telephone company to be in the customer-provided wire or equipment. This liability can occur only when the Commission has approved an individual company's charges.

Section 740.60 General – Workmanship

a) General Technical and Safety Considerations

Wiring may only be used to conduct the operating signals, voltage and currents normally found on basic exchange telephone service lines. Premises inside wire must be capable of being exposed to, and conducting without damage, 60 Hz line disturbances. This standard requires that such wire and its associated hardware be designed, installed and maintained so as to operate safely when conducting these signals and disturbances.

b) Limitations

In the event any Customer-Provided Inside Wiring fails to comply with the standards or conditions set forth herein, telephone companies shall not be required to connect to, or maintain, such wiring until the customer achieves compliance.

Section 740.70 Wiring Standards

a) Wire

1) Wire length shall not exceed that necessary to maintain transmission quality, consistent with local company standards. It is recommended that the length of wire from the demarcation point to the farthest jack be limited to 250 feet for 22 AWG gauge wire and 200 feet for 24 AWG gauge wire.

2) Pairs within cables must not be separated. Table B sets forth typical wire types and appropriate color matches which must not be separated.

3) Customer inside wire must be securely fastened to a surface by the appropriate means for the surface encountered without abrading or puncturing the insulation or jacket.
4) A minimum amount of jacket or insulation should be removed to make connection. Where necessary, tape or other insulating closures should be used to restore the insulating qualities of the original material.

5) Care should be taken to avoid damage or abrasions to the insulating jacket and individual insulation of each conductor so that adequate physical and electrical protection is retained.

6) If any point where the jacket or insulation has been removed is concealed, it should be accessible without disturbing permanent building finishes.

b) Wire Routing

1) The requirements set forth in Article 800 of the National Electrical Code, entitled "Communication Circuits", and other sections of the Code incorporated therein by reference shall be followed.

2) Wire shall be installed so as to assure adequate insulation of telephone wiring from commercial power wiring and grounded surfaces. All building and electrical codes applicable in the jurisdiction to telephone wiring shall be followed. Care should be taken to avoid damage to the insulating jacket and the individual insulation of each conductor so that adequate physical and electrical protection is retained.

3) Whenever conduit is available or is required by applicable codes, it should be used. However, telephone wiring shall never occupy the same conduit with wires of light or power systems.

4) Judgment should be used in placing wire to avoid surroundings that would be damaging, such as excessively damp or hot locations or areas that could cause abrasions or corrosion.

c) Wire Separations

Minimum separations are required in or on buildings, between telephone wiring and other conductors or metallic objects. The wiring separations are required for wires that cross or are parallel to other types of wires. These separation specifications can be found in Table C.
NOTICE OF PROPOSED REPEALER

Section 740. TABLE A  Typical Fasteners and Spacing Intervals

<table>
<thead>
<tr>
<th>FASTENERS</th>
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<td>2 through 8*</td>
</tr>
<tr>
<td>Drive Rings**</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* When changing direction of the wire, the fasteners should be spaced to hold the wire at approximately a 45-degree angle in order to avoid damage to the wire.

** To avoid possible injury, do not use drive rings below a 6-foot clearance level; use bridle rings instead.
### Section 740. TABLE B  Typical Wire Types

<table>
<thead>
<tr>
<th>TYPE OF WIRE</th>
<th>PAIR NO.</th>
<th>COLOR OF WIRE</th>
</tr>
</thead>
<tbody>
<tr>
<td>2-Pair</td>
<td>1</td>
<td>Green</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Black</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Red</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yellow</td>
</tr>
<tr>
<td>3-Pair</td>
<td>1</td>
<td>White/Blue</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>White/Orange</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>White/Green</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Blue/White</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Orange/White</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Green/White</td>
</tr>
<tr>
<td>3-Pair</td>
<td>1</td>
<td>Green</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Black</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>White</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Red</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yellow</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Blue</td>
</tr>
</tbody>
</table>

When two colors are listed above, it means the wire has a majority of the first color listed.

EXAMPLE: White/Blue wire is white in color with thin blue tracer.
Section 740.TABLE C  Recommended Separation and Physical Protection for Premises Wiring

Separations apply to crossing and to parallel runs (minimum separations). Minimum separations between telephone wiring, whether located inside or attached to the outside of buildings, and other types of wiring involved are as follows:

<table>
<thead>
<tr>
<th>TYPE OF WIRE INVOLVED</th>
<th>MINIMUM SEPARATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electric Supply</td>
<td></td>
</tr>
<tr>
<td>Bare light or power wire of any voltage</td>
<td>5 ft.</td>
</tr>
<tr>
<td>Wiring not in conduit and not over 300 volts</td>
<td>2 in.</td>
</tr>
<tr>
<td>Wires in conduit, or in armored or non-metallic sheath cable, or power ground wires</td>
<td>None</td>
</tr>
<tr>
<td>Radio &amp; Television</td>
<td></td>
</tr>
<tr>
<td>Antenna lead and ground wires</td>
<td>4 in.</td>
</tr>
<tr>
<td>Signal or Control Wires</td>
<td></td>
</tr>
<tr>
<td>Open wiring or wires in conduit or cable</td>
<td>None</td>
</tr>
<tr>
<td>Communication Wires</td>
<td></td>
</tr>
<tr>
<td>Community television systems coaxial cables with grounded shielding</td>
<td>None</td>
</tr>
<tr>
<td>Telephone Drop Wire</td>
<td></td>
</tr>
<tr>
<td>Aerial or buried</td>
<td>2 in.</td>
</tr>
<tr>
<td>Sign</td>
<td></td>
</tr>
<tr>
<td>Neon signs and associated wiring from transformer</td>
<td>6 in.</td>
</tr>
<tr>
<td>Lightning System</td>
<td></td>
</tr>
<tr>
<td>Lightning rods and wires*</td>
<td>6 ft.</td>
</tr>
</tbody>
</table>

* The six-foot minimum separation applies although the lightning rod wire is on the outside of the building and the telephone wire is inside the building. See note at the top of the table.
NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Merit and Fitness

2) Code Citation: 80 Ill Adm. Code 302

3) Section Numbers: Proposed Action:
   302.300 Amendment
   302.820 Amendment

4) Statutory Authority: Implementing and authorized by the Personnel Code [20 ILCS 415]

5) A Complete Description of the Subjects and Issues Involved: On October 15, 2002, the Department adopted changes in the Personnel Rules which were designed to provide greater flexibility and efficiency in filling Rutan exempt term appointments and in transferring certain qualified individuals with two years’ State experience into Personnel Code positions. In part, this flexibility was intended to address specific needs that arose because of increased vacancies due to the early retirement legislation. The Joint Committee on Administrative Rules filed an objection to this rulemaking based, in part, on its belief that the Department had failed to adequately justify why these changes, which were long term measures, were intended to address what appeared to be short term needs. The Department did not agree with JCAR’s objection, and the rule was adopted. While the Department still does not agree with all of the stated reasons for JCAR’s objection, upon further consideration, the Department believes there may be merit to the concern expressed about a long term change addressing a short term need. To address this concern, the Department is proposing to amend the rule by limiting the application of the recently enacted flexible procedures to the period October 15, 2002, through April 30, 2003. This change will allow the new administration to take advantage of the flexible procedures until April 30, 2003; this is the last date on which individuals who opted for early retirement can remain on the payroll.

6) Will these amendments replace any emergency rulemaking currently in effect? No

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

8) Do these amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objective: Rulemaking does not affect units of local government.
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days of the date of publication to:

Ben Bagby
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield IL  62706
217/782-9669

12) 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

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: The need for the rulemaking did not come to the Department’s attention until after the timeframe in which a regulatory agenda was to be filed.

14) The full text of the Proposed Amendments begin on the next page.
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 302
MERIT AND FITNESS

SUBPART A: APPLICATION AND EXAMINATION

<table>
<thead>
<tr>
<th>Section</th>
<th>Examinations</th>
</tr>
</thead>
<tbody>
<tr>
<td>302.10</td>
<td></td>
</tr>
<tr>
<td>302.20</td>
<td>Time, Place, Conduct, Cancellation, Postponement and Suspension of Examinations</td>
</tr>
<tr>
<td>302.30</td>
<td>Veterans Preference</td>
</tr>
<tr>
<td>302.40</td>
<td>Announcement of Examination</td>
</tr>
<tr>
<td>302.52</td>
<td>Notice to Eligibles</td>
</tr>
<tr>
<td>302.55</td>
<td>Grading Examinations</td>
</tr>
<tr>
<td>302.60</td>
<td>Retaking or Regarding Examinations</td>
</tr>
<tr>
<td>302.70</td>
<td>Application and Eligibility</td>
</tr>
</tbody>
</table>

SUBPART B: APPOINTMENT AND SELECTION

<table>
<thead>
<tr>
<th>Section</th>
<th>Eligible Lists</th>
</tr>
</thead>
<tbody>
<tr>
<td>302.80</td>
<td></td>
</tr>
<tr>
<td>302.90</td>
<td>Appointments</td>
</tr>
<tr>
<td>302.91</td>
<td>Alternative Employment</td>
</tr>
<tr>
<td>302.100</td>
<td>Geographic Preference</td>
</tr>
<tr>
<td>302.105</td>
<td>Pre-Employment Screening</td>
</tr>
<tr>
<td>302.110</td>
<td>Appointment From Eligible List</td>
</tr>
<tr>
<td>302.120</td>
<td>Responsibilities of Eligibles</td>
</tr>
<tr>
<td>302.130</td>
<td>Removal of Names From Eligible Lists</td>
</tr>
<tr>
<td>302.140</td>
<td>Replacement of Names on Eligible List</td>
</tr>
<tr>
<td>302.150</td>
<td>Appointment and Status</td>
</tr>
<tr>
<td>302.160</td>
<td>Extension of Jurisdiction B</td>
</tr>
</tbody>
</table>

SUBPART C: TRAINEES

<table>
<thead>
<tr>
<th>Section</th>
<th>Programs</th>
</tr>
</thead>
<tbody>
<tr>
<td>302.170</td>
<td></td>
</tr>
</tbody>
</table>
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

302.175 Appointments
302.180 Limitations on Trainee Appointments

SUBPART D: CONTINUOUS SERVICE

Section
302.190 Definitions
302.200 Interruptions In Continuous Service
302.210 Deductions From Continuous Service
302.215 Leave of Absence for Educational Purposes
302.220 Veterans Continuous Service
302.230 Peace or Job Corps Enrollees Continuous Service
302.240 Accrual and Retention of Continuous Service During Certain Leaves
302.250 Limitations on Continuous Service

SUBPART E: PERFORMANCE REVIEW

Section
302.260 Performance Records
302.270 Performance Evaluation Forms

SUBPART F: PROBATIONARY STATUS

Section
302.300 Probationary Period
302.310 Certified Status
302.320 Status Change in Probationary Period
302.325 Intermittent Status

SUBPART G: PROMOTIONS

Section
302.330 Eligibility for Promotion
302.335 Limitations On Promotions
302.340 Failure to Complete Probationary Period

SUBPART H: EMPLOYEE TRANSFERS

Section
302.400 Transfer
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

302.410 Intra-Agency Transfer
302.420 Inter-Agency Transfer
302.425 Merit System Transfer
302.430 Geographical Transfer (Agency Directed)
302.431 Geographical Transfer (Agency Directed) Procedures
302.432 Notice To Employee
302.433 Effective Date of Geographical Transfer (Agency Directed)
302.435 Employee-Requested Geographical Transfer
302.440 Rights of Transferred Employees
302.445 Transfer of Duties
302.450 Limitations on Transfers
302.460 Employee Records

SUBPART I: DEMOTION

Section
302.470 Demotion
302.480 Notice to Employee
302.490 Employee Obligations
302.495 Salary and Other Benefits of Employee
302.496 Appeal by Certified Employee
302.497 Demotion of Other Employees
302.498 Status of Demoted Employees

SUBPART J: VOLUNTARY REDUCTION AND LAYOFFS

Section
302.500 Voluntary Reduction of Certified and Probationary Employees
302.505 Limitations in Voluntary Reduction
302.507 Definition of Layoff
302.510 Temporary Layoff
302.512 Use of Accrued Benefits During Temporary Layoff
302.514 Notice of Temporary Layoff
302.516 Return from Temporary Layoff
302.518 Scheduling for Temporary Layoffs
302.519 Deferral of Wages
302.520 Indeterminate Layoff Procedure
302.523 Voluntary Indeterminate Layoff
302.525 Disapproval
302.530 Order of Layoff
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

302.540 Effective Date of Layoff
302.550 Employee Opportunity to Seek Voluntary Reduction
302.560 Order of Preference in Voluntary Reduction
302.570 Reemployment Lists
302.580 Employment From Reemployment List
302.590 Removal of Names From Reemployment List
302.595 Laid Off Probationary Employee
302.596 Appeal by Employee
302.597 Reinstatement from Layoff
302.600 Resignation
302.610 Reinstatement

SUBPART K: DISCHARGE AND DISCIPLINE

Section
302.625 Definition of Certified Employee
302.626 Progressive Corrective Discipline
302.628 Prohibited Disciplinary Action
302.630 Disciplinary Action Warning Notice
302.640 Suspension Totaling Not More Than Thirty Days in any Twelve Month Period
302.660 Suspension Totaling More than Thirty Days in any Twelve Month Period
302.670 Approval of Director of Central Management Services
302.680 Notice to Employee
302.690 Employee Obligations
302.700 Cause for Discharge
302.705 Pre-Termination Hearing
302.710 Suspension Pending Decision on Discharge
302.720 Discharge of Certified Employee
302.730 Notice to Employee
302.750 Appeal by Employee
302.780 Discharge of Probationary Employees
302.781 Reinstatement from Suspension or Discharge
302.785 Suspension Resulting From Arrest or Criminal Indictment/Suspension Pending Judicial Verdict
302.790 Prohibition of Discrimination

SUBPART L: TERM APPOINTMENTS

Section
302.800 Definition of Terms
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

302.810 Positions Subject to Term Appointments
302.820 Appointment
302.821 Effect of Loss of Federal Funding on Employees Excluded from Term Appointment by Reason of Being Federally Funded (Repealed)
302.822 Appointees Under Term Appointments
302.823 No Promotion to Positions Covered by Term Appointments (Repealed)
302.824 No Reallocation to Term Positions
302.825 Reemployment Rights to Term Appointment
302.830 Expiration of Term Appointment
302.840 Renewal Procedures
302.841 Renewal Procedures for Incumbents on the Effective Date of Section 8b18 of the Personnel Code (Repealed)
302.842 Effective Date of Reappointment or Termination (Repealed)
302.846 Change in Position Factors Affecting Term Appointment Exclusion
302.850 Reconsideration Request
302.860 Renewal Procedure for Incumbents Subject to Public Act 83-1369
302.863 Renewal of Certified or Probationary Incumbents in Exempted Positions

AUTHORITY: Implementing and authorized by the Personnel Code [20 ILCS 415].

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS


SUBPART F: PROBATIONARY STATUS

Section 302.300  Probationary Period

a) A probationary period of six months shall be served by:
   1) an employee who enters State service or commences a new period of
      continuous service, except an employee who is reinstated as provided
      under Section 302.610;
   2) an employee who is appointed from an open competitive eligible list,
      whether or not it be considered an advancement in rank or grade.

b) A probationary period of four months shall be served by any employee who is
   promoted pursuant to Subpart G or reinstated on or after January 1, 1999,
   pursuant to Section 302.610. Employees reinstated prior to January 1, 1999 shall
   serve a six month probationary period.

c) An employee who has been appointed to a position subject to Jurisdiction B of the
   Personnel Code and who, immediately prior to the appointment, has served the
   State as a full time employee, continuously, for a minimum of 2 years in a
   position not subject to Jurisdiction B, shall serve a probationary period of 30 days.
   This subsection (c) shall apply only to appointments made from October 15, 2002,
   through April 30, 2003.

d) An employee transferred during the probationary period shall serve that portion of
   the probationary period which was not completed at the time of such transfer.

e) A probationary period shall not be deemed to be continued by the payment of any
   sum for vacation or other benefits accrued during such probationary period.

f) If an employee is absent from work for more than 15 consecutive calendar days
   during the probationary period because of leave of absence, disciplinary
   suspension, sick leave, unauthorized absence, or work related injury or industrial
   disease, such absence shall serve to extend the probationary period by the length
   of the absence.

(Source:  Amended at 27 Ill. Reg. ______, effective ____________)

SUBPART L: TERM APPOINTMENTS

Section 302.820  Appointment
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

a) For appointments made from October 15, 2002, through April 30, 2003, an appointee to a position subject to Term Appointment for which the individual is qualified and which position is determined by the Director of Central Management Services to be exempt from the requirements of the United States Supreme Court decision in Rutan, et al. v. Republican Party of Illinois, et al., 497 U.S. 62 (1990), shall be selected by the Director or Chairman of the Department, Board or Commission in which the position is located. For appointments made to such a position prior to October 15, 2002, or subsequent to April 30, 2003, and for appointments made to all other positions subject to Term Appointment, an appointee shall be selected by the Director or Chairman of the Department, Board or Commission in which the position is located from the appropriate open competitive or competitive promotional eligible list. Such appointments shall be made for a four year term commencing on the date of the appointment.

b) All appointments to and renewals in term positions made before the effective date of P.A. 85-1152, effective July 29, 1988, amending the Personnel Code are ratified and confirmed.

(Source: Amended at 26 Ill. Reg. _____, effective ____________)
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part**: Annual Audited Financial Report

2) **Code Citation**: 50 Ill. Adm. Code 925

3) **Section Numbers**

<table>
<thead>
<tr>
<th>Section Numbers</th>
<th>Proposed Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>925.10</td>
<td>Repeal</td>
</tr>
<tr>
<td>925.30</td>
<td>Amendment</td>
</tr>
<tr>
<td>925.40</td>
<td>Amendment</td>
</tr>
<tr>
<td>925.50</td>
<td>Amendment</td>
</tr>
<tr>
<td>925.60</td>
<td>Amendment</td>
</tr>
<tr>
<td>925.70</td>
<td>Amendment</td>
</tr>
<tr>
<td>925.80</td>
<td>Amendment</td>
</tr>
<tr>
<td>925.100</td>
<td>Amendment</td>
</tr>
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<td>925.110</td>
<td>Amendment</td>
</tr>
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<td>925.115</td>
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<td>925.120</td>
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<td>925.140</td>
<td>Amendment</td>
</tr>
<tr>
<td>925.145</td>
<td>New Section</td>
</tr>
<tr>
<td>Exhibit A</td>
<td>New Section</td>
</tr>
</tbody>
</table>


5) **A Complete Description of the Subjects and Issues Involved**: The Department is initiating these amendments in order to bring our State requirements concerning annual audited financial reports in line with the National Association of Insurance Commissioners (NAIC) model regulation. New Sections add penalty provisions and requirements for a CPA Letter of Representation confirming that all applicable audit workpapers have been provided to Department examiners.

6) **Will these proposed amendments replace any emergency amendments currently in effect?** No

7) **Do these amendments contain an automatic repeal date?** No
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

8) Do these proposed amendments contain incorporations by reference? Yes. Section 925.100(d) contains an incorporation by reference, but the materials referenced are only being updated, they are not new.

9) Are there any other proposed amendments pending on this Part? No

10) 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.

11) 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:

   Eve Blackwell-Lewis       Susan Anders
   Staff Attorney           Paralegal
   Department of Insurance  Department of Insurance
   320 West Washington       320 West Washington
   (217) 524-1634            (217) 785-8220

12) Initial Regulatory Flexibility Analysis:

   A) Types of small businesses, small municipalities and not for profit corporations affected: No small businesses, small municipalities or not for profit corporations will be affected by these amendments.

   B) Reporting, bookkeeping or other procedures required for compliance: No new requirements have been initiated.

   C) Types of professional skills necessary for compliance: Accounting

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Department did not anticipate the need to initiate these changes.

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

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER I: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 925
ANNUAL AUDITED FINANCIAL REPORT

Section
925.10 Authority (Repealed)
925.20 Purpose and Scope
925.30 Definitions
925.40 Filing and Extensions for Filing of Annual Audited Financial Reports
925.50 Contents of Annual Audited Financial Report
925.60 Designation of Accountant
925.70 Qualifications of Accountant
925.80 Consolidated or Combined Audits
925.90 Scope of Audit and Report of Accountant
925.100 Notification of Adverse Financial Condition
925.110 Report on Internal Control
925.115 Accountant's Letter of Qualifications
925.120 Definition, Availability and Maintenance of Accountant Workpapers
925.130 Examinations (Repealed)
925.140 Exemptions
925.145 Penalties
925.150 Severability Provision

EXHIBIT A CPA Letter of Representation


Section 925.10 Authority (Repealed)
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS


(Source: Repealed at 27 Ill. Reg. _______, effective ____________)

Section 925.30 Definitions

"Accountant" means an independent certified public accountant or independent accounting firm in good standing with the American Institute of Certified Public Accountants CPAs and all states in which the accountant is licensed to practice. For Canadian and British companies, accountant means a Canadian-chartered or British-chartered accountant generally referred to hereinafter as accountant.

"Annual Audited Financial Report" means and includes those items specified in Section 925.50 of this Part.

"Code" means the Illinois Insurance Code [215 ILCS 5].

"Director" means the Director of the Illinois Department of Insurance.

"Indemnification" means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from known or other misrepresentations made by the insurer or its representatives.

"Independent" for purposes of this Part means an accountant who is not affiliated with an insurer.

"Insurer" for purposes of this Part means a licensed insurer or accredited reinsurer as defined in Sections 2(f), (g) and (h) and 173.1 of the Illinois Insurance Code [215 ILCS 5/2(f), (g) and (h) and 173.1] or a Health Maintenance Organization as defined in Section 1-2(9) of the Health Maintenance Organization Act [215 ILCS 125/1-2(9)] or a Limited Health Service Organization as defined in Section 1002 of the Limited Health Service Organization Act [215 ILCS 130/1002].

(Source: Amended at 27 Ill. Reg. _______, effective ____________
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 925.40 Filing and Extensions for Filing of Annual Audited Financial Reports

a) All insurers shall have an annual audit performed by an accountant and shall file an annual audited financial report with the Director on or before June 1 for the year ended December 31 immediately preceding. The Director may require an insurer to file an annual audited financial report earlier than June 1 with ninety (90) days advance notice to the insurer.

b) Extensions of the June 1 filing date may be granted by the Director for thirty (30) day periods upon a showing by the insurer and its accountant of the reasons for requesting such extension and a determination by the Director of good cause for an extension. Examples of "good cause" include, but are not limited to, an Act of God or fortuitous or unintentional destruction of documents. The request for extension must be submitted in writing not less than ten (10) days prior to the due date and must provide in sufficient detail to permit the Director to make an informed decision with respect to the requested extension.

(Source: Amended at 27 Ill. Reg. _____, effective ____________)

Section 925.50 Contents of Annual Audited Financial Report

a) The annual audited financial report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for the report year in conformity with statutory accounting practices for preparation of the annual statement as described in Section 136 of the Illinois Insurance Code, Section 2-7 of the Health Maintenance Organization Act, Section 2007 of the Limited Health Service Organization Act, or as otherwise permitted by the insurance regulatory authority of the insurer's state of domicile.

b) The annual audited financial report shall include the following:

1) Report opinion of the accountant.
2) Balance sheet reporting admitted assets, liabilities, capital and surplus or net worth.
3) Statement of operations or statement of revenues and expenses and net worth.
4) Statement of cash flows.
5) Statement of changes in capital and surplus or net worth.
6) Notes to financial statements. These notes shall be those required by the appropriate NAIC Annual Statement Instructions and the NAIC...
NOTICE OF PROPOSED AMENDMENTS

Accounting Practices and Procedures Manual, pursuant to Section 136(1) of the Code, Section 2-7(a) of the Health Maintenance Organization Act and Section 2007(a) of the Limited Health Service Organization Act, any other notes required by generally accepted accounting principles and shall also include:

A) The notes shall include a reconciliation with a written description of differences, if any, between the annual audited financial report Annual Audited Financial Report and the annual statement Annual Statement filed pursuant to Section 136 of the Illinois Insurance Code, Section 2-7 of the Health Maintenance Organization Act, or Section 2007 of the Limited Health Service Organization Act with a written description of the nature of these differences.

B) a summary of ownership and relationships of the insurer and all affiliated companies.

7) The financial statements included in the annual audited financial report Annual Audited Financial Report shall be prepared in a format and using language and groupings substantially the same as the relevant sections of the annual statement Annual Statement of the insurer filed with the Director and:

A) The financial statements shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. (However, in the first year in which an insurer is required to file an annual audited financial report Annual Audited Financial Report, the comparative data may be omitted.)

B) Amounts may be rounded to the nearest thousand dollars.

8) Supplementary Data and Information. This shall include any additional clarifying information or data which the Director may require to be disclosed.

9) In the case of Canadian and British insurers, the annual audited financial report Annual Audited Financial Report shall be defined as the annual statement of total business on the form filed by such companies with their domiciliary supervision authority duly audited by an independent chartered accountant. For such insurers, the letter required by Section 925.60 of this Part shall state that the accountant is aware of the requirements relating to the Annual Audited Financial Report filed with the Director pursuant to Section 925.40 and shall affirm that the opinion expressed is in conformity with such requirements.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 925.60 Designation of Accountant

a) Each insurer required by this Part to file an annual audited financial report must, within sixty (60) days after becoming subject to such requirement, register with the Director in writing the name and address of the accountant retained to conduct the annual audit set forth in this Part. Insurers not retaining an accountant on the effective date of this Part shall register the name and address of their retained accountant not less than six (6) months before the date when the first audited financial report is to be filed.

b) If an accountant, who was not the accountant for the immediately preceding filed annual audited financial report, is engaged to audit the insurer's financial statements, the insurer shall within thirty (30) days after the date the accountant is engaged notify the Director of this event. The insurer shall obtain a letter from the accountant and file a copy with the Director stating that the accountant is aware of the provisions of the Illinois Insurance Code and/or Health Maintenance Organization Act and/or the Limited Health Service Organization Act and the Rules and Regulations of the insurance regulatory authority of the state of domicile that relate to accounting and financial matters and affirming that the accountant will express its opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that insurance regulatory authority, specifying such exceptions as the accountant may believe appropriate.

c) If an accountant who was the accountant for the immediately preceding filed annual audited financial report is dismissed or resigns, the insurer shall within five (5) business days notify the Director of this event. The insurer shall also furnish the Director with a separate letter within ten (10) business days after the above notification stating whether in the twenty-four (24) months preceding such event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused the accountant to make reference to the subject matter of the disagreement in connection with its report. The disagreements required to be reported in response to this subsection include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this subsection are those that occur at the decisionmaking level, between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering the accountant's report. The insurer shall also in
NOTICE OF PROPOSED AMENDMENTS

writing request such former accountant to furnish it a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for which the accountant does not agree; and the insurer shall furnish such responsive letter from the former accountant to the Director together with its own.

(Source: Amended at 27 Ill. Reg. _______, effective ____________)

Section 925.70 Qualifications of Accountant

a) The Director shall not recognize any person or firm as a qualified accountant if the person or firm:

1) Is not in good standing with the American Institute of Certified Public Accountants (CPA's) and in all states in which the accountant is licensed to practice or, for a Canadian or British company, that is not a chartered accountant;

2) Has either directly or indirectly entered into an agreement of indemnity or release from liability (collectively referred to as indemnification) with respect to the audit of the insurer; or

3) Has repeatedly failed to timely comply with the written requests of the Director's examiners for copies of the workpapers as required pursuant to Sections 925.115 and 925.120 of this Part.

b) Except as otherwise provided in this Section, the Director shall recognize an accountant as qualified as long as the accountant conforms to the standards of the profession, as contained in the Code of Professional Ethics of the American Institute of Certified Public Accountants and Rules and Regulations and Code of Ethics and Rules of Professional Conduct of the Illinois Board of Public Accountancy, or similar code.

c) A qualified accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under Article XIII½ of the Code [215 ILCS 5/Art. XIII½], the mediation or arbitration provisions shall operate at the option of the statutory successor.

d) The requirements of this subsection (d)(c) shall become effective for years beginning after December 31, 1994. No partner or other person responsible for rendering a report may act in that capacity for more than seven (7) consecutive years. Following any such period of service such person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of two (2) years. An insurer may make application to the Director for relief from the above rotation requirement on the
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

basis of unusual circumstances. The Director may consider the following factors in determining if the relief should be granted:
1) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;
2) Premium volume of the insurer; or
3) Number of jurisdictions in which the insurer transacts business.

ed) The Director shall not recognize as a qualified accountant, nor accept any annual audited financial report prepared in whole or in part by, any natural person who:
1) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, (18 U.S.C. Sections 1961-1968), or any dishonest conduct or practices under federal or state law;
2) Has been found to have violated the insurance laws of this State with respect to any previous reports submitted under this Part; or
3) Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this Part.

ef) The Director, as provided in Section 401 of the Code [215 ILCS 5/401], may as provided in Administrative Hearing Procedures (50 Ill. Adm. Code 2402), hold a hearing to determine whether an accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing an opinion on the financial statements in the annual audited financial report made pursuant to this Part and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this Part.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

Section 925.80 Consolidated or Combined Audits

a) An insurer may make written application to the Director for approval to file a consolidated or combined annual audited financial report in lieu of separate annual audited financial reports if the insurer is part of a group of insurance companies which utilizes a pooling or 100% one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and such insurer cedes all of its direct and assumed business to the pool. In such cases, a columnar consolidating or combining worksheet shall be bound into and filed with the report as follows:
1) Amounts shown on the consolidated or combined annual audited financial
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Annual Audited Financial Report shall be shown on the worksheet.

2) Amounts for each insurer subject to this Section shall be stated separately.

3) Noninsurance operations may be shown on the worksheet on a combined or individual basis.

4) Explanations of consolidating and eliminating entries shall be included.

5) A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers.

b) The Director shall require any insurer to file separate annual audited financial reports although permission had previously been given to file on a consolidated or combined basis if the Director determines the reasons and/or circumstances given for approval of the consolidated audit, pursuant to subsection (a), no longer exist.

(Source: Amended at 27 Ill. Reg. _______, effective ____________)

Section 925.100 Notification of Adverse Financial Condition

a) The insurer required to furnish the annual audited financial report shall require the accountant to report, in writing within five (5) business days, to the board of directors or its audit committee, any determination by the accountant that the insurer has materially misstated its financial condition as reported to the Director as of the balance sheet date currently under examination, or of any other determination that the insurer does not meet the minimum capital and surplus requirements of the Illinois Insurance Code and the net worth requirements of the Health Maintenance Organization Act and the Limited Health Service Organization Act, as of that date.

b) An insurer who has received a report pursuant to subsection (a) above shall forward a copy of the report to the Director within five (5) business days after receipt of such report and shall provide the accountant making the report with evidence of the report being furnished to the Director. If the accountant fails to receive such evidence within the required five (5) business day period, the accountant shall furnish to the Director a copy of the accountant's report within the next five (5) business days.

c) No accountant shall be liable in any manner to any person for any statement made in connection with subsection (a) and (b) above if such statement is made in good faith in compliance with subsection (a) and (b) above.

d) If the accountant, subsequent to the date of the annual audited financial report filed pursuant to this Part, becomes aware
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

of facts which might have affected the accountant's report, the Director notes the obligation of the accountant to take such action as prescribed in Volume 1, Section AU561 of the Professional Standards of the American Institute of Certified Public Accountants as of June 1, 2001, with no later amendments or editions.

(Source: Amended at 27 Ill. Reg. _____, effective ____________)

Section 925.110 Report on Internal Control

In addition to the annual audited financial report, each insurer shall furnish the Director with a written report prepared by the accountant stating the evaluation of the accounting procedures of the insurer and the insurer's system of internal control, including any remedial action taken or proposed. The written report shall include a description of any significant deficiencies in the insurer's internal control structure noted by the accountant during the audit. SAS No. 60, Communication of Internal Control Structure Matters Noted in an Audit (AU Section 325 of the Professional Standards of the American Institute of Certified Public Accountants) requires an accountant to communicate significant deficiencies (known as "reportable conditions") noted during a financial statement audit to the appropriate parties within an entity. The written report shall be filed annually by the insurer with the Director, on or before June 1, along with the filing of the annual audited financial reports. The insurer is required to provide a description of remedial actions taken or proposed to correct significant deficiencies, if such actions are not described in the accountant's report.

(Source: Amended at 27 Ill. Reg. _____, effective ____________)

Section 925.115 Accountant's Letter of Qualifications

The accountant shall furnish the insurer, in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating that:

a) That the accountant is independent with respect to the insurer and conforms to the standards of the profession as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants and the Rules of Professional Conduct of the Illinois Board of Public Accountancy, or similar code.

b) The background and experience in general, and the experience in audits of insurers, of the staff assigned to the engagement and whether each is an accountant. Nothing within this Part shall be construed as prohibiting the accountant from utilizing such staff as deemed appropriate where use is consistent.
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

with the standards prescribed by generally accepted auditing standards.

c) That the accountant understands the annual audited financial report and the accountant’s opinion thereon will be filed in compliance with this Part and that the Director will be relying on this information in the monitoring and regulation of the financial position of insurers.

d) That the accountant consents to the requirements of Section 925.120 of this Part and that the accountant consents and agrees to make available to the Director, the Director’s designee or the Director’s appointed agent the workpapers, as defined in Section 925.120, in hard copy or electronic format.

e) The accountant is properly licensed by an appropriate state licensing authority and is a member in good standing of the American Institute of Certified Public Accountants.

f) The accountant is in compliance with the requirements of Section 925.70 of this Part.

(Source: Amended at 27 Ill. Reg ______, effective ____________)

Section 925.120 Definition, Availability and Maintenance of Accountant Workpapers

a) Workpapers are the records kept by the accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the accountant’s examination of the financial statements of an insurer. Workpapers, accordingly, may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the accountant in the course of its audit of the financial statements of an insurer and which support the accountant’s opinion thereof.

b) Every insurer required to file an annual audited financial report pursuant to this Part shall require the accountant to make available for review by the Director’s examiners all workpapers prepared in the conduct of the accountant’s examination and any communications related to the audit between the accountant and the insurer, at the offices of the insurer, at the offices of the Director, or at any other reasonable place designated by the Director. The insurer shall require that the accountant retain the audit workpapers and communications until the Director has filed a report on examination covering the period of the audit, but no longer than seven (7) years from the date of the audit report.

c) In the conduct of the aforementioned periodic review by the Director’s examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the Director’s examiners. Such review by the Director’s examiners...
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

shall be considered an investigation and all working papers and communications obtained during the course of such investigation shall be afforded the same confidentiality as other examination working papers generated by the Director’s examiners, pursuant to Section 132.5(e) and (f) of the Illinois Insurance Code [215 ILCS 5/132.5(e) and (f)].

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

Section 925.140 Exemptions

a) Upon written application of any domestic insurer, the Director may grant an exemption from compliance with this Part if the Director finds, upon review of the application, that compliance with this Part would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time, and from time to time, for a specified period or periods. Within ten (10) days from a denial of an insurer’s written request for an exemption from this Part, such insurer may request in writing a hearing on its application for an exemption. Such hearing shall be held in accordance with the rules of the Illinois Department of Insurance pertaining to administrative hearing procedures (50 Ill. Adm. Code 2402).

b) Foreign and alien insurers, except those insurers licensed under the Health Maintenance Organization Act and the Limited Health Service Organization Act, having total direct premiums written of less than $1,000,000 in any calendar year shall be automatically exempt from this Part for such year (unless the Director makes a specific finding that compliance is necessary for the Director to carry out statutory responsibilities) except that insurers having assumed premiums pursuant to contracts and/or treaties of reinsurance of $1,000,000 or more will not be so exempt.

e) Foreign or alien insurers filing audited financial reports in their state of domicile, pursuant to such domestic state’s requirement of audited financial reports which has been found by the Director to be substantially similar to the requirements of this Part, are exempt from this Part if:

1) A copy of the Annual Audited Financial Report, Report on Internal Control, and the Accountant’s Letter of Qualifications which are filed with such other state are filed with the Director in accordance with the filing dates specified in Sections 925.40, 925.110 and 925.115 respectively (Canadian insurers may submit accountants’ reports as filed with the Canadian dominion Department of Insurance).

2) A copy of any Notification of Adverse Financial Condition Report filed with such other state is filed with the Director within the time specified in
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 925.100.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

Section 925.145 Penalties

Failure of a company to meet any provisions of this Part shall subject the company to penalty provisions of Sections 132.4(b) and 403A of the Code [215 ILCS 5/132.4(b) and 403A], or other such action as the Director may deem necessary.

(Source: Added at 27 Ill. Reg. ______, effective ____________)
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 925.EXHIBIT A CPA Letter of Representation

Upon completion of the review by the Department’s examiners, the accountant shall submit a “CPA Letter of Representation” in this format.

CPA LETTER OF REPRESENTATION

Date: ______________

Attention: Illinois Department of Insurance
          Attn: (Examiner-in-charge)
          100 West Randolph, Suite 15-100
          Chicago, Illinois 60601
          (312) 814-2423

Re: Examination of (Insurance Company Name)
       As of December 31, 20__

Dear (Examiner-in-charge)

(CPA Firm) confirms the following information related to your review of our 20__ audit workpapers for (Insurance Company Name).

(CPA Firm) have made available for review to the Examiners of the Illinois Department of Insurance all workpapers prepared during the course of the audit of the financial position of the insurer, and the results of its operations, cash flows and changes in capital and surplus of (Insurance Company Name) for the period ending December 31, 20__. Workpapers include, but are not limited to, all electronic and paper schedules, analyses, reconciliations, memorandums (including emails), permanent files, budgets, progress reports, engagement letters, audit programs, planning documents, internal audit reports, letters of representations, legal liability correspondence, letters of confirmation, summaries of audit differences, and other supporting audit evidence.

The photocopies of workpapers that were requested by the Examiners of the Illinois Department of Insurance are true and complete copies of such workpapers.

Sincerely,

(CPA Partner)
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

(CPA Firm)

(Source: Added at 27 Ill. Reg. ______, effective _____________)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Standards for Protection Against Radiation

2) Code Citation: 32 Ill. Adm. Code 340

3) Section Number: Proposed Action:
   340.1205   New Section

4) Statutory Authority: Implementing and authorized by Section 16 of the Radiation Protection Act of 1990 [420 ILCS 40/16].

5) A Complete Description of the Subjects and Issues Involved: The Department is proposing this amendment to ensure that it receives prompt notification of credible threats against radioactive material to facilitate prompt emergency response if necessary. Notification to the Department is not required if law enforcement directs otherwise.

6) Will this rulemaking replace an emergency rulemaking currently in effect? Yes

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

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objective: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

   Louise Michels
   Staff Attorney
   Department of Nuclear Safety
   1035 Outer Park Drive
   Springfield, Illinois 62704
   (217) 524-0770 (voice)
DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENT

(217) 782-6133 (TDD)

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities or 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

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included in either of the 2 most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the regulatory agenda was published.

The full text of the Proposed Amendment is the same as the text that appears in the Emergency Amendment published in this issue of the Illinois Register on page______.
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 Action:
   - 101.106 Amend
   - 101.202 Amend
   - 101.300 Amend
   - 101.302 Amend
   - 101.304 Amend
   - 101.306 Amend
   - 101.1000 Add
   - 101.1002 Add
   - 101.1004 Add
   - 101.1006 Add
   - 101.1008 Add
   - 101.1010 Add
   - 101.1012 Add
   - 101.1014 Add
   - APPENDIX F Amend
   - APPENDIX G Repeal


5) **A complete description of the subjects and issues involved**: The Board’s rulemaking docket R03-10 proposes to amend the Board’s procedural rules to accomplish two objectives. First, the rules will allow electronic filing in all Board proceedings through the Board’s new Clerk’s Office On-Line (COOL). No paper filing will be required for a document filed electronically, and a paper filing will necessitate only the paper original and one copy. The proposed rules set forth procedures for filing documents electronically, such as the requirement of a digital signature certificate (Section 101.1002); filing deadlines for electronic documents (Section 101.1004); acceptable electronic formats (Section 101.1006); and electronic service requirements (Sections 101.1010 and 101.1012). Second, the rules reflect recent amendments to the Environmental Protection Act by updating definitions and statutory section numbers.

6) **Will these proposed amendments replace any emergency rulemakings currently in effect?** No
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of statewide policy objectives: Electronic filing is optional. This rulemaking imposes no procedural mandates on units of local government to the extent they may appear before the Board.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal until January 21, 2003. Comments should reference Docket R03-10 and be addressed to:

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

Interested persons may request copies of the Board’s opinion and order by calling Dorothy Gunn at 312-814-3620, or download from the Board’s Web site at www.ipcb.state.il.us.

Address all questions to Carol Sudman at 217/524-8509 or Sudman@ipcb.state.il.us.

Additionally, the Board will hold two public hearings on these rules. The first hearing will be December 12, 2002 at 1:00 p.m. at:

   Illinois Pollution Control Board
   Hearing Room 403
   600 S. Second Street
   Springfield IL

The second hearing will be December 19, 2002 at 1:00 p.m. at:

   James R. Thompson Center
   Room 9-040
   100 W. Randolph Street
   Chicago IL
NOTICE OF PROPOSED AMENDMENTS

12) Initial regulatory flexibility analysis:

A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking affects those small businesses, small municipalities, and not-for-profit corporations that appear before the Board.

B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments do not require extensive reporting, bookkeeping or other procedures.

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney.

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Board has been able to make technological advancements much more rapidly than anticipated.

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

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>101.100</td>
<td>Applicability</td>
</tr>
<tr>
<td>101.102</td>
<td>Severability</td>
</tr>
<tr>
<td>101.104</td>
<td>Repeals</td>
</tr>
<tr>
<td>101.106</td>
<td>Board Authority</td>
</tr>
<tr>
<td>101.108</td>
<td>Board Proceedings</td>
</tr>
<tr>
<td>101.110</td>
<td>Public Participation</td>
</tr>
<tr>
<td>101.112</td>
<td>Bias and Conflict of Interest</td>
</tr>
<tr>
<td>101.114</td>
<td>Ex Parte Communications</td>
</tr>
</tbody>
</table>

SUBPART B: DEFINITIONS

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>101.200</td>
<td>Definitions Contained in the Act</td>
</tr>
<tr>
<td>101.202</td>
<td>Definitions for Board's Procedural Rules</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>101.300</td>
<td>Computation of Time</td>
</tr>
<tr>
<td>101.302</td>
<td>Filing of Documents</td>
</tr>
<tr>
<td>101.304</td>
<td>Service of Documents</td>
</tr>
<tr>
<td>101.306</td>
<td>Incorporation of Documents by Reference</td>
</tr>
<tr>
<td>101.308</td>
<td>Statutory Decision Deadlines and Waiver of Deadlines</td>
</tr>
</tbody>
</table>

SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>101.400</td>
<td>Appearances, Withdrawals, and Substitutions of Attorneys in Adjudicatory Proceedings</td>
</tr>
</tbody>
</table>
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

101.402 Intervention of Parties
101.403 Joinder of Parties
101.404 Agency as a Party in Interest
101.406 Consolidation of Claims
101.408 Severance of Claims

SUBPART E: MOTIONS

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

SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

Section
101.600 Hearings
101.602 Notice of Board Hearings
101.604 Formal Board Transcript
101.606 Informal Recordings of the Proceedings
101.608 Default
101.610 Duties and Authority of the Hearing Officer
101.612 Schedule to Complete the Record
101.614 Production of Information
101.616 Discovery
101.618 Admissions
101.620 Interrogatories
101.622 Subpoenas and Depositions
101.624 Examination of Adverse, Hostile or Unwilling Witnesses
101.626 Information Produced at Hearing
101.628 Statements from Participants
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

101.630 Official Notice
101.632 Viewing of Premises

SUBPART G: ORAL ARGUMENT

Section
101.700 Oral Argument

SUBPART H: SANCTIONS

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

SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

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

SUBPART J: ELECTRONIC FILING AND SERVICE

Section
101.1000 Overview of Electronic Filing and Service
101.1002 Electronic Filing Authorization
101.1004 Filing Electronic Documents
101.1006 Acceptable Formats
101.1008 Filing Fees
101.1010 Electronic Service
101.1012 Consenting to Electronic Service
101.1014 Trade Secrets and Other Non-Disclosable Information

APPENDIX A Captions

ILLUSTRATION A Enforcement Case
ILLUSTRATION B Citizen's Enforcement Case
ILLUSTRATION C Variance
ILLUSTRATION D Adjusted Standard Petition
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

ILLUSTRATION E Joint Petition for an Adjusted Standard
ILLUSTRATION F Permit Appeal
ILLUSTRATION G Underground Storage Tank Appeal
ILLUSTRATION H Pollution Control Facility Siting Appeal
ILLUSTRATION I Administrative Citation
ILLUSTRATION J General Rulemaking
ILLUSTRATION K Site-specific Rulemaking

APPENDIX B Appearance Form
APPENDIX C Withdrawal of Appearance Form
APPENDIX D Notice of Filing
APPENDIX E Certificate of Service

APPENDIX F Consent to Electronic Service Form Notice of Withdrawal
APPENDIX G Comparison of Former and Current Rules (Repealed)

AUTHORITY: Implementing Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7], as amended by P.A. 92-574, effective June 26, 2002, and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27] and Section 25-101.


SUBPART A: GENERAL PROVISIONS

Section 101.106 Board Authority

a) The Board has the authority to determine, define and implement the environmental control standards applicable in the State of Illinois and may adopt rules and regulations in accordance with Title VII of the Act [415 ILCS 5/5(b)].

b) The Board has the authority to conduct proceedings hearings upon complaints charging violations of the Act, any rule or regulation under this Act, or any permit or term or condition of a permit; upon administrative citations, or of regulations thereunder; upon petitions for variances or adjusted standards; upon
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

petitions for review of the Agency's final determinations on denial of a permit applications in accordance with Title X of the Act; upon petitions petition to remove seals a seal under Section 34 of the Act; upon other petitions for review of final determination which are made pursuant to this the Act or Board rules and which involve a subject which the Board is authorized to regulate. The Board may also conduct; and such other proceedings hearings as may be provided by this Act or any other statute or rule [415 ILCS 5/5(d)].

c) In addition to subsections (a) and (b) of this Section, the Board has the authority to act as otherwise provided by law.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

SUBPART B: DEFINITIONS

Section 101.202 Definitions for Board's Procedural Rules

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

"Act" means the Environmental Protection Act. [415 ILCS 5/1 et seq.]

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

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

"Administrative citation" or "AC" means a citation issued pursuant to Section 31.1 of the Act by the Agency, or by a unit of local government acting as the Agency's delegate pursuant to Section 4(r) of the Act.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

"Administrative citation review (appeal)" means a petition for review of an administrative citation filed pursuant to Section 31.1(d) of the Act. (See 35 Ill. Adm. Code 108.)

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

"Affidavit of service" means an affidavit that states that service of a document upon specified persons was made, and the manner in which, and date upon which, service was made.

"Agency" means the Illinois Environmental Protection Agency as established by Section 4 of the Act.

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

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

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

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

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

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

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

NOTICE OF PROPOSED AMENDMENTS

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

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

"Board meeting" means an open meeting held by the Board pursuant to Section 5(a) of the Act in which the Board makes its decisions and determinations.


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

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

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

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

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

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

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

"Clerk" means the Clerk of the Board.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

“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 Board’s adjudicatory and regulatory proceeding files. COOL is located on the Board’s Web site.

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

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

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

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

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

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

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

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

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

"Deinked stock" means paper that has been processed to remove inks, clays,
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

coatings, binders and other contaminants [415 ILCS 20/2.1].

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

"DNR" means the Illinois Department of Natural Resources.

“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 5/175/5-105].

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

"DNS" means the Illinois Department of Nuclear Safety.

"DOA" means the Illinois Department of Agriculture.

"Duplicitous" or "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 entail 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
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

"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 pursuant to Section 31 of the Act by the Attorney General, State's Attorney, or other persons, in which the complaint alleges violation of the Act or any rule or regulation or Board order thereunder or any permit or term or condition thereof.

"Ex parte communication" means a communication between a person who is not a Board Member or Board employee and a Board Member or Board employee that reflects on the substance of a pending Board proceeding and that takes place outside the record of the proceeding. Communications regarding matters of procedure and practice, such as the format of pleadings, number of copies required, manner of filing and service, and status of proceedings, are not considered ex parte communications [5 ILCS 100/10-60(d)]. For purposes of this definition, "Board employee" means a person the Board employs on a full-time, part-time, contract or intern basis. (See Section 101.114 of this Part.)

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

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

"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 or record before the Board. The Clerk's Office is located at 100 West Randolph Street, Suite 11-500, Chicago, IL 60601. Electronic filing with the Clerk’s Office is done through COOL on the Board Web site.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

"Final order" means an order of the Board that terminates the proceeding leaving nothing further to litigate or decide and that is appealable to an appellate court pursuant to Section 41 of the Act. (See Subpart I of this Part.)

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

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

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

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

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

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

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

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

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

NOTICE OF PROPOSED AMENDMENTS

officer ruling to the Board. (See Section 101.518 of this Part.)

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

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

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

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

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

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

"Movant" means the person who files a motion.

"New pollution control facility" means a pollution control facility initially permitted for development or construction after July 1, 1981; or the area of expansion beyond the boundary of a currently permitted pollution control facility; or a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste [415 ILCS 5/3.32(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 proceeding who will receive
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

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

"OSFM" means Office of the State Fire Marshal.

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

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

"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 a proceeding is brought.

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

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

"Person" means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns. [415 ILCS 5/3.315–3.26]

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

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

"Pollution control facility" means any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act. The following are not pollution control facilities:

- waste storage sites regulated under 40 CFR 761.42;
- sites or facilities used by any person conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility owned, controlled or operated by such person, or when such wastes are transported within or between sites or facilities owned, controlled or operated by such person;
- sites or facilities at which the State is performing removal or remedial action pursuant to Section 22.2 or 55.3 of the Act;
- abandoned quarries used solely for the disposal of concrete, earth materials, gravel, or aggregate debris resulting from road construction activities conducted by a unit of government or construction activities due
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

to the construction and installation of underground pipes, lines, conduit or wires off of the premises of a public utility company which are conducted by a public utility;

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

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

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

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

the portion of a site or facility used for treatment of petroleum contaminated materials by application onto or incorporation into the soil surface and any portion of that site or facility used for storage of petroleum contaminated materials before treatment. Only those categories of petroleum listed in paragraph (5) of subsection (a) of Section 57.9(a)(3) 22.18(b) of the Act are exempt under this definition;

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

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

the portion of a site or facility accepting exclusively general construction or demolition debris, located in a county with a population over 700,000, and operated and located in accordance with Section 22.38 of the Act.
"Pollution control facility siting appeal" means an appeal of a decision made by a unit of local government filed with the Board pursuant to Section 40.1 of the Act.

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

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

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

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

"Provisional variance" means a short term variance sought by a party and recommended by the Agency pursuant to Section 35(b) of the Act. (See 35 Ill. Adm. Code 104.308.)

"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.

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

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

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

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

"Registered agent" means a person registered with the Secretary of State for the purpose of accepting service for any entity, or a person otherwise authorized in writing as an agent for the purpose of accepting service for that entity.

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

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

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

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

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

"Rulemaking" or "rulemaking proceeding" means a proceeding brought under Title VII of the Act or other applicable law for the purpose of adoption, amendment, or repeal of a regulation.
"Sanction" means a penalty or other mechanism used by the Board to provide incentives for compliance with the Board's procedural rules, Board orders or hearing officer orders. (See also Subpart H of this Part.)

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

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

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

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

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

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

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

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

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

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

NOTICE OF PROPOSED AMENDMENTS

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

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

"Trade secret" means the whole or any portion or phase of any scientific or technical information, design, process (including a manufacturing process), procedure, formula or improvement, or business plan which is secret in that it has not been published or disseminated or otherwise become a matter of general public knowledge, and which has competitive value. A trade secret is presumed to be secret when the owner thereof takes reasonable measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes. [415 ILCS 5/3.4903.48]

"Transcript" means the official recorded testimony from a hearing.

"USEPA" means the United States Environmental Protection Agency.

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

"UST" means underground storage tank.

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

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

"Web site" means the Board's computer-based informational service accessed on the Internet at http://www.ipcb.state.il.us.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

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

Section 101.300 Computation of Time

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

b) Time of Filing. Documents will be considered filed when they are filed in conformance with the requirements found in Section 101.302 of this Part and any other filing requirements specifically set out elsewhere in the other Parts of these rules. Subpart J of this Part sets forth when electronic documents will be considered filed.

1) If filed in person, by messenger service or mail delivery service other than U.S. Mail, documents are considered filed when they are received in the Office of the Clerk.

2) If the Clerk receives a document subsequent to a filing deadline, yet the postmark date precedes or is the same as the filing deadline, the document will be deemed filed on the postmark date, provided all filing requirements are met as set forth in Section 101.302 of this Part.

3) Documents filed and received in the Office of the Clerk after 4:30 p.m. will be marked as filed the following business day. The Clerk will record the appropriate filing date on all filed documents.

4) For purposes of Board decision deadlines, time does not begin until the date on which the initial filing is date-stamped by the Clerk.

c) Time of Service. In the case of personal service, service is deemed complete on the date personal delivery was effectuated. In the case of facsimile transmission, service is deemed complete on the date of a complete and proper transmittal (facsimile filings are only allowed in accordance with Section 101.302(d) of this Part). In the case of electronic service, Section 101.1010(d) of this Part sets forth when service is deemed complete. In the case of service by registered or certified mail, or by messenger service, service is deemed complete on the date specified on the registered or certified mail receipt or the messenger service receipt. In the case of service by U.S. Mail, service is presumed complete four days after
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

mailing. The presumption can be rebutted by proper proof.

d) Date of Board Decision.
   1) For purposes of statutory decision deadline proceedings, the date of the
      Board decision is the date of the Board meeting where a final opinion and
      order of the Board was adopted by the vote of at least four Board
      members.
   2) For purposes of appeal, the date of the party's certified mail receipt of the
      Board decision is the date of service of the final opinion and order by the
      Board upon the appealing party. Or, in the event of a timely filed motion
      for reconsideration filed pursuant to Section 101.520 of this Part, the date
      of the party's certified mail receipt of the Board order ruling upon the
      motion is the date of service by the Board upon the appealing party.

(Source: Amended at 27 Ill. Reg. ______, effective _____________)

Section 101.302 Filing of Documents

a) This Section contains the Board's general filing requirements. Additional
   requirements may exist for specific proceedings elsewhere in these rules. 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 signed by or on behalf of the
   party or participant seeking to file the document and must be filed with the Clerk's
   Office. Service on a hearing officer does not constitute filing with the Board
   unless the document is submitted to the hearing officer during the course of a
   hearing. Documents may be filed at:

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

c) Documents may be filed by U.S. Mail or other mail delivery service, by electronic
   means in accordance with Subpart J of this Part, in person or by messenger.

d) Filing by electronic transmission or facsimile will only be allowed with the prior
   approval of the Clerk of the Board or hearing officer assigned to the proceeding.
   The Agency may file a provisional variance recommendation with the Board by
   through electronic transmission or facsimile within 2 days prior to a regularly
   scheduled meeting date followed by a hard copy submission.

e) The following initial filings require filing fees and will only be considered filed
NOTICE OF PROPOSED AMENDMENTS

when accompanied by the appropriate fee, which may be paid in the form of government voucher, money order, or check made payable to the Illinois Pollution Control Board, or electronically in accordance with Section 101.1008 of this Part, but which may not be paid in cash:

1) Petition for Site-Specific Regulation, $75;
2) Petition for Variance, $75;
3) Petition for Review of Agency Permit Decision, UST Decision, or any other appeal filed pursuant to Section 40 of the Act, $75;
4) Petition to Review Pollution Control Facility Siting Decisions, pursuant to Section 40.1 of the Act, $75; and
5) Petition for Adjusted Standard, pursuant to Section 28.1 of the Act, $75.

f) All documents filed must be served in accordance with Subpart C of this Part.

g) All documents filed with the Board should contain the relevant proceeding caption and number and have all pages logically numbered, and Paper documents must be submitted on 8½ x 11 inch recycled paper as defined in Subpart B of this Part, page numbered, and, double sided if practicable, feasible double sided.

Electronic documents must be formatted in accordance with Section 101.1006 of this Part.

h) Unless the Board or hearing officer orders its procedural rules provide otherwise, all documents must be filed as follows with a signed original and 9 duplicate copies (10 total), except that:

1) If a document is filed in paper, the original and one copy is required.
2) If a document is filed electronically in accordance with Subpart J of this Part, no paper original or copy is required.
4) Documents and motions specifically directed to the assigned hearing officer must be filed with the Clerk with a signed original and 4 duplicate copies (5 total), or as the hearing officer orders;
2) The Agency may file a signed original and 4 duplicate copies (5 total) of the record required by Section 105.116, 105.302, and 105.410;
3) The OSFM may file a signed original and 4 duplicate copies (5 total) of the record required by Section 105.508; and
4) The siting authority may file a signed original and 4 duplicate copies (5 total) of the record required by Sections 107.300 and 302.

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 upon leave or direction of the Board or hearing officer. Any discovery request under these rules to any nonparty must be filed with the Clerk of the Board in accordance with subsection (h) of this Section with a signed original and 4 duplicate copies (5 total), or as the hearing officer directs.

j) Non-Conforming Exhibits. When practicable possible, non-conforming exhibits
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

must be reduced to conform to 8½ × 11 inch recycled paper, or formatted electronically in accordance with Section 101.1006 of this Part. However, one non-conforming original copy may be filed with the Clerk's Office. Upon closure of the proceeding, the non-conforming exhibit copy may be returned to the person filing it in accordance with 2 Ill. Adm. Code 2175.300.

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

(Source: Amended at 27 Ill. Reg. _____, effective ____________)

Section 101.304  Service of Documents

a) Service Requirements. This Section contains the Board's general service requirements. However, the more specific Part for a proceeding type may contain additional requirements.

b) Duty to Serve. Parties in Board adjudicatory proceedings are responsible for service of all documents they file with the Clerk's Office. Proof of service of initial filings must be filed with the Board upon completion of service.

c) Method of Service. Service may be effectuated by U.S. Mail or other mail delivery service, in person, by messenger, by electronic means in accordance with Subpart J of this Part, or as prescribed in Section 101.302(d), except for service of enforcement complaints, and administrative citations, and EMSA statements of deficiency on a respondent, which must be made personally, by registered or certified mail, or by messenger service. Proof of service of enforcement complaints, and administrative citations, and EMSA statements of deficiency must be filed with the Board upon completion of service.

d) Affidavit or Certificate of Service. A proceeding is subject to dismissal, and parties are subject to sanctions in accordance with Section 101.800 of this Part, if service is not timely made. Proof of proper service is the responsibility of the party filing and serving the document. An affidavit of service or certificate of service must accompany all filings of all parties. A sample form of the affidavit of service and certificate of service is available in Appendix E to this Part, at the Board's Offices (the locations of the Board's Offices are listed at 2 Ill. Adm. Code 2175.115), and may be obtained electronically at the Board's Web site.

e) Service of Amicus Curiae Briefs. Any person who files an amicus curiae brief with the Board in any proceeding must serve copies of that brief on all parties in accordance with this Section.

f) Service of Comments of Participants in an Adjudicatory Proceeding. Participants
NOTICE OF PROPOSED AMENDMENTS

are required to serve their comments upon the parties to the proceeding. The Board will consider the comments as time and the Act or other applicable law allow.

g) Service on State Agencies. Service must be at the addresses listed below unless a specific person has an appearance on file with the Board or electronic service is made in accordance with Subpart J of this Part.

1) Service on the Illinois Environmental Protection Agency (Agency). The Agency must be served at the following address:

   Division of Legal Counsel
   Illinois Environmental Protection Agency
   1021 North Grand Avenue East
   P.O. Box 19276
   Springfield, IL 62794-9276

2) Service on Office of State Fire Marshal (OSFM). The OSFM must be served at:

   Division of Petroleum and Chemical Safety
   Office of the State Fire Marshal
   1035 Stevenson Dr.
   Springfield, IL 62703

3) Service on the Illinois Attorney General. The Office of the Attorney General must be served at:

   Division Chief of Environmental Enforcement
   Office of the Attorney General
   188 West Randolph St., 20th Floor
   Chicago, IL 60601

4) Service on the Illinois Department of Natural Resources (DNR) must be served at:

   Office of Legal Services
   Illinois Department of Natural Resources
   One Natural Resources Way
   Springfield, IL 62702-1271
   62701-1787

5) Service on the Illinois Department of Transportation (IDOT). IDOT must
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

be served at:

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

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

USEPA, Region V
77 West Jackson
Chicago, IL 60604

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

Section 101.306 Incorporation of Documents by Reference

a) Upon the separate written request of any person or on its own initiative, the Board or hearing officer may incorporate materials from the record of another Board docket into any proceeding. The person seeking incorporation must file the material to be incorporated with the Board in accordance with Section 101.302(h) of this Subpart 4 copies of the material to be incorporated. The Board or hearing officer may approve a reduced number of copies for documents incorporated in other Board dockets. The person seeking incorporation must demonstrate to the Board or the hearing officer that the material to be incorporated is authentic, credible, and relevant to the proceeding. Notice of the request must be given to all identified participants or parties by the person seeking incorporation.

b) The Board will give the incorporated matter the appropriate weight in light of the following factors: the standard of evidence under which the material was previously presented to the Board; the present purpose for incorporating the material; and the past and current opportunity for cross-examination of the matters asserted within the incorporated material.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

SUBPART J: ELECTRONIC FILING AND SERVICE

Section 101.1000 Overview of Electronic Filing and Service
The purposes of the Electronic Commerce Security Act include facilitating the electronic filing of documents with State agencies and promoting the efficient delivery of government services by means of reliable electronic records. [5 ILCS 175/1-105(3)] The Electronic Commerce Security Act specifically authorizes State agencies to send and receive electronic documents. [5 ILCS 175/25-101]

The Board provides the opportunity to file and access documents electronically through its Clerk’s Office On-Line (COOL) system. The Board has taken steps designed to ensure the integrity and security of COOL in accordance with State policies developed under the Electronic Commerce Security Act.

The Board encourages electronic filing. Any document to be filed with the Board, whether an initial or later filing, may be filed electronically. If a person files an electronic document in accordance with this Subpart, the person is not required to file a paper original or copy of that document with the Clerk, unless the Board or hearing officer orders otherwise.

To file an electronic document with the Board, the party or participant must submit the document to COOL on the Board’s Web site (www.ipcb.state.il.us). Electronic filing is not accomplished by sending a document to the e-mail address of the Clerk’s Office or hearing officer.

Nothing in this Subpart requires a person to file, serve, or accept service of a document electronically. Generally, the Clerk’s Office will electronically scan paper-filed documents and place them in COOL.

The Board provides COOL as a public service. Neither the malfunctioning of COOL or any person’s computer system excuses any obligation to timely file or serve a document.

(Source: Added at 27 Ill. Reg. _____, effective ____________)

Section 101.1002 Electronic Filing Authorization

A person seeking to file an electronic document, as or on behalf of a party or participant, must have been issued a State of Illinois digital signature certificate pursuant to Section 15-310 of the Electronic Commerce Security Act [5 ILCS 175/15-310].

The subscriber agreement and application for a State of Illinois digital signature certificate is available at the following Web site, the link for which is also provided on the Board’s Web site:

https://autora01.cmcf.state.il.us/
c) For adjudicatory proceedings, to electronically file a document on behalf of a party who is not an individual, the digital signature of a licensed and registered attorney representing the party is required. If the party is an individual, the digital signature of the individual or its licensed and registered attorney is required. See Section 101.400(a) of this Part.

(Source: Added at 27 Ill. Reg. ______, effective ____________)

Section 101.1004 Filing Electronic Documents

a) A person seeking to file an electronic document, as or on behalf of a party or participant, must submit the document to COOL on the Board’s Web site. To successfully submit a document to COOL, the person must have a valid State of Illinois digital signature certificate.

b) Submitting an electronic document to COOL in accordance with this Subpart will automatically generate an electronic receipt for the person seeking to file. The receipt will verify the date and time when the document was submitted to COOL, but the receipt is in no way an indication of the document’s legal sufficiency.

c) If all or any part of an electronic document being submitted to COOL must be verified by oath, affidavit, or notarization, the person submitting the document must either:
   1) Include the electronically-scanned oath, affidavit, receipt, or notarization in the submitted electronic document; or
   2) Submit to the Clerk a paper original and copy of the oath, affidavit, or notarization (indicating the electronic document to which it corresponds) and conspicuously state in the electronic document that the paper original and copy of the verification will be submitted to the Clerk.

d) If an electronic document is submitted to COOL in accordance with this Subpart, the document is considered filed when it is submitted to COOL, except that:
   1) An electronic document submitted to COOL without a required oath, affidavit, notarization, or fee will be considered filed:
      A) On the date that the Clerk receives the required verification or fee; or
      B) If received through the U.S. Mail after a filing deadline, but the postmark date precedes or is the same as the deadline, then the document is deemed filed on the postmark date.
   2) An electronic document submitted to COOL on a Saturday or Sunday, on a national or State legal holiday, or after 4:30 p.m. on a weekday is considered filed the next business day.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

e) For purposes of Board decision deadlines, time does not begin until the date on which the electronic document is considered filed under subsection (d) of this Section.

(Source: Added at 27 Ill. Reg. _____, effective ____________)

Section 101.1006 Acceptable Formats

a) To submit an electronic document to COOL, the document must be in one of the following electronic formats:
   1) Microsoft Word for Windows, version 6.0 or greater;
   2) Corel WordPerfect for Windows, version 6.0 or greater;
   3) Microsoft Excel for Windows, version 4.0 or greater;
   4) Lotus 1-2-3 for Windows, version 4.0 or greater;
   5) ASCII Text; or
   6) Adobe Acrobat Portable Document Format (PDF) version 2.0 or greater.

b) All electronic documents filed in accordance with this Subpart will be stored by the Clerk’s Office in Adobe Acrobat PDF format. Properly-filed electronic documents not submitted to COOL in that electronic format will be converted to Adobe Acrobat PDF format by the Clerk’s Office.

c) The Board encourages persons to submit electronic documents to COOL in Adobe Acrobat PDF format.

d) Electronic documents submitted to COOL must be formatted to print on 8½ x 11 inch paper.

(Source: Added at 27 Ill. Reg. _____, effective ____________)

Section 101.1008 Filing Fees

a) Filing fees are specified in Section 101.302(e) of this Part. There is no special or additional fee to file a document electronically. A person seeking to file an electronic document that requires a filing fee must either:
   1) Deliver payment to the Clerk’s Office in accordance with Section 101.302(e) of this Part; or
   2) Provide electronic payment in accordance with subsection (b).

b) Electronic payment of a filing fee requires a valid credit card and can be executed on COOL when the electronic document is submitted.

(Source: Added at 27 Ill. Reg. _____, effective ____________)
Section 101.1010  Electronic Service

a) Except as provided in subsection (b), a person required to serve a document may serve other parties or participants electronically by e-mail, in lieu of serving a paper document, if the recipient has consented to electronic service in that proceeding and has not revoked that consent. See Section 101.1012 of this Subpart. To serve a document electronically, it is not necessary to obtain a State of Illinois digital signature certificate.

b) Service of enforcement complaints, administrative citations, and EMSA statements of deficiency on a respondent must be made personally, by registered or certified mail, or by messenger service. See Section 101.304(c) of this Part.

c) A person required to serve a document on the hearing officer may serve the hearing officer electronically by sending the document to the hearing officer’s e-mail address in lieu of serving a paper document.

d) When serving an electronic document, service is deemed complete on the day of successful electronic transmission, except that a document electronically transmitted on a Saturday or Sunday, on a national or State legal holiday, or after 4:30 p.m. on a weekday is considered served the next business day.

e) Proof of proper service must be provided to the Clerk by the party or participant filing and serving the document. An affidavit of service or certificate of service must be provided for each filing. A sample form of an affidavit of service and certificate of service is available in Appendix E to this Part, from the Clerk’s Office, and on the Board’s Web site.

f) A document served electronically must be in the same electronic format as the document submitted to COOL and formatted to print on 8½ x 11 inch paper. The Board encourages persons to serve electronic documents in Adobe Acrobat PDF format. See Section 101.1006 of this Subpart.

g) In lieu of serving paper documents, the Board and its hearing officers may electronically serve notices and orders to any party or participant who has consented to electronic service in that proceeding and not revoked that consent. The subject line of e-mail from the Board or hearing officer providing electronic service will state “Official Pollution Control Board Notice.”

(Source: Added at 27 Ill. Reg. _____, effective ____________)

Section 101.1012  Consenting to Electronic Service

a) A person may consent to electronic service of documents in lieu of receiving paper documents from other parties or participants, the Board, and hearing officers in a proceeding by either:
NOTICE OF PROPOSED AMENDMENTS

1) Filing a Consent to Electronic Service form with the Clerk, which is available in Appendix F to this Part, from the Clerk’s Office, and on the Board’s Web site.; or

2) By stating conspicuously in any other filing that the person consents to electronic service of documents and that service is to be made to an e-mail address identified in the filing.

b) Consent to electronic service may be filed with the Clerk at any time in the proceeding. To accept electronic service, it is not necessary to obtain a State of Illinois digital signature certificate.

c) A party or participant may revoke its consent to electronic service at any time in the proceeding by filing a written notice of the revocation with the Clerk.

(Source: Added at 27 Ill. Reg. _____, effective ____________)

Section 101.1014  Trade Secrets and Other Non-Disclosable Information

a) If a person seeks to file an electronic document containing information that the person claims should be protected as a trade secret or other non-disclosable information, the person must submit to COOL both a complete version of the electronic document and a redacted version of the electronic document. The person must otherwise comply with 35 Ill. Adm. Code 130.

b) In accordance with 35 Ill. Adm. Code 130, if a document, whether filed electronically or in paper, is claimed or determined to contain a trade secret or other non-disclosable information, only the redacted version of the document will be publicly accessible on COOL.

(Source: Added at 27 Ill. Reg. _____, effective ____________)
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
NOTICE OF WITHDRAWAL

) )
Applicable Caption )
(see Appendix A) ) docket number
) )

I, the undersigned, authorize the Board, its hearing officers, and other parties or participants in this proceeding to serve documents on me electronically in lieu of receiving paper documents. My e-mail address to receive electronic service is: ____________.

[signature] [date]

NOW COMES [Petitioner's or Complainant's name], by one of its attorneys, [Attorney's name] pursuant to 35 Ill. Adm. Code 101.302(l) hereby gives notice of withdrawal of this case.

Attorney's Name

Name of Attorney and Firm
Address
Telephone Number

(Source: Amended at 27 Ill. Reg. _______, effective ____________)
The following table compares the former procedural rules (in effect on December 31, 2000) with the current procedural rules (effective January 1, 2001).

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### NOTICE OF PROPOSED AMENDMENTS

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(Source: Repealed at 27 Ill. Reg. ______, effective ____________)
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Regulatory and Informational Hearings and Proceedings

2) **Code citation:** 35 Ill. Adm. Code 102

3) **Section Numbers:**

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<td>APPENDIX A</td>
<td>Repeal</td>
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</table>

4) **Statutory authority:** 415 ILCS 5/5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 22.7(d), 26, 27, 28, 28.2, 29, and 41 of the Environmental Protection Act [415 ILCS 5].

5) **A complete description of the subjects and issues involved:** The Board’s rulemaking docket R03-10 proposes to amend the Board’s procedural rules to allow electronic filing in all Board proceedings through the Board’s new Clerk’s Office On-Line (COOL). No paper filing will be required for a document filed electronically, and a paper filing will necessitate only the paper original and one copy. The substantive portion of the proposed new rules is set forth in 35 Ill. Adm. Code 101.Subpart J. The amendments to this Part cross-reference the electronic filing rules proposed in Part 101 and eliminate the requirement for filing multiple copies. Second, this proposal reflects recent amendments to the Administrative Procedure Act by requiring rulemaking proposals to describe studies and research reports used in developing the proposal.

6) **Will these proposed amendments replace any emergency amendments currently in effect?** No.

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Do these proposed amendments contain incorporations by reference?** No

9) **Are there any other amendments pending on this Part?** No
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

10) Statement of statewide policy objective: Electronic filing is optional. This rulemaking imposes no additional procedural mandates on units of local government to the extent they may appear before the Board.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal until January 21, 2003. Comments should reference Docket R03-10 and be addressed to:

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

Interested persons may request copies of the Board’s opinion and order by calling Dorothy Gunn at 312-814-3620, or download from the Board’s Web site at www.ipcb.state.il.us.

Address all questions to Carol Sudman at 217/524-8509 or sudman@ipcb.state.il.us.

Additionally, the Board will hold two public hearings on these rules. The first hearing will be December 12, 2002 at 1:00 p.m. at:

   Illinois Pollution Control Board
   Hearing Room 403
   600 S. Second Street
   Springfield IL

The second hearing will be December 19, 2002 at 1:00 p.m. at:

   James R. Thompson Center
   Room 9-040
   100 W. Randolph Street
   Chicago IL
12) **Initial regulatory flexibility analysis:**

A) **Types of small businesses, small municipalities, and not-for-profit corporations affected:** This rulemaking affects those small businesses, small municipalities, and not-for-profit corporations that appear before the Board.

B) **Reporting, bookkeeping or other procedures required for compliance:** The existing rules and proposed amendments do not require extensive reporting, bookkeeping or other procedures.

C) **Types of professional skills necessary for compliance:** Compliance with the existing rules and proposed amendments may require the services of an attorney.

13) **Regulatory Agenda in which this rulemaking was summarized:** This rulemaking was not included on either of the 2 most recent regulatory agendas because: This proposal did not appear in the Board’s two most recent regulatory agendas, as the Board has been able to make technological advancements much more rapidly than anticipated.

The full text of the proposed amendments begins on the next page:
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 102
REGULATORY AND INFORMATIONAL HEARINGS AND PROCEEDINGS

SUBPART A: GENERAL PROVISIONS

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

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

Section
102.200 Proposal for Regulations of General Applicability
102.202 Proposal Contents for Regulations of General Applicability
102.204 Proposal of RCRA Amendments
102.206 Notice of Site-Specific RCRA Proposals
102.208 Proposal for Site-Specific Regulations
102.210 Proposal Contents for Site-Specific Regulations
102.212 Dismissal

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

Section
102.300 Applicability
102.302 Agency Proposal
102.304 Hearings
102.306 Prefiled Testimony
NOTICE OF PROPOSED AMENDMENTS

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

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

SUBPART E: CERTIFICATION OF REQUIRED RULES

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

SUBPART F: BOARD ACTION

Section 102.600 Revision of Proposed Regulations
102.602 Adoption of Regulations
102.604 First Notice of Proposed Regulations
102.606 Second Notice of Proposed Regulations
102.608 Notice of Board Final Action
102.610 Adoption of Identical-in-Substance Regulation
102.612 Adoption of Emergency Regulations
102.614 Adoption of Peremptory Regulations
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART G: MOTIONS FOR RECONSIDERATION AND APPEAL

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

SUBPART H: OUTSTANDING RESOURCE WATER DESIGNATION

Section
102.800  Applicability
102.810  Petition
102.820  Petition Contents
102.830  Board Action

APPENDIX A  Comparison of Former and Current Rules (Repealed)

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


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

Section 102.200 Proposal for Regulations of General Applicability

Any person may submit a regulatory proposal for the adoption, amendment, or repeal of a regulation. The original and 9 copies of each proposal must be filed with the Clerk in
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

accordance with 35 Ill. Adm. Code 101.302(h) and served on one copy each with the Attorney General, the Agency, and DNR in accordance with 35 Ill. Adm. Code 101.304(c).

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

Section 102.202 Proposal Contents for Regulations of General Applicability

Each proponent must set forth the following in its proposal:

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

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

c) A synopsis of all testimony to be presented by the proponent at hearing;

d) Copies of any material to be incorporated by reference within the proposed rule pursuant to Section 5-75 of the IAPA [5 ILCS 100/5-75];

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

f) Proof of service upon all persons required to be served pursuant to Section 102.422 of this Part;

g) Unless the proponent is the Agency or DNR, a petition signed by at least 200 persons, pursuant to Section 28 of the Act and Section 102.410(b) of this Part;

h) When the Agency proposes a rule it believes is federally required, a certification in accordance with Section 102.500 of this Part;

i) For a proposed rule that amends an existing Board rule, a written statement or certification that the proposal amends the most recent version of the rule as published on the Board's Web site or as obtained from the Clerk;

j) When the proponent is a State Agency, an electronic version of the information
required under subsection (a) of this Section; and

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

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

Section 102.206 Notice of Site-Specific RCRA Proposals

a) Public notice of hearings on site-specific RCRA proposals will be given at least 30 days before the date of the hearing.

b) In addition to the requirements of Section 28 of the Act, the Board, at a minimum, will give notice of hearings on a site-specific RCRA proposal to the following persons:

1) Federal agencies as designated by the USEPA;
2) Illinois Department of Transportation;
3) Illinois Department of Natural Resources;
4) Illinois Department of Public Health;
5) The Governor of any other state adjacent to the county in which the facility is located; and
6) Elected officials of any counties, in other states, adjacent to the county in which the facility is located, and elected officials in any municipality, in another state, if it is the closest population center to the facility.

c) In addition to the methods of notice by publication of Section 28 of the Act and Section 102.416 of this Part, the Board will give notice by broadcast over at least one radio station in the area of the facility containing the information required by subsections (d)(2) and (d)(4) through (d)(8) of this Section.

d) A hearing notice on a site-specific RCRA proposal will include the following information:

1) The address of the Board office;
2) Name and address of the proponent and, if different, of the facility for which the site-specific rule is sought;
3) A brief description of the business conducted at the facility and the activity described in the proposal;
4) A description of the relief requested in the proposal;
5) Name, address, e-mail address, and telephone number of the Clerk of the Board, from whom interested persons may obtain further information, including copies of the proposal;
6) The name, address, e-mail address if available, and telephone number of the Agency's representative in the rulemaking;
7) A description of any written comment period or a statement that a
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

Section 102.208 Proposal for Site-Specific Regulations

Any person may submit a written proposal for the adoption, amendment or repeal of a substantive site-specific regulation. The original and 9 copies of each proposal must be filed with the Clerk in accordance with 35 Ill. Adm. Code 101.302(h) and of the Board and one copy served upon the Agency, DNR, and the Attorney General in accordance with 35 Ill. Adm. Code 101.304(c).

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

Section 102.210 Proposal Contents for Site-Specific Regulations

Proponents of site-specific regulations other than those relating to RCRA must comply with the requirements of Section 102.202 of this Part in addition to the following requirements:
a) The proposal must set forth the language of the proposed site-specific rule, including any existing regulatory language proposed to be amended or repealed. Language being added must be indicated by underscoring and language being deleted must be indicated by strike-outs. If the proposed site-specific rule seeks an exemption from or modification of a rule of general applicability, the proposed site-specific rule may not be proposed as an amendment to the general rule. Instead, the site-specific rule must be proposed as its own Section;
b) In the event that the proposed rule would replace the applicability of a general rule to the pollution source, the proposal must specify, with supporting documentation, the reasons why the general rule is not technically feasible or economically reasonable for the person or site. The documentation must include relevant information on other similar persons' or sites' ability to comply with the general rule. Where relevant to the Board's consideration, the proposal must also
NOTICE OF PROPOSED AMENDMENTS

include information pertaining to existing physical conditions, the character of the area involved, including the character of surrounding land uses, zoning classifications, and the nature of the existing air quality or receiving body of water [415 ILCS 5/27(a)];

c) A descriptive title or other description of any published study or research report used in developing the rule, the identity of the person who performed such study, and a description of where the public may obtain a copy of any such study or research report. If the study was performed by an agency or by a person or entity that contracted with the agency for the performance of the study, the agency shall also make copies of the underlying data available to members of the public upon request if the data are not protected from disclosure under the Freedom of Information Act.

d) The proposal must describe the person or site for which regulatory change is sought and the area affected by the proposed change. The proposal must also include a detailed assessment of the environmental impact of the proposed change, and include a description of available treatment or control options;

e) The proposal must demonstrate that the Board may grant the requested relief consistent with federal law governing the subject of the proposal (e.g., Underground Injection Control program, Resource Conservation and Recovery Act, etc.);

f) When the proponent is a State agency, the proponent also must provide an electronic version of the information required under subsection (a) of this Section; and

g) When any information required under this Section is inapplicable or unavailable, the proposal must provide a complete justification for the inapplicability or unavailability.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

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

Section 102.302 Agency Proposal

a) When proposing a regulation required by the CAAA, the Agency must meet the following requirements:
1) The proposal must set forth the proposed rule, which must be drafted in accordance with 1 Ill. Adm. Code 100.Subpart C;
2) The proposal must have a cover sheet that prominently states that the Agency proposes the rule under Section 28.5 of the Act, unless another
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

provision of the Act specifies the method for adopting a specific rule [415 ILCS 5/28.5(c)];

3) The proposal must clearly identify the provisions and portions of the federal statute, regulations, guidance, policy statement, or other documents upon which the rule is based [415 ILCS 5/28.5(e)(3)];

4) The proposal must include supporting documentation for the rule that summarizes the basis of the rule [415 ILCS 5/28.5(e)(4)];

5) The proposal must describe in general the alternative selected and the basis for the alternative [415 ILCS 5/28.5(e)(5)];

6) The proposal must summarize the economic and technical data that the Agency relied upon in drafting the proposed rule;

7) The proposal must include a list of any documents that the Agency directly relied upon in drafting the proposed rule or that the Agency intends to rely upon at hearing, and copies of the documents;

8) The proposal must set forth a description of the geographical area to which the rule is intended to apply, a description of the process or processes affected, and identification by classes of the entities expected to be affected, and a list of sources expected to be affected by the rule to the extent known to the Agency [415 ILCS 5/28.5(e)(8)]; and

9) The proposal must include a diskette containing the information required under subsection (a)(1) of this Section in an electronic format pursuant to 35 Ill. Adm. Code 101.1006.

b) If the proposal fails to meet any of the requirements of subsection (a) of this Section, the Board may decide not to accept the proposal for filing.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

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

Section 102.416 Notice of Hearing

a) The hearing officer will set a time and place for hearing. The Clerk will give notice of the date of the hearing as follows or as otherwise required by applicable law:

1) By notice in the Board's Environmental Register and on the Board's Web site;

2) At least 20 days prior to the scheduled date of the hearing the Board shall give notice of such hearing by public advertisement in a newspaper of
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

general circulation in the area of the State concerned. The notice will include, the date, time, place and purpose of such hearing [415 ILCS 5/28(a)]; and

3) Where required by federal law, including air pollution and RCRA proposals, newspaper notice will be published at least 30 days prior to the hearing date.

b) In accordance with Section 28(a) of the Act or as otherwise required by applicable law, the Clerk will give notice by mail to the proponent and to all persons who are on the notice list in accordance with Section 102.422 of this Part.

c) Hearings that are continued on the hearing record for a period of 45 days or less do not require notice that complies with subsections (a) and (b) of this Section.

(Source: Amended at 27 Ill. Reg. _______, effective ____________)

Section 102.422 Notice and Service Lists

a) The hearing officer will maintain a notice list for each regulatory proceeding will be maintained. The notice list will consist of those persons who have furnished their names and addresses to the hearing officer or the Clerk's office concerning the proposal. Notice of all Board actions and hearing officer orders will be given to all persons included on the notice list.

b) The hearing officer may establish a service list for any regulatory proceeding, in addition to the notice list. The hearing officer may direct participants to serve copies of all documents upon the persons listed on the service list in accordance with 35 Ill. Adm. Code 101.304(c). In deciding whether to establish a service list, the hearing officer will consider factors including the complexity of the proceeding and the number of participants. For purposes of fast-track rulemakings under Section 28.5 of the Act, participants of record will be the individuals on the service list.

c) The Board will not accept general requests to appear on all notice lists.

Information regarding the Board's pending rulemakings is available through the Clerk's Office On-Line (COOL), located on the Board's Web site (www.ipcb.state.il.us). Persons interested in appearing on notice lists interested persons must submit their names for each proceeding in accordance with subsection (a) of this Section.

(Source: Amended at 27 Ill. Reg. _______, effective ____________)

Section 102.424 Prehearing Submission of Testimony and Exhibits
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

a) The proponent must submit all written testimony and any related exhibits 21 days prior to the hearing at which the witness testifies, unless the hearing officer directs otherwise to prevent material prejudice or undue delay.

b) The hearing officer may require the prehearing submission of testimony, questions, responses, answers, and any related exhibits by the proponent or participants other than the proponent if the hearing officer determines that such a procedure will provide for a more efficient hearing.

c) Any prehearing testimony, questions, answers, responses, or exhibits must be filed with the Clerk in accordance with 35 Ill. Adm. Code 101.302(h). The hearing officer, the Agency, and, if a participant, the Attorney General and DNR must each be served with one copy of any prehearing testimony, questions, answers, responses, or exhibits. One copy of any prehearing testimony, questions, answers, responses, or exhibits must also be served upon the proponent and each participant on any service list, unless otherwise specified or limited by the hearing officer. The service must be initiated on or before the date that the prehearing documents copies are filed with the Clerk.

d) All prehearing testimony, questions, answers, responses, and exhibits must be served and submitted in the form required by 35 Ill. Adm. Code 101.Subpart C and labeled with the docket number of the proceeding, the name of the witness submitting the material or exhibit, and the title of the material or exhibit.

e) The proponent and each participant who has filed testimony, questions, answers, responses, or exhibits before hearing must bring the number of copies designated by the hearing officer of that material and exhibits to the hearing.

f) Testimony, questions, answers, responses, and exhibits submitted prior to hearing will be entered into the record as if read, unless the hearing officer determines that it will aid public understanding to have the material or exhibit read. All persons testifying will be sworn and will be subject to examination. Modifications to previously submitted material and exhibits may be allowed by the hearing officer at hearing provided that the modifications are either non-substantive in nature or would not materially prejudice another person's participation at hearing. Objections to the modifications are waived unless raised at hearing.

g) Where prehearing submission of testimony, questions, answers, responses, or exhibits is required pursuant to subsection (a) or (b) of this Section, any material or exhibit that is not filed in a timely manner will be allowed only as time permits, and only where its submission will not materially prejudice the proponent or any other participant.

(Source: Amended at 27 Ill. Reg. _______, effective _____________)

SUBPART H: OUTSTANDING RESOURCE WATER DESIGNATION
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 102.810 Petition

Any person may submit a petition for the adoption, amendment or repeal of an ORW designation. The original and nine copies of each petition must be filed with the Clerk in accordance with 35 Ill. Adm. Code 101.302(h) and one copy each served on the Agency, Illinois Department of Natural Resources, and the Attorney General in accordance with 35 Ill. Adm. Code 101.304(c).

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

Section 102.820 Petition Contents

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

a) The language of the proposed rule, amendment, or repealer identifying the surface water body or water body segment being proposed for designation, amendment, or repeal as an ORW. Language being added must be indicated by underscoring, and language being deleted must be indicated by strike-outs. The proposed rule must be drafted in accordance with 1 Ill. Adm. Code 100.Subpart C;

b) A statement describing the specific surface water body or water body segment for which the ORW designation, amendment, or repeal is requested and the present designation of the surface water body or water body segment;

c) A statement describing the area in which the specific surface water body or water body segment exists, including:
   1) The existence of wetlands or natural areas;
   2) The living organisms in that area, including endangered or threatened species of plants, aquatic life or wildlife listed pursuant to the Endangered Species Act 16 USC 1531 et seq. or the Illinois Endangered Species Protection Act [41 ILCS 10];

d) A statement supporting the designation, the amendment, or the repeal, including the health, environmental, recreational, aesthetic or economic benefits of the designation, the amendment, or the repeal thereof;

e) A statement identifying the anticipated impact on economic and social development of the ORW designation, amendment, or repeal. This statement should include:
   1) Impacts on the regional economy;
   2) Impacts on regional employment;
   3) Impacts on the community;
   4) A comparison of the health and environmental impacts to the economic impact of an ORW designation;
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

f) A statement describing the existing and anticipated uses of the specific surface water body or water body segment for which the ORW designation, amendment, or repeal is requested;

g) A statement describing the existing water quality of the specific surface water body or water body segment warranting the ORW designation, amendment, or repeal;

h) A synopsis of all testimony to be presented by the proponent at hearing;

i) Copies of any material to be incorporated by reference within the proposed designation pursuant to Section 5-75 of the Administrative Procedure Act [5 ILCS 100/5-75];

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

k) Proof of service upon all persons required to be served pursuant to Section 102.810 of this Part;

l) Unless the proponent is the Agency or Illinois Department of Natural Resources or receives a waiver by the Board, a petition signed by at least 200 persons, pursuant to Section 28 of the Act and Section 102.160(a); and

m) Where any information required by this Section is inapplicable or unavailable, a complete justification for such inapplicability or unavailability.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)
Section 102. APPENDIX A Comparison of Former and Current Rules *(Repealed)*

The following table compares the former procedural rules (in effect on December 31, 2000) with the current procedural rules (effective January 1, 2001).

<table>
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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

| 102.282 | 102.426 |
| 102.283 | 102.428 |
| 102.284 | 102.430 |
| 102.285 | 102.418 |
| 102.286 | 102.108 |
| 102.320 | 102.602 |
| 102.341 | 102.604 |
| 102.342 | 102.606 |
| 102.343 | 102.608 |
| 102.344 | 102.610 |
| 102.345 | 102.612 |
| 102.346 | 102.614 |
| 102.360 | 102.700 |
| 102.361 | 102.702 |
| 102.362 | 102.704 |
| 102.363 | 102.706 |

(Source: Repealed at 27 Ill. Reg. ______, effective ____________)
NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part**: Enforcement

2) **Code citation**: 35 Ill. Adm. Code 103

3) **Section Numbers**: Proposed Action:
   - 103.204  Amend
   - 103.212  Amend
   - 103.404  Amend
   - 103.410  Amend
   - 103.414  Amend
   - APPENDIX A  Repeal

4) **Statutory authority**: 415 ILCS 5/5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 22.7(d), 27, 28, 28.2, 29, 30, 31, and 41 of the Environmental Protection Act [415 ILCS 5].

5) **A complete description of the subjects and issues involved**: The Board’s rulemaking docket R03-10 proposes to amend the Board’s procedural rules to allow electronic filing in all Board proceedings through the Board’s new Clerk’s Office On-Line (COOL). No paper filing will be required for a document filed electronically, and a paper filing will necessitate only the paper original and one copy. The substantive portion of the proposed new rules is set forth in 35 Ill. Adm. Code 101.Subpart J. The amendments to this Part cross-reference the electronic filing rules proposed in Part 101 and eliminate the requirement for filing multiple copies.

6) **Will these proposed amendments replace emergency rulemaking currently in effect?** No

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Do these proposed amendments contain incorporations by reference?** No

9) **Are there any other amendments pending on this Part?** No
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

10) **Statement of statewide policy objective:** Electronic filing is optional. This rulemaking imposes no procedural mandates on units of local government to the extent they may appear before the Board.

11) **Time, place and manner in which interested persons may comment on this proposed rulemaking:** The Board will accept written public comment on this proposal until January 21, 2003. Comments should reference Docket R03-10 and be addressed to:

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

   Interested persons may request copies of the Board’s opinion and order by calling Dorothy Gunn at 312-814-3620, or download from the Board’s Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

   Address all questions to Carol Sudman at 217/524-8509 or sudman@ipcb.state.il.us.

   Additionally, the Board will hold two public hearings on these rules. The first hearing will be December 12, 2002 at 1:00 p.m. at:

   Illinois Pollution Control Board  
   Hearing Room 403  
   600 S. Second Street  
   Springfield IL

   The second hearing will be December 19, 2002 at 1:00 p.m. at:

   James R. Thompson Center  
   Room 9-040  
   100 W. Randolph Street  
   Chicago IL

12) **Initial regulatory flexibility analysis:**

   A) **Types of small businesses, small municipalities, and not-for-profit corporations affected:** This rulemaking affects those small businesses, small municipalities, and not-for-profit corporations that appear before the Board.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments do not require extensive reporting, bookkeeping or other procedures.

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: as the Board has been able to make technological advancements much more rapidly than anticipated.

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 103
ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

Section
103.100 Applicability
103.102 Severability
103.104 Definitions
103.106 General

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

Section
103.200 Who May File
103.202 Parties
103.204 Notice, Complaint, and Answer
103.206 Adding Parties
103.208 Request for Informal Agency Investigation
103.210 Notice of Complaint
103.212 Hearing on Complaint

SUBPART C: SETTLEMENT PROCEDURE

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

SUBPART D: PROCEEDINGS INVOLVING RCRA PERMITS

Section
103.400 Purpose, Scope, and Applicability
103.402 Interim Order
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

103.404 Joinder of the Agency
103.406 Draft Permit or Statement
103.408 Stipulated Draft Remedy
103.410 Contents of Public Notice
103.412 Public Comment
103.414 Hearing
103.416 Contents of Board Order

SUBPART E: IMPOSITION OF PENALTIES

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

APPENDIX A Comparison of Former and Current Rules (Repealed)

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


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

Section 103.204 Notice, Complaint, and Answer

a) An enforcement proceeding will be commenced by the service of a notice and complaint by registered or certified mail, messenger service, or personal service upon all respondents and the filing of 1 original and 9 copies of the notice and complaint with the Clerk. The notice and complaint must be filed in accordance with 35 Ill. Adm. Code 101.302(h).

b) The notice must be directed to the respondents notifying them of the filing of the accompanying complaint and that they may be required to attend a hearing at a date set by the Board.

c) The complaint must be captioned in accordance with 35 Ill. Adm. Code
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

101. Appendix A, Illustration A and contain:
1) A reference to the provision of the Act and regulations that the respondents are alleged to be violating;
2) The dates, location, events, nature, extent, duration, and strength of discharges or emissions and consequences alleged to constitute violations of the Act and regulations. The complaint must advise respondents of the extent and nature of the alleged violations to reasonably allow preparation of a defense; and
3) A concise statement of the relief that the complainant seeks.

d) Except as provided in subsection (e) of this Section, the respondent may file an answer within 60 days after receipt of the complaint if respondent wants to deny any allegations in the complaint. All material allegations of the complaint will be taken as admitted if no answer is filed or if not specifically denied by the answer, unless respondent asserts a lack of knowledge sufficient to form a belief. Any facts constituting an affirmative defense must be plainly set forth before hearing in the answer or in a supplemental answer, unless the affirmative defense could not have been known before hearing.

e) If the respondent timely files a motion under Section 103.212(b) or 35 Ill. Adm. Code 101.506, the 60-day period to file an answer described in subsection (d) of this Section will be stayed. The stay will begin when the motion is filed and end when the Board disposes of the motion.

f) Any party serving a complaint upon another party must include the following language in the notice: "Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney."

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

Section 103.212 Hearing on Complaint

a) Any person may file with the Board a complaint against any person allegedly violating the Act or any rule or regulation thereunder or any permit or term or condition thereof. When the Board receives a citizen's complaint, unless the Board determines that such complaint is duplicative or frivolous, it shall schedule a hearing. [415 ILCS 5/31(d)] The definition for duplicative and frivolous can be found at 35 Ill. Adm. Code 101.Subpart B.

b) Motions made by respondents alleging that a citizen's complaint is duplicative or frivolous must be filed no later than 30 days following the date of
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

service of the complaint upon the respondent. Motions under this subsection may be made only with respect to citizen's enforcement proceedings. Timely filing the motion will, pursuant to Section 103.204(e) of this Subpart, stay the 60 day period for filing an answer to the complaint.

c) The Board will automatically set for hearing all complaints filed by the Attorney General or a State's Attorney on behalf of the People of the State of Illinois.

d) The Board in its discretion may hold a hearing on the violation and a separate hearing on the remedy.

(Source: Amended at 27 Ill. Reg. ______, effective __________)

SUBPART D: PROCEEDINGS INVOLVING RCRA PERMITS

Section 103.404 Joinder of the Agency

If the Board directs that the Agency be joined, the Clerk will send, by messenger or by certified mail addressed to the Agency, a copy of the Board Order requiring joinder. The mailing will constitute service of process upon the Agency. The Board may serve its order on the Agency by e-mail, in lieu of paper service, if the Agency consents to electronic service in accordance with 35 Ill. Adm. Code 101.Subpart J.

(Source: Amended at 27 Ill. Reg. ______, effective __________)

Section 103.410 Contents of Public Notice

a) In addition to all parties, the Agency must serve a copy of any partial draft permit on USEPA at the address listed in 35 Ill. Adm. Code 101.Subpart C.

b) In addition to the requirements of the Act and Section 103.210 of this Part, the Agency must, at a minimum, give notice of the filing of a partial draft permit to the following persons:
   1) Federal agencies as designated by USEPA;
   2) Illinois Department of Transportation;
   3) Illinois Department of Natural Resources;
   4) Illinois Department of Public Health;
   5) The Governor of any other state adjacent to the county in which the facility is located; and
   6) Elected officials of any counties, in other states, adjacent to the county in which the facility is located, and elected officials in any municipality, in another state, if it is the closest population center to the facility.

c) In addition to the methods of notice by publication of Section 103.208 of this Part,
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

the Agency must give notice by broadcast over at least one radio station in the area of the facility containing the information required by subsections (d)(2), (d)(4) and (d)(6) through (d)(8).

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

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

Section 103.414 Hearing

a) The hearing officer, after appropriate consultation with the parties, will set a time and place for the hearing to be held not less than 30 days after the filing of the partial draft permit or stipulated remedy.

b) The hearing will be held in the county in which the facility is located, in the population center in the county closest to the facility.

c) The Clerk in consultation with the hearing officer will give notice of the hearing to the persons entitled to notice in Sections 103.210 and 103.410 of this Part, and to any other persons who have commented, requested to comment or requested notice, and to any persons on a mailing list provided by the Agency.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

d) Notice will be mailed not less than 30 days before the hearing.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)
Section 103. APPENDIX A  Comparison of Former and Current Rules *(Repealed)*

The following table compares the former procedural rules (in effect on December 31, 2000) with the current procedural rules (effective January 1, 2001).

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(Source: Repealed at 27 Ill. Reg. _____, effective ____________)
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Regulatory Relief Mechanisms

2) **Code citation:** 35 Ill. Adm. Code 104

3) **Section Numbers:**  Proposed Action:
   - 104.214  Amend
   - 104.216  Amend
   - 104.224  Amend
   - 104.408  Amend
   - 104.420  Amend
   - APPENDIX A  Repeal

4) **Statutory authority:** 415 ILCS 5/5, 14.2(c), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, and 39.5 of the Environmental Protection Act [415 ILCS 5].

5) **A complete description of the subjects and issues involved:** The Board’s rulemaking docket R03-10 proposes to amend the Board’s procedural rules to allow electronic filing in all Board proceedings through the Board’s new Clerk’s Office On-Line (COOL). No paper filing will be required for a document filed electronically, and a paper filing will necessitate only the paper original and one copy. The substantive portion of the proposed new rules is set forth in 35 Ill. Adm. Code 101.Subpart J. The amendments to this Part cross-reference the electronic filing rules proposed in Part 101 and eliminate the requirement for filing multiple copies.

6) **Will these proposed amendments replace emergency rules currently in effect?** No

7) **Do these amendments contain an automatic repeal date?** No

8) **Do these proposed amendments contain incorporations by reference?** No

9) **Are there any other amendments pending on this Part?** No

10) **Statement of statewide policy objectives:** Electronic filing is optional. This rulemaking imposes no procedural mandates on units of local government to the extent they may appear before the Board.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal until January 21, 2003. Comments should reference Docket R03-10 and be addressed to:

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

Interested persons may request copies of the Board’s opinion and order by calling Dorothy Gunn at 312-814-3620, or download from the Board’s Web site at www.ipcb.state.il.us.

Address all questions to Carol Sudman at 217/524-8509 or sudman@ipcb.state.il.us.

Additionally, the Board will hold two public hearings on these rules. The first hearing will be December 12, 2002 at 1:00 p.m. at:

Illinois Pollution Control Board
Hearing Room 403
600 S. Second Street
Springfield IL

The second hearing will be December 19, 2002 at 1:00 p.m. at:

James R. Thompson Center
Room 9-040
100 W. Randolph Street
Chicago IL

12) Initial regulatory flexibility analysis:

A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking affects those small businesses, small municipalities, and not-for-profit corporations that appear before the Board.

B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments do not require extensive reporting, bookkeeping or other procedures.
NOTICE OF PROPOSED AMENDMENTS

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking did not appear on either of the Board’s two most recent Regulatory Agendas because: The Board has been able to make technological advancements much more rapidly than anticipated.

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 104
REGULATORY RELIEF MECHANISMS

SUBPART A: GENERAL PROVISIONS

Section
104.100 Applicability
104.102 Severability
104.104 Definitions

SUBPART B: VARIANCES

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

NOTICE OF PROPOSED AMENDMENTS

104.246 Performance Bonds
104.248 Objection to Conditions

SUBPART C: PROVISIONAL VARIANCES

Section
104.300 Applicability
104.302 Board Action
104.304 Initiating a Request
104.306 Notice
104.308 Term
104.310 Simultaneous Variance Prohibition

SUBPART D: ADJUSTED STANDARDS

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

APPENDIX A Comparison of Former and Current Rules (Repealed)

AUTHORITY: Subparts B and C: Implementing Sections 5, 35, 36, 37 and 38 of the Environmental Protection Act (Act) [415 ILCS 5/5, 35, 36, 37 and 38] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27]. Subpart D: Implementing Sections 5, 14.2(c), 22.4, 27, 28, 28.1, 28.5 and 39.5 of the Act [415 ILCS 5/5, 14.2(c), 22.4, 27, 28, 28.1, 28.5 and 39.5] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].
POLLUTON CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS


SUBPART B: VARIANCES

Section 104.214 Agency's Notice of Petition

a) Within 14 days after the petition is filed, the Agency must publish a single notice of such petition in a newspaper of general circulation in the county where the facility or pollution source is located [415 ILCS 5/37(a)].

b) Upon receipt of a petition for variance, the Agency shall promptly give written notice of such petition to:
   1) Any person in the county in which the installation or property for which variance is sought is located who has in writing requested notice of variance petitions;
   2) the State's attorney of such county;
   3) The Chairman of the County Board of such county; and
   4) Each member of the General Assembly from the legislative district in which that installation or property is located. [415 ILCS 5/37(a)]

c) Upon receipt of a petition for RCRA variance, the Agency must promptly give notice of the petition to:
   1) Federal agencies as designated by USEPA;
   2) Illinois Department of Transportation;
   3) Department of Natural Resources;
   4) Illinois Department of Public Health;
   5) The Governor of any other state adjacent to the county in which the facility or pollution source is located; and
   6) Elected officials of any counties, in other states, adjacent to the county in which the facility or pollution source is located, and elected officials in any municipality, in another state, if it is the closest population center to the facility or pollution source.

d) In addition to the methods of notice stated in subsection (c) of this Section, in a RCRA variance the Agency must also give notice by broadcast over at least one local radio station in the area of the facility or pollution source containing the information required by subsections (e) and (f) of this Section.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

e) All notices required by this Section must include the following:
   1) The street address of the facility or pollution source, and if there is no
      street address, then the legal description or the location with reference to
      any well known landmark, highway, road, thoroughfare or intersection;
   2) A description of the requested relief;
   3) An indication that any person may request a hearing by filing with the
      Board a written objection to the grant of the variance within 21 days after
      the publication of the Agency's notice, together with a written request for
      hearing;
   4) The Clerk of the Board's address and phone number, the Board's Web site
      address, and a statement that a copy of the variance may be obtained
      through the Clerk's Office or the Board's Web site;
   5) A statement that the Agency is preparing a recommendation, the date on
      which the recommendation is to be filed, and the name, address and
      telephone number of the Agency employee responsible for the
      recommendation;
   6) A statement that a hearing may be held after the filing of the
      recommendation and that the record will remain open for written
      comments for 45 days after filing of the recommendation. The notice will
      include the address of the Board to which the comments must be mailed;
   7) A statement that the record in the variance proceeding is available at the
      Board office for inspection, except those portions that are protected from
      disclosure under 35 Ill. Adm. Code 130, and that procedures are available
      whereby disclosure may be sought by the public;
   8) A statement that variances may be granted pursuant to Section 35 of the
      Act [415 ILCS 5/35] and 35 Ill. Adm. Code 104, and a reference to the
      Board regulations or order from which a variance is sought; and
   9) Any additional information considered necessary or proper.

f) Within 21 days after the publication of notice, the Agency must file with the
   Board a certification of publication that states the date on which the notice was
   published and must attach a copy of the published notice.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

Section 104.216 Agency Investigation and Recommendation

a) Upon receipt of a petition for variance, the Agency shall promptly investigate such
   petition and consider the views of persons who might be adversely affected by the
   grant of a variance [415 ILCS 5/37(a)].

b) The Agency shall make a recommendation to the Board as to the disposition of the
NOTICE OF PROPOSED AMENDMENTS

petition [415 ILCS 5/37(a)]. Unless otherwise ordered by the hearing officer or the Board, the recommendation must be filed with the Board within 45 days after the filing of the petition or amended petition, or where there has been a hearing scheduled, at least 30 days before hearing, whichever is earlier. The Agency must serve a copy of its recommendation by First Class mail on the petitioner, joined parties, and assigned hearing officer, if applicable. At a minimum, the recommendation must include:

1) A description of the efforts made by the Agency to investigate the facts as alleged and to ascertain the views of persons who might be affected, and a summary of the views so ascertained;

2) The location of the nearest air monitoring station maintained by the Agency where applicable;

3) A statement of the degree to which, if at all, the Agency disagrees with the facts as alleged in the petition, including facts refuting any allegations in the petition for variance;

4) Allegations of any other facts the Agency believes relevant to the disposition of the petition, including any past or pending enforcement actions against petitioner;

5) The Agency's estimate of the costs that compliance would impose on the petitioner and on others;

6) The Agency's estimate of the injury that the grant of the variance would impose on the public, including the effect that continued discharge of contaminants will have upon the environment;

7) The Agency's analysis of applicable federal laws and regulations and an opinion concerning the consistency of the petition with such federal laws and regulations;

8) The status of any permits or pending permit applications that are associated with or affected by the requested variance;

9) Allegation of any facts that the Agency believes are relevant to whether the Board should condition a grant of variance on the posting of a performance bond pursuant to Section 104.246 of this Part;

10) Citation to supporting documents or legal authorities whenever such are used as a basis for the Agency's recommendation. Relevant portions of the documents and legal authorities, other than Board decisions, reported state and federal court decisions, state and federal regulations and statutes, must be appended to the recommendation if not already in the record of the proceeding;

11) The Agency's recommendation of what disposition should be made of the petition, deny or grant, and suggested conditions. If the Agency recommends that variance be granted, a recommended beginning and end
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

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

a) A person who files an objection, request for hearing, or comment is a "participant" as defined in 35 Ill. Adm. Code 101.Subpart B.

b) Except as provided in subsection (e) of this Section for RCRA variances, any person may file with the Clerk, within 21 days after the publication of the Agency's notice pursuant to Section 104.214 of this Part, a written objection to the grant of variance. The Clerk will provide a copy of the objection to the petitioner, the Agency, the hearing officer, and any joined parties by First Class mail.

c) Any person may also file a written request for hearing. The written request must be filed within 21 days after the publication of the Agency's notice pursuant to Section 104.214 of this Part in order for a hearing to be held in accordance with Section 104.236 of this Part and 35 Ill. Adm. Code 101.Subpart F.

d) Any person may file written comments in a variance proceeding. If a hearing is held, public comments must be filed within 14 days after the close of the hearing unless the hearing officer specifies a different date. If there is no hearing, comments must be filed no later than 30 days before the decision date, unless the hearing officer orders otherwise to prevent material prejudice. (See 35 Ill. Adm. Code 101.628(c)(1).)

e) In RCRA variances, subsections (b) and (c) of this Section do not apply. However, persons may file written comments within 45 days after the Agency files its recommendation.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

SUBPART D: ADJUSTED STANDARDS

Section 104.408 Petition Notice Requirements

a) The petitioner shall submit to the Board proof that, within 14 days after the filing of the petition, it has published notice of the filing of the petition by advertisement in a newspaper of general circulation in the area likely to be affected by the
pursuant to this Subpart have withdrawn their requests for a hearing, the hearing will not be held unless the Board in its discretion deems it advisable.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 27 Ill. Reg. _____, effective __________)
NOTICE OF PROPOSED AMENDMENTS

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

The following table compares the former procedural rules (in effect on December 31, 2000) with the current procedural rules (effective January 1, 2001).

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(Source: Repealed at 27 Ill. Reg. _______, effective ____________)
NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Appeals of Final Decisions of State Agencies


3) Section Numbers: Proposed Action:
   105.116   Amend
   105.214   Amend
   105.504   Amend
   APPENDIX B Repeal

4) Statutory authority: 415 ILCS 5/5, 26, 27, 39, 39.5, 40, 40.1, 40.2, and 57 of the Environmental Protection Act [415 ILCS 5].

5) A complete description of the subjects and issues involved: The Board’s rulemaking docket R03-10 proposes to amend the Board’s procedural rules to allow electronic filing in all Board proceedings through the Board’s new Clerk’s Office On-Line (COOL). No paper filing will be required for a document filed electronically, and a paper filing will necessitate only the paper original and one copy. The substantive portion of the proposed new rules is set forth in 35 Ill. Adm. Code 101.Subpart J. The amendments to this Part cross-reference the electronic filing rules proposed in Part 101 and eliminate the requirement for filing multiple copies.

6) Will these proposed amendments replace any emergency amendments currently in effect? No

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

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of statewide policy objectives: Electronic filing is optional. This rulemaking imposes no procedural mandates on units of local government to the extent they may appear before the Board.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

11) **Time, place and manner in which interested persons may comment on this proposed rulemaking:** The Board will accept written public comment on this proposal until January 21, 2003. Comments should reference Docket R03-10 and be addressed to:

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

   Interested persons may request copies of the Board’s opinion and order by calling Dorothy Gunn at 312-814-3620, or download from the Board’s Web site at www.ipcb.state.il.us.

   Address all questions to Carol Sudman at 217/524-8509 or sudman@ipcb.state.il.us.

   Additionally, the Board will hold two public hearings on these rules. The first hearing will be December 12, 2002 at 1:00 p.m. at:

   Illinois Pollution Control Board
   Hearing Room 403
   600 S. Second Street
   Springfield IL

   The second hearing will be December 19, 2002 at 1:00 p.m. at:

   James R. Thompson Center
   Room 9-040
   100 W. Randolph Street
   Chicago IL

12) **Initial regulatory flexibility analysis:**

   A) **Types of small businesses, small municipalities, and not-for-profit corporations affected:** This rulemaking affects those small businesses, small municipalities, and not-for-profit corporations that appear before the Board.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments do not require extensive reporting, bookkeeping or other procedures.

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This proposal did not appear in the Board’s two most recent regulatory agendas, as the Board has been able to make technological advancements much more rapidly than anticipated.

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 Hearing Process
105.112 Burden of Proof
105.114 Calculation of Decision Deadline
105.116 Record Filing
105.118 Sanctions for Untimely Filing of the Record

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

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

SUBPART C: CAAPP PERMIT APPEALS

Section
105.300 Applicability
105.302 General Requirements
105.304 Petition Content Requirements
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

SUBPART E: APPEAL OF OSFM LUST DECISIONS

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

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

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


SUBPART A: GENERAL PROVISIONS

Section 105.116 Record Filing
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

The State agency must file with the Board the entire record of its decision within 30 days after the filing of the petition for review, unless this Part provides otherwise, or the Board or hearing officer orders a different filing date. If the State agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. The State agency must file the record with the Clerk in accordance with 35 Ill. Adm. Code 101.302(h).

(Source: Amended at 27 Ill. Reg. _____, effective ____________)

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

Section 105.214 Board Hearing

a) Except as provided in subsections (b), (c) and (d) of this Section, the Board will conduct a public hearing, in accordance with 35 Ill. Adm. Code 101.Subpart F, upon an appropriately filed petition for review under this Subpart. The hearing will be based exclusively on the record before the Agency at the time the permit or decision was issued, unless the parties agree to supplement the record pursuant to Section 40(d) of the Act. If any party desires to introduce evidence before the Board with respect to any disputed issue of fact, the Board will conduct a separate hearing and receive evidence with respect to the issue of fact.

b) The Board will not hold a hearing on a petition for review under this Subpart if the Board disposes of the petition on a motion for summary judgment brought pursuant to 35 Ill. Adm. Code 101.516.

c) The Board will not hold a hearing on a petition for review under Section 105.204(c) of this Subpart if the Board determines that:
   1) The petition is duplicative or frivolous; or
   2) The petitioner is so located as to not be affected by the permitted facility.

d) The Board will not hold a hearing on a petition for review under Section 105.204(b) or (d) of this Subpart if the Board determines that the petition is duplicative or frivolous.

e) If the Board determines to hold a hearing, the Clerk will give notice of the hearing pursuant to 35 Ill. Adm. Code 101.602.

(Source: Amended at 27 Ill. Reg. _____, effective ____________)

SUBPART E: APPEAL OF OSFM LUST DECISIONS

Section 105.504 General Requirements
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

a) Who May File. Any owner or operator of an underground storage tank who has been issued an "Eligibility and Deductibility Determination" letter or who has not received an "Eligibility and Deductibility Determination" letter from the OSFM within the time prescribed by Section 57.9(c)(2) of the Act, which is deemed to be a final decision appealable to the Board, may file a petition with the Board seeking review of that final decision. The owner/operator must be named as the petitioner, and the OSFM must be named as the respondent. Filing requirements are set forth at 35 Ill. Adm. Code 101.Subpart C.

b) Timely Petition. The petition for review must be filed with the Board within 35 days after the date of the OSFM's "Eligibility and Deductibility Determination" letter or within 35 days from the OSFM's final decision due to its failure to act as required under Section 57.9(c)(3) of the Act. There will be a rebuttable presumption that petitioner received the OSFM's "Eligibility and Deductibility Final Determination" letter four days from the date indicated on the letter.

c) Service and Filing. The petitioner must serve all filings upon the OSFM at the address listed in 35 Ill. Adm. Code 101.Subpart C. All filings must be accompanied by a notice of filing. Methods and proof of service, as well as the effective date of service, are governed by 35 Ill. Adm. Code 101.Subpart C.
The following table compares the former procedural rules (in effect on December 31, 2000) with the current procedural rules (effective January 1, 2001).

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(Source: Repealed at 27 Ill. Reg. ______, effective ____________)
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Proceedings Pursuant to Specific Rules or Statutory Provisions

2) **Code citation:** 35 Ill. Adm. Code 106

3) **Section Numbers:**
   - 106.707 Amend
   - 106.708 Amend
   - 106.720 Amend
   - APPENDIX A Repeal

4) **Statutory authority:** 415 ILCS 5/5, 14.2(c), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5, and 52.3 of the Environmental Protection Act [415 ILCS 5].

5) **A complete description of the subjects and issues involved:** The Board’s rulemaking docket R03-10 proposes to amend the Board’s procedural rules to allow electronic filing in all Board proceedings through the Board’s new Clerk’s Office On-Line (COOL). No paper filing will be required for a document filed electronically, and a paper filing will necessitate only the paper original and one copy. The substantive portion of the proposed new rules is set forth in 35 Ill. Adm. Code 101.Subpart J. The amendments to this Part cross-reference the electronic filing rules proposed in Part 101 and eliminate the requirement for filing multiple copies.

6) **Will these proposed amendments replace emergency rulemakings currently in effect?** No

7) **Do these amendments contain an automatic repeal date?** No

8) **Do these proposed amendments contain incorporations by reference?** No

9) **Are there any other amendments pending on this Part?** No

10) **Statement of statewide policy objective:** Electronic filing is optional. This rulemaking imposes no procedural mandates on units of local government to the extent they may appear before the Board.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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Interested persons may request copies of the Board’s opinion and order by calling Dorothy Gunn at 312-814-3620, or download from the Board’s Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

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   Chicago IL

12) **Initial regulatory flexibility analysis:**

   **A)** **Types of small businesses, small municipalities, and not-for-profit corporations affected:** This rulemaking affects those small businesses, small municipalities, and not-for-profit corporations that appear before the Board.

   **B)** **Reporting, bookkeeping or other procedures required for compliance:** The existing rules and proposed amendments do not require extensive reporting, bookkeeping or other procedures.
C) **Types of professional skills necessary for compliance:** Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.

13) **Regulatory Agenda on which this rulemaking was summarized:** This rulemaking was not included on either of the 2 most recent regulatory agendas because: as the Board has been able to make technological advancements much more rapidly than anticipated.

The full text of the proposed amendments begins on the next page:
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 106
PROCEEDINGS PURSUANT TO SPECIFIC RULES OR STATUTORY PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section
106.100 Applicability
106.102 Severability
106.104 Definitions

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

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

SUBPART C: WATER WELL SETBACK EXCEPTION PROCEDURES

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

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

Section
106.400 General
NOTICE OF PROPOSED AMENDMENTS

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

SUBPART E: MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY DETERMINATIONS

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

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

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

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

Section
106.700 Purpose
106.702 Applicability
106.704 Termination Under Section 52.3-4(b) of the Act
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

106.706 Who May Initiate, Parties
106.707 Notice, Statement of Deficiency, Answer
106.708 Service
106.710 Notice of Hearing
106.712 Deficient Performance
106.714 Board Decision
106.716 Burden of Proof
106.718 Motions, Responses
106.720 Intervention
106.722 Continuances
106.724 Discovery, Admissions
106.726 Subpoenas
106.728 Settlement Procedure
106.730 Authority of Hearing Officer, Board Members, and Board Assistants
106.732 Order and Conduct of Hearing
106.734 Evidentiary Matters
106.736 Post-Hearing Procedures
106.738 Motion After Entry of Final Order
106.740 Relief from Final Orders

APPENDIX A Comparison of Former and Current Rules (Repealed)

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


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

Section 106.707 Notice, Statement of Deficiency, Answer

a) A proceeding to terminate an EMSA will be commenced when the Agency serves
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

a notice of filing and a statement of deficiency upon the respondent and files one original plus 9 copies of the notice of filing and statement of deficiency with the Clerk. The notice of filing and statement of deficiency must be filed in accordance with 35 Ill. Adm. Code 101.302(h).

b) The statement of deficiency must contain:
   1) The stated basis for the respondent's alleged deficient performance under Section 106.712(a) of this Subpart;
   2) The dates, location, nature, extent and duration of any act or omission, and amount and other characteristics of any discharges or emissions, alleged to violate provisions of the Act or regulations that apply to the pilot project that the EMSA does not address;
   3) The dates, location, nature, extent and duration of any act or omission, and amount and other characteristics of any discharges or emissions, alleged to violate the EMSA; and
   4) With respect to subsections (b)(1) through (b)(3) of this Section, the statement of deficiency must contain sufficient detail to advise the respondent of the extent and nature of the alleged violations to reasonably allow the respondent to prepare a defense.

c) The respondent must file an answer within 15 days after receipt of the statement of deficiency, unless the Board or the hearing officer extends the 15-day period for good cause. All material allegations of the statement of deficiency will be taken as admitted if not specifically denied by the answer, or if no answer is filed. Any facts that constitute an affirmative defense that would be likely to surprise the complainant must be plainly set forth in the answer before hearing.

(Source: Amended at 27 Ill. Reg. _______, effective ____________)

Section 106.708 Service

a) The Agency must serve a copy of the notice of filing and statement of deficiency either personally on the respondent or the respondent's authorized agent, or by registered or certified mail or messenger service with return receipt signed by the respondent or the respondent's authorized agent. Proof must be made by affidavit of the person who makes personal service, or by properly executed registered or certified mail receipt or messenger service receipt. The Agency must file proof of service of the notice of filing and statement of deficiency with the Clerk immediately upon completion of service.

b) The Agency and the respondent must serve all motions and all other notices personally, by First Class United States mail, with sufficient postage, or by overnight delivery by a nationally recognized courier service.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

acCORDANCE WITH 35 ILL. ADM. CODE 101. SUBPART J. The Agency and the respondent must file an original and 9 copies of the motions and notices with the Clerk in accordance with 35 Ill. Adm. Code 101.302(h) with proof of service.

c) Service is presumed complete upon personal service, four days after deposit in the United States First Class mail, with sufficient postage, or the next business day upon deposit with a nationally recognized courier service for overnight delivery, or on the date of successful electronic transmission in accordance with 35 Ill. Adm. Code 101.1010.

(SOURCE: Amended at 27 Ill. Reg. ______, effective ____________)

Section 106.720 Intervention

a) Upon timely written motion and subject to the need to conduct an orderly and expeditious hearing, the Board will permit a person to intervene in an involuntary termination proceeding under this Subpart if the person submitted written comments on the respondent's EMSA or participated in the public hearing on the respondent's EMSA by signing an attendance sheet or signature card at hearing under the procedures set forth in 35 Ill. Adm. Code 187.404, or is named or listed in the respondent's EMSA as a stakeholder, and if the Board's final order may adversely affect the person.

b) The movant must file the an original and 9 copies of a motion to intervene with the Board in accordance with 35 Ill. Adm. Code 101.302(h) and serve a copy on each party in accordance with 35 Ill. Adm. Code 101.304(c) not later than 48 hours before the hearing. The Board may permit a person to intervene at any time before the beginning of the hearing when that person shows good cause for the delay.

c) An intervenor has all the rights of an original party, except that the Board may limit the rights of the intervenor in accordance with 35 Ill. Adm. Code 101.402.

(SOURCE: Amended at 27 Ill. Reg. ______, effective ____________)
NOTICE OF PROPOSED AMENDMENTS

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

The following table compares the former procedural rules (in effect on December 31, 2000) with the current procedural rules (effective January 1, 2001).

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POLLUTION CONTROL BOARD

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| 106.945 | 106.704 |
| 106.946 | 106.706 |
| 106.948 | 106.707 |
| 106.950 | 106.708 |
| 106.952 | 106.710 |
| 106.954 | 106.712 |
| 106.956 | 106.714 |
| 106.958 | 106.716 |
| 106.960 | 106.718 |
| 106.962 | 106.720 |
| 106.964 | 106.722 |
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

| 106.966 | 106.724 |
| 106.968 | 106.726 |
| 106.970 | 106.728 |
| 106.972 | 106.730 |
| 106.974 | 106.732 |
| 106.976 | 106.734 |
| 106.978 | 106.736 |
| 106.980 | 106.738 |
| 106.982 | 106.740 |

(Source: Repealed at 27 Ill. Reg. ______, effective ____________)
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Tax Certifications

2) **Code citation:** 35 Ill. Adm. Code 125

3) **Section Number:** 125.216

   **Proposed Action:** Amend

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

5) **A complete description of the subjects and issues involved:** The Board’s rulemaking docket R03-10 proposes to amend the Board’s procedural rules to allow electronic filing in all Board proceedings through the Board’s new Clerk’s Office On-Line (COOL). No paper filing will be required for a document filed electronically, and a paper filing will necessitate only the paper original and one copy. The substantive portion of the proposed new rules is set forth in 35 Ill. Adm. Code 101.Subpart J. The amendments to this Part cross-reference the electronic filing rules proposed in the proposed Part 101 and eliminate the requirement for filing multiple copies.

6) **Will this proposed amendment replace an emergency rule currently in effect?** No

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Does this proposed amendment contain incorporations by reference?** No

9) **Are there any other amendments pending on this Part?** No

10) **Statement of statewide policy objectives:** Electronic filing is optional. This rulemaking imposes no procedural mandates on units of local government to the extent they may appear before the Board.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal until January 21, 2003. Comments should reference Docket R03-10 and be addressed to:

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

Interested persons may request copies of the Board’s opinion and order by calling Dorothy Gunn at 312-814-3620, or download from the Board’s Web site at www.ipcb.state.il.us.

Address all questions to Carol Sudman at 217/524-8509 or sudman@ipcb.state.il.us.

Additionally, the Board will hold two public hearings on these rules. The first hearing will be December 12, 2002 at 1:00 p.m. at:

Illinois Pollution Control Board
Hearing Room 403
600 S. Second Street
Springfield IL

The second hearing will be December 19, 2002 at 1:00 p.m. at:

James R. Thompson Center
Room 9-040
100 W. Randolph Street
Chicago IL

12) Initial regulatory flexibility analysis:

A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking affects those small businesses, small municipalities, and not-for-profit corporations that appear before the Board.

B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments do not require extensive reporting, bookkeeping or other procedures.
C) **Types of professional skills necessary for compliance:** Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.

13) **Regulatory Agenda on which this rulemaking was summarized:** This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: As the Board has been able to make technological advancements much more rapidly than anticipated.

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

NOTICE OF PROPOSED AMENDMENT

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

PART 125
TAX CERTIFICATIONS

SUBPART A: GENERAL PROVISIONS

Section
125.100  Applicability
125.102  Severability
125.104  Definitions

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

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


SOURCE: Adopted in R00-20 at 25 Ill. Reg. 642, effective January 1, 2001; amended in R03-10 at 27 Ill. Reg. ______, effective ____________.

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

Section 125.216  Board Action
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

a) Pollution Control Facilities. If it is found that the claimed facility or relevant portion thereof is a pollution control facility as defined in Section 125.200(a)(1) of this Part, the Board shall enter a finding and issue a certificate to that effect. The certificate shall require tax treatment as a pollution control facility, but only for the portion certified if only a portion is certified. The effective date of a certificate shall be the date of the application petition for the certificate or the date of the construction of the facility, whichever is later. [35 ILCS 200/11-25]

b) Low Sulfur Dioxide Emission Coal Fueled Devices. If it is found that the claimed device meets the definition of low sulfur dioxide emission coal fueled device as set forth in Section 125.200(b)(1) of this Part, the Board shall enter a finding and issue a certificate that requires tax treatment as a low sulfur dioxide emission coal fueled device. The effective date of a certificate shall be on January 1 preceding the date of certification or preceding the date construction or installation of the device commences, whichever is later. [35 ILCS 200/11-55]

c) After notice to the holder of the certificate and an opportunity for a hearing pursuant to this Subpart, the Board may on its own initiative revoke or modify a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate whenever any of the following appears:
1) The certificate was obtained by fraud or misrepresentation;
2) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of pollution control facilities or a low sulfur dioxide emission coal fueled device; or
3) The pollution control facility to which the certificate relates has ceased to be used for the primary purpose of pollution control and is being used for a different purpose. [35 ILCS 200/11-30]

d) The Clerk will provide the applicant and the Agency with a copy of the Board’s order setting forth the Board’s findings and certificate, if any. [35 ILCS 200/11-30].

(Source: Amended at 27 Ill. Reg. ______, effective ___________)

(End of Document)
ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Identification and Protection of Trade Secrets and Other Non-Disclosable Information

2) **Code citation:** 35 Ill. Adm. Code 130

3) **Section Numbers:**

<table>
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<tr>
<th>Section Numbers</th>
<th>Proposed Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>130.110</td>
<td>Amend</td>
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<tr>
<td>130.302</td>
<td>Amend</td>
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<td>130.304</td>
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<td>130.404</td>
<td>Amend</td>
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<tr>
<td>130.408</td>
<td>Amend</td>
</tr>
<tr>
<td>APPENDIX A</td>
<td>Repeal</td>
</tr>
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</table>

4) **Statutory authority:** 415 ILCS 5/7, 7.1, 26, and 27 of the Environmental Protection Act [415 ILCS 5].

5) **A complete description of the subjects and issues involved:** The Board’s rulemaking docket R03-10 proposes to amend the Board’s procedural rules to allow electronic filing in all Board proceedings through the Board’s new Clerk’s Office On-Line (COOL). No paper filing will be required for a document filed electronically, and a paper filing will necessitate only the paper original and one copy. The substantive portion of the proposed new rules is set forth in 35 Ill. Adm. Code 101.Subpart J. The amendments to this Part cross-reference the electronic filing rules proposed in the proposed Part 101 and eliminate the requirement for filing multiple copies.

6) **Will these proposed amendments replace any emergency amendments currently in effect?**

   No

7) **Does this rulemaking contain an automatic repeal date?**

   No

8) **Do these proposed amendments contain incorporations by reference?**

   No

9) **Are there any other amendments pending on this Part?**

   No

10) **Statement of statewide policy objectives:** Electronic filing is optional. This rulemaking imposes no procedural mandates on units of local government to the extent they may appear before the Board.
NOTICE OF PROPOSED AMENDMENTS

11) **Time, place and manner in which interested persons may comment on this proposed rulemaking:** The Board will accept written public comment on this proposal until January 21, 2003. Comments should reference Docket R03-10 and be addressed to:

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

   Interested persons may request copies of the Board’s opinion and order by calling Dorothy Gunn at 312-814-3620, or download from the Board’s Web site at www.ipcb.state.il.us.

   Address all questions to Carol Sudman at 217/524-8509 or sudman@ipcb.state.il.us.

   Additionally, the Board will hold two public hearings on these rules. The first hearing will be December 12, 2002 at 1:00 p.m. at:

   Illinois Pollution Control Board  
   Hearing Room 403  
   600 S. Second Street  
   Springfield IL

   The second hearing will be December 19, 2002 at 1:00 p.m. at:

   James R. Thompson Center  
   Room 9-040  
   100 W. Randolph Street  
   Chicago IL

12) **Initial regulatory flexibility analysis:**

   A) **Types of small businesses, small municipalities, and not-for-profit corporations affected:** This rulemaking affects those small businesses, small municipalities, and not-for-profit corporations that appear before the Board.

   B) **Reporting, bookkeeping or other procedures required for compliance:** The existing rules and proposed amendments do not require extensive reporting, bookkeeping or other procedures.
C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This proposal did not appear in the Board’s two most recent regulatory agendas, as the Board has been able to make technological advancements much more rapidly than anticipated.

The full text of the proposed amendments begins on the next page:
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 130
IDENTIFICATION AND PROTECTION OF TRADE SECRETS AND OTHER
NON-DISCLOSABLE INFORMATION

SUBPART A: GENERAL PROVISIONS

Section
130.100 Purpose and Applicability
130.102 Additional Procedures
130.104 Definitions and Severability
130.106 Segregation of Articles
130.108 Disposal of Articles
130.110 Articles Containing Emission Data

SUBPART B: PROCEDURES FOR IDENTIFYING ARTICLES
THAT REPRESENT TRADE SECRETS

Section
130.200 Initiation of a Claim that an Article Represents a Trade Secret
130.201 State Agency Request for Justification of Claims
130.202 Time Limit for Delayed Submission of Justification
130.203 Contents of Statement of Justification
130.204 Waiver of Statutory Deadlines
130.206 Deadline for State Agency Trade Secret Determination
130.208 Standards for State Agency Determination
130.210 State Agency Actions Following a Negative Determination
130.212 State Agency Actions Following a Positive Determination
130.214 Review of State Agency Trade Secret Determination
130.216 Effect of a Determination of Trade Secret Status on Other State Agencies
130.218 Status of Article Determined or Claimed to Represent a Trade Secret Before
January 1, 2001
130.220 Extension of Deadlines to Participate in Proceedings

SUBPART C: PROCEDURES FOR PROTECTING ARTICLES
THAT REPRESENT TRADE SECRETS
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 130.300 Applicability
130.302 Owner's Responsibility to Mark Article
130.304 State Agency’s Responsibility to Mark Article
130.306 Transmission of Article Between State Agencies
130.308 Public Access to Information Related to Article
130.310 Access to Claimed or Determined Article
130.312 Unauthorized Disclosure or Use of Article
130.314 Limitation on Copying Article

SUBPART D: NON-DISCLOSABLE INFORMATION
OTHER THAN TRADE SECRETS

Section 130.400 General
130.402 Who May View Non-Disclosable Information
130.404 Application for Non-Disclosure
130.406 Public Inspection
130.408 Board Order

APPENDIX A Comparison of Former and Current Rules (Repealed)

AUTHORITY: Implementing Sections 7 and 7.1 of the Environmental Protection Act (Act) [415 ILCS 5/7 and 7.1] and authorized by Sections 7, 7.1, 26, and 27 of the Act [415 ILCS 5/7, 7.1, 26, 27].


SUBPART A: GENERAL PROVISIONS

Section 130.110 Articles Containing Emission Data

a) All emission data reported to or otherwise obtained by the Illinois Environmental Protection Agency, the Board, or DNR in connection with any examination, inspection or proceeding under the Act shall be available to the public to the extent required by the federal Clean Air Act Amendments of 1977 (P.L. 95-95) as amended [415 ILCS 5/7(c)].
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

b) For purposes of this Section, "emission data" means:
1) The identity, amount, frequency, concentration, or other characteristics
   (related to air quality) of any contaminant that:
   A) Has been emitted from an emission unit;
   B) Results from any emission by the emission unit;
   C) Under an applicable standard or limitation, the emission unit was
      authorized to emit; or
   D) Is a combination of any of the items described in subsection
      (b)(1)(A), (B), or (C) of this Section.

2) The name, address (or description of the location), and the nature of the
   emission unit necessary to identify the emission unit, including a
   description of the device, equipment, or operation constituting the
   emission unit.

c) In addition to subsection (b) of this Section, information necessary to determine
   or calculate emission data, including rate of operation, rate of production, rate of
   raw material usage, or material balance, will be deemed to represent emission data
   for the purposes of this Section if the information is contained in a permit to
   ensure that the permit is practically enforceable.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

SUBPART C: PROCEDURES FOR PROTECTING ARTICLES
THAT REPRESENT TRADE SECRETS

Section 130.302 Owner's Responsibility to Mark Article

a) When an entire article is claimed to represent a trade secret, the owner must mark
   the article with the words "Trade Secret" in red or bold letters ink on the face or
   front of the article.

b) When less than an entire article is claimed to represent a trade secret, the owner
   must:
   1) Mark the article with the words "Trade Secret" in red or bold letters ink on
      the face or front of the article;
   2) Indicate on the face or front of the article which page or portion of the
      article is claimed to represent a trade secret;
   3) Mark every page or portion of the article that is claimed to represent a
      trade secret with the words "Trade Secret;" in red or bold letters; and
   4) Furnish the State agency with a second copy of the article that is marked
      pursuant to subsections (b)(1) and (2) of this Section and from which the
      page or portion of the article that is claimed to represent a trade secret is
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

deleted.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

Section 130.304 State Agency's Responsibility to Mark Article

a) When an entire article is determined to represent a trade secret pursuant to Section 130.208 of this Part, the State agency must mark the article with the word "DETERMINED" in red or bold letters ink on the face or front of the article and must also mark any claim letter submitted for the article.

b) When less than an entire article is determined to represent a trade secret pursuant to Section 130.208 of this Part, the State agency must:
   1) Mark the article with the word "DETERMINED" in red or bold letters ink on the face or front of the article;
   2) Indicate on the face or front of the article and any claim letter submitted for the article which page or portion of the article is determined to represent a trade secret; and
   3) Mark every page or portion of the article that is determined to represent a trade secret with the word "DETERMINED-" in red or bold letters.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

SUBPART D: NON-DISCLOSABLE INFORMATION
OTHER THAN TRADE SECRETS

Section 130.404 Application for Non-Disclosure

a) Except as provided in subsection (c)(4) of this Section, the applicant must file a single copy of the following:
   1) The article that is sought to be protected from disclosure; and
   2) The application for non-disclosure.

b) When an entire article is sought to be protected from disclosure, the applicant must mark the article with the words "NON-DISCLOSABLE INFORMATION" in red or bold letters ink on the face or front of the article.

c) When less than an entire article is sought to be protected from disclosure, the applicant must:
   1) Mark the article with the words "NON-DISCLOSABLE INFORMATION" in red or bold letters ink on the face or front of the article;
   2) Indicate on the face or front of the article which page or portion of the
article is claimed to be non-disclosable information;

3) Mark every page or portion of the article sought to be protected from disclosure with the words "NON-DISCLOSABLE INFORMATION;" in red or bold letters;

4) File with the Clerk a second copy of the article that is marked pursuant to subsections (c)(1) and (c)(2) of this Section and from which the page or portion sought to be protected from disclosure is deleted.

d) The applicant is not required to serve any other persons with the article or the page or portion thereof for which the applicant seeks protection from disclosure.

e) The application for non-disclosure must contain the following:

1) Identification of the particular non-disclosure category into which the material that is sought to be protected from disclosure falls (see 35 Ill. Adm. Code 101.202 for the definition of "non-disclosable information");

2) A concise statement of the reasons for requesting non-disclosure;

3) Data and information on the nature of the material that is sought to be protected from disclosure, identification of the number and title of all persons familiar with the data and information, and a statement of how long the material has been protected from disclosure;

4) An affidavit verifying the facts set forth in the application for non-disclosure that are not of record in the proceeding; and

5) A waiver of any decision deadline in accordance with Section 130.204 of this Part.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)

Section 130.408 Board Order

a) If the Board determines that the article or any page or portion thereof is non-disclosable information, the Board will mark the word "DETERMINED" in red or bold letters on the face or front and on every page or portion determined to be non-disclosable information.

b) If the Board determines that the article, or any page or portion thereof is not non-disclosable information, the Board may enter a conditional non-disclosure order allowing the applicant to withdraw the material addressed in the order. If the applicant fails to withdraw the material by the deadline given in the Board order, the material will be returned to the Clerk's normal file and will be made available for the public to inspect.

(Source: Amended at 27 Ill. Reg. ______, effective ____________)
Section 130. APPENDIX A  Comparison of Former and Current Rules *(Repealed)*

The following table compares the former procedural rules (in effect on December 31, 2000) with the current procedural rules (effective January 1, 2001).

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(Source: Repealed at 27 Ill. Reg. ______, effective ____________)
DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Hospital Services

2) **Code Citation:** 89 Ill. Adm. Code 148

3) **Section Numbers:**

<table>
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<th>Section Numbers</th>
<th>Proposed Action</th>
<th>Illinois Register Citation</th>
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<tbody>
<tr>
<td>148.126</td>
<td>Amendment</td>
<td></td>
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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 rulemaking provides fiscal year 2003 budget implementation changes that affect specified inpatient hospital services. Reimbursement levels are being increased under the Safety Net Adjustment Payment program to provide additional funding to high volume Medicaid providers of hospital services. These proposed changes are expected to result in a spending increase of $2.5 million during fiscal year 2003.

6) **Will these proposed amendments replace emergency amendments currently in effect?** No

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Do these proposed amendments contain incorporations by reference?** No

9) **Are there any other proposed amendments pending on this Part?** Yes

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<th>Sections</th>
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<td>148.105</td>
<td>New Section</td>
<td>August 30, 2002 (26 Ill. Reg.13046)</td>
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<td>148.115</td>
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<td>August 30, 2002 (26 Ill. Reg.13046)</td>
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<td>August 30, 2002 (26 Ill. Reg.13046)</td>
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<tr>
<td>148.310</td>
<td>Amendment</td>
<td>August 30, 2002 (26 Ill. Reg.13046)</td>
</tr>
</tbody>
</table>

10) **Statement of Statewide Policy Objectives:** These proposed amendments do not affect units of local government.

11) **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:
DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois  62763-0002
(217)524-0081

The Department requests the submission of written comments within 30 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].

Any interested persons may review these proposed amendments on the Internet at http://www.state.il.us/dpa/html/publicnotice.htm. Access to the Internet is available through any local public library. In addition, the amendments may be reviewed at the Illinois Department of Human Services' local offices (except in Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 100 West Randolph Street, Tenth Floor, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 a.m. until 5:00 p.m. This notice is being provided in accordance with federal requirements at 42 CFR 447.205.

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

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded hospitals that are eligible for Safety Net Adjustment Payments

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

C) Types of professional skills necessary for compliance: None
DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

13) Regulatory Agenda on Which this Rulemaking Was Summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the proposed amendments begins on the next page:
DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148
HOSPITAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section 148.10 Hospital Services
148.20 Participation
148.25 Definitions and Applicability
148.30 General Requirements
148.40 Special Requirements
148.50 Covered Hospital Services
148.60 Services Not Covered as Hospital Services
148.70 Limitation On Hospital Services

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

148.80 Organ Transplants Services Covered Under Medicaid (Repealed)
148.82 Organ Transplant Services
148.90 Heart Transplants (Repealed)
148.100 Liver Transplants (Repealed)
148.110 Bone Marrow Transplants (Repealed)
148.120 Disproportionate Share Hospital (DSH) Adjustments
148.130 Outlier Adjustments for Exceptionally Costly Stays
148.140 Hospital Outpatient and Clinic Services
148.150 Public Law 103-66 Requirements
148.160 Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
148.170 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
148.190 Copayments
148.200 Alternate Reimbursement Systems
DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

148.210 Filing Cost Reports
148.220 Pre September 1, 1991 Admissions
148.230 Admissions Occurring on or after September 1, 1991
148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals
148.260 Calculation and Definitions of Inpatient Per Diem Rates
148.270 Determination of Alternate Cost Per Diem Rates for All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
148.285 Excellence in Academic Medicine Payments
148.290 Adjustments and Reductions to Total Payments
148.295 Critical Hospital Adjustment Payments (CHAP)
148.296 Tertiary Care Adjustment Payments
148.297 Pediatric Outpatient Adjustment Payments
148.298 Pediatric Inpatient Adjustment Payments
148.300 Payment
148.310 Review Procedure
148.320 Alternatives
148.330 Exemptions
148.340 Subacute Alcoholism and Substance Abuse Treatment Services
148.350 Definitions (Repealed)
148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
148.368 Volume Adjustment (Repealed)
148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services
148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
148.390 Hearings
148.400 Special Hospital Reporting Requirements

SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

148.500 Definitions
148.510 Reimbursement

SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM
DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

148.600  Definitions
148.610  Scope of the Program
148.620  Assistance Level and Reimbursement
148.630  Criteria and Information Required to Establish Eligibility
148.640  Covered Services

TABLE A  Renal Participation Fee Worksheet
TABLE B  Bureau of Labor Statistics Equivalence
TABLE C  List of Metropolitan Counties by SMSA Definition


DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. _____, effective ____________.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.126 Safety Net Adjustment Payments

a) Qualifying criteria: Safety net adjustment payments shall be made to a qualifying hospital, as defined in this subsection (a). A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it meets one of the following criteria:
   1) The hospital has, as provided in subsection (e)(6) of this Section, an MIUR equal to or greater than 40 percent.
   2) The hospital has the highest number of obstetrical care days in the safety net hospital base year.
   3) The hospital is, as of October 1, 2001, a sole community hospital, as defined by the United States Department of Health and Human Services (42 CFR 412.92).
   4) The hospital is, as of October 1, 2001, a rural hospital, as described in Section 148.25(g)(3), that meets all of the following criteria:
      A) Has an MIUR greater than 33 percent.
      B) Is designated a perinatal level two center by the Illinois Department of Public Health.
      C) Has fewer than 125 licensed beds.
   5) The hospital is a rural hospital, as described in Section 148.25(g)(3).

b) The following five classes of hospitals are ineligible for safety net adjustment payments associated with the qualifying criteria listed in subsections (a)(1) through (a)(4) of this Section:
   1) Hospitals located outside of Illinois.
   2) County-owned hospitals, as described in Section 148.25(b)(1)(A).
   3) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).
   4) Psychiatric hospitals, as described in 89 Ill. Adm. Code 149.50(c)(1).
   5) Long term stay hospitals, as described in 89 Ill. Adm. Code 149.50(c)(4).

c) Safety Net Adjustment Rates

   1) For a hospital qualifying under subsection (a)(1) of this Section, the rate is the sum of the amounts for each of the following criteria for which it
DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

qualifies:
A)  A qualifying hospital – $15.00.
B)  A rehabilitation hospital, as described in 89 Ill. Adm. Code 149.50(c)(2) – $20.00.
C)  A children's hospital, as described in 89 Ill. Adm. Code 149.50(c)(3) – $20.00.
D)  A children's hospital that has an MIUR greater than or equal to 80 per centum that is:
   i)  Located within HSA 6 or HSA 7 – $80.00.
   ii) Located outside HSA 6 or HSA 7 – $35.00.
E)  A children's hospital that has an MIUR less than 80 per centum, but greater than or equal to 60 per centum, that is:
   i)  Located within HSA 6 or HSA 7 – $35.00.
   ii) Located outside HSA 6 or HSA 7 – $15.00.
F)  A children's hospital that has an MIUR less than 60 per centum, but greater than or equal to 45 per centum, that is:
   i)  Located within HSA 6 or HSA 7 – $12.00.
   ii) Located outside HSA 6 or HSA 7 – $5.00.
G)  A children's hospital with more than 25 graduate medical education programs, as listed in the "2000-2001 Graduate Medical Education Directory" – $92.00.
H)  A children's hospital that is a rural hospital – $145.00.
I)  A qualifying hospital that is neither a rehabilitation hospital nor a children's hospital, that is located in HSA 6 and that:
   i)  Provides obstetrical care – $10.00.
   ii) Has at least one graduate medical education program, as listed in the "2000-2001 Graduate Medical Education Directory" – $5.00.
   iii) Has at least one obstetrical graduate medical education program, as listed in the "2000-2001 Graduate Medical Education Directory" – $5.00.
   iv)  Provided more than 5,000 obstetrical days during the safety net hospital base year – $35.00.
   v)  Provided fewer than 4,000 obstetrical days during the safety net hospital base year and its average length of stay is: less than or equal to 4.50 days – $5.00; less than 4.00 days – $5.00; less than 3.75 days – $5.00.
J)  A qualifying hospital that is neither a rehabilitation hospital nor a children's hospital, that is located outside HSA 6, that has an MIUR greater than 50 per centum, and that:
DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

i) Provides obstetrical care – $70.00.
ii) Does not provide obstetrical care – $30.00.

K) A qualifying hospital that provided greater than 35,000 days in the safety net hospital base year – $6.00.

L) A qualifying hospital with two or more graduate medical education programs, as listed in the “2000-2001 Graduate Medical Education Directory”, with an average length of stay fewer than 4 days – $48.00.

2) For a hospital qualifying under subsection (a)(2) of this Section, the rate shall be $123.00.

3) For a hospital qualifying under subsection (a)(3) of this Section, the rate is the sum of the amounts for each of the following criteria for which it qualifies:
   A) A qualifying hospital – $40.00.
   B) A hospital that has an average length of stay of fewer than 4.00 days, and:
      i) More than 150 licensed beds – $20.00.
      ii) Fewer than 150 licensed beds – $40.00.
   C) A qualifying hospital with the lowest average length of stay – $15.00.
   D) A hospital that has a CMIUR greater than 65 per centum – $35.00.
   E) A hospital that has fewer than 25 total admissions in the safety net hospital base year – $160.00.

4) For a hospital qualifying under subsection (a)(4) of this Section, the rate shall be $55.00.

5) For a hospital qualifying under subsection (a)(5) of this Section, the rate is the sum of the amounts for each of the following for which it qualifies, divided by the hospital's total days:
   A) The hospital that has the highest number of obstetrical care admissions – $30,840.00.
   B) The greater of:
      i) The product of $115.00 multiplied by the number of obstetrical care admissions.
      ii) The product of $11.50 multiplied by the number of general care admissions.

   d) Payment to a Qualifying Hospital

   1) The total annual payments to a qualifying hospital shall be the product of the hospital's rate multiplied by two multiplied by total days.

   2) For the safety net adjustment period occurring in State fiscal year 2003, total payments will equal the methodologies described in subsection (c) of
DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

this Section. For the period January 1, 2003, through June 30, 2003, payment will equal the State fiscal year 2003 amount less the amount the hospital received under the safety net adjustment period for the quarters ending September 30, 2002 and December 31, 2002. The total annual adjustment amount shall be paid to the hospital during the safety net adjustment period in installments on, at least, a quarterly basis.

3) For safety net adjustment periods occurring after State fiscal year 2003, total payments will equal the methodologies described in subsection (c) of this Section and shall be paid to the hospital during the safety net adjustment period in installments on, at least, a quarterly basis.

e) Definitions

1) "Average length of stay" means, for a given hospital, a fraction in which the numerator is the number of total days and the denominator is the number of total admissions.

2) "CMIUR" means, for a given hospital, the sum of the MIUR plus the Medicaid obstetrical inpatient utilization rate, determined as of October 1, 2001, as defined in Section 148.120(k)(6).

3) "General care admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department by June 30, 2001, excluding admissions for: obstetrical care, as defined in subsection (f)(7) of this Section; normal newborns; psychiatric care; physical rehabilitation; and those covered in whole or in part by Medicare (Medicaid/Medicare crossover admissions).

4) "HSA" means Health Service Area, as defined by the Illinois Department of Public Health.

5) "Licensed beds" means, for a given hospital, the number of licensed beds, excluding long term care and substance abuse beds, as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois."

6) "MIUR", for a given hospital, has the meaning as defined in Section 148.120(k)(5) and shall be determined in accordance with Section 148.120(c) and (f). For purposes of this Section, the MIUR determination that was used to determine a hospital's eligibility for Disproportionate Share Hospital Adjustment payments in rate year 2002 shall be the same determination used to determine a hospital's eligibility for safety net adjustment payments in the Safety Net Adjustment Period.
NOTICE OF PROPOSED AMENDMENTS

7) "Obstetrical care admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, as tabulated from the Department's claims data, for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001, and were assigned by the Department a diagnosis related grouping (DRG) code of 370 through 375.

8) "Obstetrical care days" means, for a given hospital, days of hospital inpatient service associated with the obstetrical care admissions described in subsection (f)(7) of this Section.

9) "Safety net hospital base year" means the 12-month period beginning on July 1, 1999, and ending on June 30, 2000.

10) "Safety net adjustment period" means, beginning July 1, 2002, the 12 month period beginning on July 1 of a year and ending on June 30 of the following year.

11) "Total admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover admissions), as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001.

12) "Total days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001.

(Source: Amended at 27 Ill. Reg. ______, effective ___________)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Land Application Authorization Program

2) Code Citation: 8 Ill. Adm. Code 258

3) Section Numbers: Adopted Action:
   258.10   Amend
   258.30   Amend
   258.40   Amend
   258.50   Amend
   258.60   Amend
   258.70   Amend
   258.80   Amend
   258.90   Amend
   258.100  Amend
   APPENDIX A Amend
   APPENDIX B Amend
   APPENDIX C Renumber, add
   APPENDIX D Renumber, amend

4) Statutory Authority: Section 19 of the Illinois Pesticide Act [415 ILCS 60/19]

5) Effective Date of amendments: November 18, 2002

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

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) Notices of Proposal Published in Illinois Register: July 5, 2002; 26 Ill. Reg. 9521

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: Non-substantive changes

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? JCAR did not issue any agreements.

13) Will these amendments replace any emergency amendments currently in effect? No
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

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

15) Summary and Purpose of Amendments: Recent amendments to the Illinois Pesticide Act expand the authority of the Department of Agriculture to issue written authorizations for the land application of contaminated media onto farmland. The original authority included contaminated media originating from agrichemical facility sites while the expanded authority includes contaminated media from transportation spills and field of application spills. Also, the recent completion of a companion regulation, the Agrichemical Facility Response Action Program (8 Ill. Adm. Code 259) creates the need for certain changes to ensure consistency between these two related regulations.

16) Information and questions regarding these adopted amendments shall be directed to:

   Linda Rhodes
   Illinois Department of Agriculture
   P. O. Box 19281, State Fairgrounds
   Springfield, Illinois 62794-9281
   Telephone: 217/785-5713
   Facsimile: 217/785-4505

The full text of adopted amendments begins on the next page:
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER i: PESTICIDE CONTROL

PART 258
LAND APPLICATION AUTHORIZATION PROGRAM

Section
258.10  Applicability
258.20  Severability
258.30  Definitions
258.40  Incorporation by Reference
258.50  Remediation Suitability Determination
258.60  Written Authorization for Land Application
258.70  Operational Control Practices, Limitations and Restrictions
258.80  Closure Reporting
258.90  Remediation Media and Land Application Area Sampling and Analysis
258.100  Penalties and Enforcement

APPENDIX A  Soil Remediation Suitability Determination Levels of Pesticides Listed as Hazardous Constituents in 35 Ill. Adm. Code 721
APPENDIX B  Target Priority Analyte List
APPENDIX C  Soil Closure Objectives  Land Application Area Sampling
APPENDIX D  Land Application Area Sampling

AUTHORITY: Authorized by Section 19 of the Illinois Pesticide Act [415 ILCS 60/19].

SOURCE: Adopted at 23 Ill. Reg. 7721, effective June 25, 1999; amended at 26 Ill. Reg. ______, effective ____________.

Section 258.10  Applicability

a) This Part applies to the owner or operator of an agrichemical facility who requests, pursuant to 415 ILCS 60/19(9), Department issuance of a written authorization for land application of agrichemical-contaminated soil or soils and groundwater, hereinafter referred to as remediation media, at agronomic rates pursuant to 415 ILCS 60/19(9) and resulting from the cleanup of the on-site release of agrichemicals. The contaminated soil or groundwater must be the product of the environmental cleanup of agrichemical spill sites at:
1) agrichemical facilities,
2) in transit locations from an agrichemical facility to the field of application.
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

3) APart does not apply to the land application of contaminated soil or groundwater remediation media to any land other than farmland.

b) This Part does not apply to the land application of contaminated soil or groundwater remediation media to any land other than farmland.

c) This Part does not apply to spill sites at which the contaminated soil exhibits a characteristic of hazardous waste as defined in 35 Ill. Adm. Code 721.120 through 124.

(Source: Amended at 26 Ill. Reg. 17155, effective November 18, 2002)

Section 258.30 Definitions

Definitions for this Part can be located in Section 4 and Section 19 of the Illinois Pesticide Act [415 ILCS 60/4 and 19]. The following definitions shall also apply to this Part:

"Agrichemical" means pesticides or commercial fertilizers at an agrichemical facility in transit from an agrichemical facility to the field of application, or at the field of application.

"Agronomic Rate" means the optimum rate for crop yields as determined by the soil, climate, and the science of agronomy.

"Applicant" means an owner, operator or designated officer of an agrichemical facility who requests that is required to obtain a Written Authorization for Land Application.

"Application Area" means the farmland upon which remediation media is or will be applied at or below agronomic rates.

"Authorization" means a Written Authorization for Land Application.

"Commercial Fertilizer" is defined in 505 ILCS 80/3. For the purposes of this Part, commercial fertilizer also includes custom mixes as defined in 505 ILCS 80/3.

"Cropland" means land used for the agricultural production of plants and plant part commodities.

"Department" means the Illinois Department of Agriculture.
"Detection" means the identification of a contaminant in a sample at a value equal
to or greater than the:

Method Detection Limit or MDL, which means the minimum concentration of a substance that can be measured as reported with 99% confidence that the true value is greater than zero pursuant to 40 CFR 136, Appendix B (July 1997);

Method Quantitation Limit or MQL, which means the minimum concentration of a substance that can be measured and reported pursuant to "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods".

"Family of Pesticides" means a group of structurally similar agrichemical compounds that exhibit common biochemical actions.

"Farmland" means lands utilized for agricultural purposes, including both areas used for cropland and areas used for field access lanes.

"Field Access Lane" means a private road utilized for admittance by vehicles of husbandry to cropland, but does not include private roads that provide primary access to a structure being used for human habitation.

"Groundwater" means groundwater as defined in the Illinois Groundwater Protection Act [415 ILCS 55/3].

"Incorporation" means mixing into the soil at a land application area.

"Label" means the written, printed graphic matter on or attached to the pesticide or device or any of its containers or wrappings. [415 ILCS 60/4]
"Label" means the written, printed or graphic matter on or attached to the pesticide or device or any of its containers or wrappings.

"Land Application" means the environmental treatment of contaminated soil or groundwater remediation media by incorporation into with farmland soils.

"Land Application Area" means the farmland upon which contaminated soil or groundwater is or will be applied.

"Modification" means changes in the remediation media concentration, its
volume, the agrichemicals present, the application rate, the location or size of the application area, or sample collection and associated analysis protocol.

"Pesticide" means any substance or mixture of substances intended for preventing, repelling, or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant [415 ILCS 60/4.29].

"Regulated Recharge Area" means a compact geographic area, as determined by the Pollution Control Board pursuant to Section 17.4 of the Environmental Protection Act [415 ILCS 5/17.4], the geology of which renders a potable resource groundwater particularly susceptible to contamination [415 ILCS 5/3.67].

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of pesticides into the environment, but excludes application of pesticides at agronomic rates under regulations established by the Department in accordance with the Illinois Pesticide Act [415 ILCS 60].

"Remediation Suitability Determination Level" or "RSDL" means the concentration of a pesticide residue in soil or groundwater that represents a level below which the Department considers the contaminated soil or groundwater to be suitable for land application.

"Remediation Media" means soil, mixture of soil and gravel, or groundwater containing an agrichemical that is being managed as part of a cleanup.

"Setback Zone" means a geographic area, designated pursuant to the Environmental Protection Act, containing a potable water supply well or a potential source or potential route having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwaters [415 ILCS 5/3.61].

"Sinkhole" means any natural depression formed as a result of subsurface removal of soil or rock materials causing the formation of a collapse feature that exhibits internal drainage. The existence of a sinkhole shall be indicated by the uppermost closed depression contour lines on the USGS 7½ minute quadrangle topographic maps or as determined by field investigations.
"Soil", for the purposes of this Part, means the unconsolidated earth materials present at a spill site, including natural soils, gravel and soil/gravel mixtures.

"Spill Site" means the land area at which a pesticide or commercial fertilizer was released.

"Stockpile" means the storage, temporary storage, or containment of contaminated soil or groundwater remediation media in such a manner as not to constitute final disposal or land application.

"Written Authorization for Land Application" means a written statement issued by the Department granting approval for the land application of contaminated soil or groundwater to remediation media onto farmland in accordance with the provisions of this Part.

(Source: Amended at 26 Ill. Reg. 17155, effective November 18, 2002)

Section 258.40 Incorporation by Reference

a) The Department incorporates the following material by reference:


12) NTIS – National Technical Information Service, 5285 Port Royal Road, Springfield VA 22161, (703) 487-4600.


DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS


23) University of Illinois Board of Trustees, 1401 South Maryland Drive, Urbana IL 61801 (217)333-2007.


b) These incorporations by reference do not include any amendments or editions beyond the dates specified.

(Source: Amended at 26 Ill. Reg. 17155, effective November 18, 2002)

Section 258.50 Remediation Suitability Determination

Contaminated soil Remediation media that is the subject of an application for Department issuance of written authorization for land application must be evaluated for media composition and remediation suitability in accordance with this Section.

a) The applicant must develop an appropriate, site-specific list of agrichemicals known or suspected to have been released at the spill site. Analytes for sample analysis based on an evaluation of the source area at the agrichemical facility and interviews with the facility management. The compounds analytes included in Appendices A and B of this Part may serve as a guide to the applicant in the development of the site-specific list of target pesticides and nutrients. Unless affirmatively demonstrated that an agrichemical has not been stored, mixed or loaded at the spill site, all pesticides listed in Appendix B must be considered target agrichemicals analytes.

b) The contaminated soil remediation media must be sampled in accordance with the requirements of this Part and analyzed for the presence and concentration of the
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

target agrichemicals analytes included on the list of compounds analytes required in subsection (a) of this Section.
c) If the list required in subsection (a) of this Section includes any of the pesticides listed contained in Appendix A of this Part, the mean concentration of the pesticide in the soil must be determined in accordance with the sampling and analysis procedures of Section 258.90. The mean pesticide concentrations of the remediation media contaminated soil must be compared to its associated Remediation Suitability Determination Level (RSDL) obtained from Appendix A of this Part. If the mean remediation media concentration for any pesticide listed in Appendix A of this Part is equal to or greater than its associated Remediation Suitability Determination Level, then the contaminated soil may not be media is NOT considered suitable for Department issuance of a land application authorization at its current concentration, unless the applicant demonstrates to the Department, using an appropriate risk-based model, that the remediation media may be safely land applied.
d) Nothing in this Part limits the applicant from pre-treating the remediation media to achieve suitable concentrations below the Remediation Suitability Determination Levels in Appendix A of this Part pursuant to review and approval by the Department in response to a request for written authorization for land application.

(Source: Amended at 26 Ill. Reg. 17155, effective November 18, 2002)

Section 258.60 Written Authorization for Land Application

a) An Authorization issued by the Department pursuant to this Part must be obtained by an applicant prior to the commencement of any stockpiling of contaminated soil or land application of contaminated soil or groundwater remediation media at a proposed application area. If in the case of the ownership transfer of an agrichemical facility is transferred, an Authorization may be transferred to the new owner or operator of the agrichemical facility upon written notification by the applicant to the Department and approval by the Department.
b) An application for an Authorization must be submitted on forms provided by the Department. Information submitted in an application must include the following:
   1) The facility name, address, and telephone number, and facility identification number, if applicable; and the applicant's full legal names, addresses and telephone numbers, including any authorized agents of the applicant and any contact persons to whom correspondence must be addressed; and the applicant's signature authorizing the application;
   2) The full legal name names, address addresses and telephone number of the
owners of the proposed land application area, including any authorized agents acting on behalf of such owners and any contact persons to whom correspondence must be addressed, and the landowners' signatures of the landowners authorizing the application;

3) The name, address, telephone number, and signature of the persons responsible for the project design and management and his/her address, telephone number, and signature;

4) Topographic and plat maps of the proposed land application area;

5) A location area map of the proposed land application area;

6) A soil survey map of the proposed land application area;

7) A map of the proposed transportation route from the agrichemical facility to the proposed land application area;

8) A listing of the agrichemical remediation media analyte concentrations, a description of the methods utilized to determine the agrichemical remediation media analyte concentrations, and the volume of contaminated soil or groundwater remediation media proposed to be land applied;

9) A description of the agricultural crop to be grown on the land application area and date of the proposed land application;

10) A proposed remediation media application method or procedure for contaminated soil or groundwater, application rate, and supporting data and calculations, including the label rates associated with each pesticide present and the identification of the most-limiting compound analyte on which the contaminated soil or groundwater remediation media application rate is to be based, each of which must be consistent with the requirements found at Section 258.70(e) (d) of this Part;

11) A description of the proposed method to be utilized for the calibration of the application device to ensure consistent distribution of contaminated soil or groundwater remediation media to the land application area and how the contaminated soil or groundwater will be incorporated into the soil; and

12) The legal description of the land application area and the acreage available at each site.

c) Applications for an Authorization must be accompanied by a letter of agreement from the owner of the application area, or the owner's authorized agent, indicating he or she understands the nature of the project and has agreed to participate. If land application to a field access lane is proposed, the owner or owners of the field access lane and all properties contiguous to the field access lane must provide letters of agreement to the Department indicating approval of the land application of contaminated soil or groundwater to the field access lane.
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

d) If contaminated soil or groundwater is in the case of remediation media applied to field access lanes or farmland currently enrolled in the Conservation Reserve Program, applications for an Authorization must include a statement of commitment by the applicant to collect and analyze soil samples from the land application area within six months prior to the application of remediation media, one year after the application of contaminated soil or groundwater remediation media, and any subsequent sampling and analysis required pursuant to Section 258.80 of this Part. Such samples must be analyzed for the presence and concentration of all analytes detected in the samples of contaminated soil or groundwater remediation media collected at the spill site agrichemical facility that have been established as the basis for the proposed application rate. Results of pre-application sampling must be submitted to the Department within 30 days after receipt and must also be submitted as part of the Closure Report as described in Section 258.80 of this Part. Analytical results of the soil sampling conducted one year after the application of contaminated soil or groundwater remediation media and any other subsequent sampling required pursuant to Section 258.80 of this Part must be submitted to the Department as part of the Closure Reports.

e) If contaminated soil or groundwater is in the case of remediation media applied to cropland, applications for an Authorization must include a statement of commitment by the applicant to collect and analyze soil samples from the land application area at least two months prior to planting of the following crop, prior to the application of remediation media, no more than two years after the application of remediation media, and any subsequent sampling and analysis required pursuant to Section 258.80 of this Part. Results of pre-application sampling must be submitted to the Department within 30 days after receipt and must also be submitted as part of the Closure Report as described in Section 258.80 of this Part. Analytical results of the soil sampling conducted no greater than two years after the application of contaminated soil or groundwater remediation media and any other subsequent sampling required pursuant to Section 258.80 of this Part must be submitted to the Department as part of the Closure Reports.

f) Applications for an Authorization must include a description of the methods to be used to determine and document the actual amount of contaminated soil or groundwater remediation media applied to the land application area expressed in tons/acre or gallons/acre, as appropriate. Such methods must result in documentation that will be submitted to the Department as part of the Closure Report pursuant to Section 258.80 of this Part.

g) Upon receipt of an application, Application, the Department shall review the application for compliance with the provisions of this Part, completeness and
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

technical feasibility.
1) If the submittal is deemed incomplete, the Department shall notify the applicant in writing within 30 days after receipt and identify the deficiencies.
2) If the submittal is not in compliance with the provisions of this Part, the Department shall provide written notification of the reasons for denial to the applicant within 90 days after receipt.
3) If the submittal is deemed complete and in compliance with the provisions of this Part, the Department shall issue written an Authorization to the applicant within 90 days after receipt.

h) The Department may shall have the authority to revoke any Authorization that has not been implemented within two years after the date of issuance. Upon request by the applicant, such Authorizations may be renewed or denied by the Department after review upon request by an applicant.

i) The applicant shall submit a modified application if the concentrations of agrichemicals in the contaminated soil or groundwater, or the volume or application rate of contaminated soil or groundwater, are greater than specified in the original application; or if the applicant proposes changes in the location or size of the application area or in procedures for sample collection and analyses. Authorizations shall be amended and approved by the Department prior to modification and implementation of the Authorization.

(Source: Amended at 26 Ill. Reg. 17155, effective November 18, 2002)

Section 258.70 Operational Control Practices, Limitations and Restrictions

a) No applicant shall land apply contaminated soil or groundwater or stockpile contaminated soil remediation media:
1) within any Illinois Groundwater Protection Act (IGPA) [415 ILCS 55/14] defined wellhead setback zone or regulated recharge area;
2) within 200 feet of any surface water or within 1,000 feet of any surface water body that is the subject of any health advisory regarding agrichemicals listed in Appendix A;
3) within 20 feet of a farmland edge unless the application is to a field access lane and is performed consistent with Section 258.60(c)-subsection (g) of this Section;
4) within any flood plain with a return frequency of 10 years or less;
5) within 200 feet of a drainage tubing surface inlet;
6) within 200 feet of a sinkhole;
7) within 200 feet of a structure being used for human habitation at the time
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

of the proposed application. In addition, no applicant shall land apply remediation media within 200 feet of a structure being used as a common place of assembly, such as a church, school or business;

8) on onto frozen farmland with a frost depth of one inch or greater;
9) on onto a portion of farmland that has a slope in excess of five percent; and


b) No applicant shall stockpile groundwater at the application area.

c) No applicant shall stockpile contaminated soil at the application area for more than 30 calendar days without prior approval of the Department.

de) Stockpiles Stockpiling of contaminated soil, gravel or mixture of soil and gravel at the application area must be located in such a manner that agrichemical migration, due to surface water, into setbacks established under subsection subsections (a) and (h) of this Section and potential agrichemical migration to surface water or groundwater is prevented.

d) Application rates and pesticide labeled uses. No applicant shall land apply contaminated soil or groundwater at rates in excess of remediation media inconsistent with pesticide label rates or generally accepted agronomic fertilizer application rates, as specified below. The most-limiting application rate shall govern the land application of contaminated soil or groundwater remediation media.

1) If In the event that a pesticide that is not labeled for use with the specific crop to be grown on a land application area and is present in contaminated soil or groundwater remediation media with other pesticides that are labeled for use with the proposed crop, consideration must be given to any potential phytotoxic effects that could arise from the proposed land application to the crop to be grown when developing a proposed application rate. In such instances, the application rate of the non-labeled pesticide must not exceed 10 percent of its most limited label rate for use on other agricultural crops.

2) If In the event that more than one pesticide from a family of pesticides is present in the contaminated soil or groundwater remediation media or when additive effects of the pesticides may be possible, consideration must be given to possible phytotoxic effects resulting from a contaminated soil or groundwater remediation media application rate based only on the single highest concentration present, and the proposed application rate must be reduced below such potential phytotoxic application rates.

3) If In the event that more than one pesticide is present in the contaminated soil or groundwater remediation media, consideration must be given to
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

commercially available blends that contain those pesticides and the labeled rate of application associated with those commercially available blends. In such cases, the application rate of the contaminated soil or groundwater remediation media must be not greater than based on the labeled application rate of the commercially available blend.

4) If in the event that fertilizer containing nitrogen or phosphorus is present in the contaminated soil or groundwater remediation media, the land application rate must not exceed be based upon the most limiting of either the nutrient application rate or the pesticide label rate, whichever is more restrictive. Nitrogen and phosphorus nutrient-application rates must be based upon the accepted agronomic rates of nutrient application for the crop or commodity to be grown such as those recommendations contained in the Illinois Agronomy Handbook, published by the University of Illinois at Urbana–Champaign and incorporated by reference in Section 258.40.

fe) In addition to the other provisions of this Part, applications of contaminated soil or groundwater on remediation media onto farmland currently enrolled in the Conservation Reserve Program shall only be allowed when the application submittal includes a written statement acknowledgment from a representative of the United States Department of Agriculture – Natural Resource Conservation Service of the county where the proposed land application area is located that indicates that the proposed activity will not adversely affect the program status of the land application area.

f) No applicant shall stockpile remediation media at the application area for more than 30 calendar days without prior approval of the Department.

g) No applicant shall land apply remediation media to a field access lane unless:

1) the owner of the field access lane and contiguous properties of the field access lane are the same; or

2) the owner or owners of the field access lane and the owners of property contiguous with the field access lane provide letters of agreement to the Department indicating approval of the land application of remediation media to the field access lane.

h) In the case of remediation media applied to farmland proposed to be conducted within the watershed of any surface water body that is the subject of a health advisory regarding any pesticide included in Appendix A of this Part, the activity must include operational control practices to control possible movement of the remediation media from the application site. Such operational control practices may include immediate incorporation of the remediation media after application onto farmland, or other techniques as may be appropriate and approved by the Department.
DEPARTMENT OF AGRICULTURE
NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 26 Ill. Reg. 17155, effective November 18, 2002)

Section 258.80 Closure Reporting

a) A Closure Report must be submitted to the Department within 60 days after receipt of analytical results associated with closure sampling required under subsection (b)(1)-(2) of this Section for the land application of remediation media authorized by the Department pursuant to Section 258.60 of this Part.

b) The Closure Report shall include the following information:

1. Analytical results from the pre-application soil sampling of the land application area;

2. Analytical results, including the mean and standard deviation for each analyte, from the soil sampling of the land application area:
   A) conducted no later than two months prior to planting of the following crop two years after the application of remediation media or
   B) in the case of field access lanes or farmland currently enrolled in the Conservation Reserve Program, conducted no later than six months one year after the application of contaminated soil or groundwater remediation media;

3. Documentation of the actual amounts of contaminated soil or groundwater remediation media that was land applied during the project and calculations indicating that the application rates were equal to or less than those authorized by the Department;

4. Documentation of how the contaminated soil or groundwater was incorporated into the soils in the land application area of all agrichemical applications that were made to the land application area in addition to those agrichemicals present in the remediation media; and

5. A summary and discussion of the results of the project including the changes in land application area agrichemical concentrations based on the pre-spreading land application area sampling required at Section 258.80(b)(1), the projected amounts of agrichemicals applied via the remediation media required at Section 258.80(b)(3), the amounts of agrichemicals applied via normal crop production required at Section 258.80(b)(4), and the post-spreading or closure land application area sampling required at Section 258.80(b)(2).

c) Upon receipt of a Closure Report, the Department shall review the submittal and evaluate whether the report indicates that detected agrichemical levels in the soil at the proposed time of closure are below the soil closure objective concentrations.
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

listed in Appendix C of this Part have been elevated above the pre-application levels or have returned to the pre-application values.

1) If the submittal indicates that agrichemical concentrations in the land application area are below the soil closure objective concentrations listed in Appendix C of this Part has returned to pre-application conditions, the Department shall issue a Notice of Closure within 45 days after receipt. The Notice of Closure shall indicate the applicant has land applied contaminated soil or groundwater remediation media to the application area in accordance with the Authorization and all requirements of this Part. An applicant that has been issued a Notice of Closure shall no longer be subject to the requirements of this Part.

2) If the submittal indicates that agrichemical concentrations in the land application area are not below the soil closure objective concentrations as listed in Appendix C of this Part has not returned to the pre-application condition, the Department shall, within 45 days from the date of receipt of the Closure Report, notify the applicant in writing as to why a Notice of Closure was not issued. The Department may require additional soil and/or groundwater sampling, and analyses of samples of the land application area and analysis and result reporting in the form of a Supplemental Closure Report if a Notice of Closure is not issued. The Department may also prescribe remedial measures to be conducted by the applicant to reduce the concentrations of agrichemicals in the land application area or to mitigate any potential adverse effects on crops or the environment. The applicant must conduct the prescribed activities and must prepare and submit a Closure Report detailing the results of the additional sampling and other measures as prescribed by the Department.

3) The Department shall send a copy of the notice of closure or the denial of the Notice of Closure to the owners of the land application area.

(Source: Amended at 26 Ill. Reg. 17155, effective November 18, 2002)

Section 258.90 Remediation Media and Land Application Area Sampling and Analysis

a) Remediation media subject to a land application authorization must be sampled and analyzed for the analytes in accordance with requirements of Section 258.50 (Remediation Suitability Determination) and included in Appendix B of this Part unless modified by the Department.

ab) Contaminated soil or groundwater must be sampled in accordance with the
requirements of this Part and analyzed for the presence and concentration of the
target agrichemicals included on the list of compounds required in 8 Ill. Adm.
Code 255.50 (a). Soil samples may be composited. Composited soil samples
may be utilized to meet the requirements of remediation media characterization.
Such composited soil samples must be representative of the remediation media
proposed for land application—At least one composited soil sample is
required suggested per one-eighth acre of the spill remediation media site land
area, using six subsamples specimens per composite, for the purposes of
compliance with this Part.

b) Soil samples from the land application area, excluding field access lanes, must be
collected to the depth of incorporation or three inches, whichever is less. Soil
samples from field access lanes must be collected to a depth of six inches.

c) Soil samples collected from the land application area, excluding field access
lanes, must be analyzed for the agrichemicals that were the basis for determining
the application rate of the contaminated soil or groundwater pursuant to Section
258.70(e) five analytes detected at the highest concentrations and the most-
limiting application rate analytes in the samples collected from the remediation
media at the agrichemical facility unless modified by the Department, and
submitted in the form of an application.

d) Sampling and analysis of remediation media and the land application area must be
performed to provide results representative of the subject being monitored and
must be consistent with the sampling and analytical methods specified in Section
258.40 of this Part.

e) The applicant must follow sample preservation, shipment, quality control and
chain of custody procedures to prevent tampering and contamination, and provide
for reliability of sample analysis as specified in Section 258.40 of this Part.

f) Sampling of the land application area must be conducted in accordance with
Appendix D C of this Part, except field access lanes that must be sampled at the
rate of at least one composite soil sample per 500 lineal feet.

g) Sampling and analytical methods must allow for detection and quantification of
contaminants as required in accordance with the provisions of this Part. The
Department may approve alternative equivalent testing methods for any specific
remediation media. The approval may be conveyed by special condition in the
written authorization for land application or by letter from the Department.

e) All field and laboratory activities must satisfy the following to ensure that all data
are scientifically valid and of known precision and accuracy:

1) All field sampling activities relative to sample collection, documentation,
preparation, labeling, storage, shipment and security, quality assurance
and quality control, acceptance criteria, corrective action, and
decontamination procedures must be conducted in accordance with "Test
NOTICE OF ADOPTED AMENDMENTS

Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846), incorporated by reference at Section 258.40 of this Part.

2) All field measurement activities relative to equipment and instrument operation, calibration and maintenance, corrective action, and data handling must be conducted in accordance with SW-846, or with an equipment or instrument manufacturer's or vendor's published standard operating procedures.

3) All laboratory quantitative analyses of soil samples to determine concentrations of pesticides must be conducted fully in accordance with SW-846, relative to all facilities, equipment and instrumentation, operating procedures, sample management, test methods, equipment calibration and maintenance, quality assurance and quality control, corrective action, data reduction and validation, reporting, and records management. The practical quantitation limit (PQL) of the test methods selected must be less than or equal to the RSDLs contained in Appendix A of this Part.

4) All laboratory quantitative analyses of soil samples to determine concentrations of pesticides or nutrients must be conducted on the less than 2-mm fraction.

5) All laboratory quantitative analyses of soil samples to determine concentrations of pesticides that require more sensitive detection limits or cannot be analyzed by standard methods identified in SW-846 must be conducted in accordance with analytical protocols developed in consultation with and approved by the Department.

6) All groundwater monitoring and analytical procedures must be conducted in accordance with 35 Ill. Adm. Code 620.505 and 620.510.

7) All quantitative analyses of soil and groundwater samples that utilize any of the approved test methods identified in 35 Ill. Adm. Code 186.180 shall be completed by an accredited laboratory in accordance with the requirements of 35 Ill. Adm. Code 186. Quantitative analyses not utilizing an accredited laboratory in accordance with Part 186 shall be deemed invalid.

(Source: Amended at 26 Ill. Reg. 17155, effective November 18, 2002)

Section 258.100 Penalties and Enforcement

Applicants who fail to comply with the provisions or conditions of a written authorization for the land application of agrochemical contaminated soil soils or groundwater issued by the Department shall be subject to the administrative actions and penalties contained in Section 24.1 of the Illinois Pesticide Act.
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

[415 ILCS 60/24.1].

(Source: Amended at 26 Ill. Reg. 17155, effective November 18, 2002)
### Section 258. APPENDIX A Soil Remediation Suitability Determination Levels of Pesticides Listed as Hazardous Constituents in 35 Ill. Adm. Code 721

<table>
<thead>
<tr>
<th>Pesticides</th>
<th>CAS NO.</th>
<th>RECOMMENDED TEST METHOD</th>
<th>SOIL (mg/kg)</th>
<th>GROUNDWATER (mg/L)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aldicarb</td>
<td>116-06-3</td>
<td>8321</td>
<td>0.2</td>
<td>0.003</td>
</tr>
<tr>
<td>Aldrin</td>
<td>309-00-2</td>
<td>8081</td>
<td>0.10-3</td>
<td>5.00E-06</td>
</tr>
<tr>
<td>Butylate</td>
<td>2008-41-5</td>
<td>8270</td>
<td>150-4040</td>
<td></td>
</tr>
<tr>
<td>Carbofuran</td>
<td>1563-66-2</td>
<td>8270</td>
<td>32.5</td>
<td>0.04</td>
</tr>
<tr>
<td>Chlordane</td>
<td>57-74-9</td>
<td>8081</td>
<td>160440</td>
<td>0.002</td>
</tr>
<tr>
<td>2,4-D</td>
<td>94-75-7</td>
<td>8151</td>
<td>64</td>
<td>0.07</td>
</tr>
<tr>
<td>4,4-DDD</td>
<td>72-54-8</td>
<td>8081</td>
<td>13028</td>
<td>0.0004</td>
</tr>
<tr>
<td>4,4-DDT</td>
<td>50-29-3</td>
<td>8081</td>
<td>380280</td>
<td>0.0003</td>
</tr>
<tr>
<td>Dieldrin</td>
<td>60-57-1</td>
<td>8081</td>
<td>0.0802</td>
<td>5.00E-06</td>
</tr>
<tr>
<td>Dimethoate</td>
<td>60-51-5</td>
<td>8141</td>
<td>0.0704</td>
<td></td>
</tr>
<tr>
<td>Dinoseb</td>
<td>88-85-7</td>
<td>8151</td>
<td>0.45</td>
<td>0.007</td>
</tr>
<tr>
<td>Disulfoton</td>
<td>298-04-4</td>
<td>8141</td>
<td>0.54</td>
<td></td>
</tr>
<tr>
<td>Endosulfan</td>
<td>115-29-7</td>
<td>8081</td>
<td>3400560</td>
<td>0.2</td>
</tr>
<tr>
<td>Endothall</td>
<td>145-73-3</td>
<td>8270</td>
<td>146</td>
<td>1</td>
</tr>
<tr>
<td>Endrin</td>
<td>72-20-8</td>
<td>8081</td>
<td>2730</td>
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</tr>
<tr>
<td>EPTC</td>
<td>759-94-4</td>
<td>8270</td>
<td>57280</td>
<td></td>
</tr>
<tr>
<td>Heptachlor</td>
<td>76-44-8</td>
<td>8081</td>
<td>135</td>
<td>0.0004</td>
</tr>
<tr>
<td>Lindane</td>
<td>58-89-9</td>
<td>8081</td>
<td>0.40-3</td>
<td>0.0002</td>
</tr>
<tr>
<td>Methoxychlor</td>
<td>72-43-5</td>
<td>8081</td>
<td>41004400</td>
<td>0.04</td>
</tr>
<tr>
<td>Parathion, Ethyl</td>
<td>56-38-2</td>
<td>8141</td>
<td>4404500</td>
<td></td>
</tr>
<tr>
<td>Parathion, Methyl</td>
<td>298-00-0</td>
<td>8141</td>
<td>1564</td>
<td></td>
</tr>
<tr>
<td>Phorate</td>
<td>298-02-2</td>
<td>8141</td>
<td>240</td>
<td></td>
</tr>
<tr>
<td>2, 4, 5-TP</td>
<td>93-72-1</td>
<td>8270</td>
<td>370</td>
<td></td>
</tr>
<tr>
<td>Toxaphene</td>
<td>8001-35-2</td>
<td>8081</td>
<td>400390</td>
<td>0.003</td>
</tr>
</tbody>
</table>

**Sources:**
- a\(^1\) Chemical Abstract Service
- b\(^2\) USEPA Test Method (SW-846)
- c\(^3\) Illinois Department of Agriculture
- d\(^4\) Illinois Environmental Protection Agency

**Notes:**
- (---) Not currently available
- This table was last modified on December 16, 1998.
- Values subject to change based on best available data.
- For new chemistry or pesticides not listed—please call the Illinois Department
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

of Agriculture, Bureau of Environmental Programs at 217/785-2427.

(Source: Amended at 26 Ill. Reg. 17155, effective November 18, 2002)
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Section 258. APPENDIX B  **Target Priority** Analyte List

<table>
<thead>
<tr>
<th>PESTICIDES</th>
<th>CAS NO.(^{\text{aL}})</th>
<th>RECOMMENDED TEST METHOD(^{\text{bE}})</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acetochlor</td>
<td>34256-82-1</td>
<td>8151</td>
</tr>
<tr>
<td>Alachlor</td>
<td>15972-60-8</td>
<td>8081</td>
</tr>
<tr>
<td>Atrazine</td>
<td>1912-24-9</td>
<td>8141</td>
</tr>
<tr>
<td>Butylate</td>
<td>2008-41-5</td>
<td>8270</td>
</tr>
<tr>
<td>Chlorpyrifos</td>
<td>2921-88-2</td>
<td>8141</td>
</tr>
<tr>
<td>Cyanazine</td>
<td>21725-46-2</td>
<td>8141</td>
</tr>
<tr>
<td>Carbofuran</td>
<td>1563-66-2</td>
<td>8270</td>
</tr>
<tr>
<td>2,4-D</td>
<td>94-75-7</td>
<td>8151</td>
</tr>
<tr>
<td>Metolachlor</td>
<td>51218-45-2</td>
<td>8151</td>
</tr>
<tr>
<td>Metribuzin</td>
<td>21087-64-9</td>
<td>8270</td>
</tr>
<tr>
<td>Pendimethalin</td>
<td>40487-42-1</td>
<td>8091</td>
</tr>
<tr>
<td>Simazine</td>
<td>122-34-9</td>
<td>8141</td>
</tr>
<tr>
<td>Terbufos</td>
<td>13071-79-9</td>
<td>8141</td>
</tr>
<tr>
<td>Trifluralin</td>
<td>1582-09-8</td>
<td>8091</td>
</tr>
</tbody>
</table>

NUTRIENTS

- Ammonia (as N)
- Nitrate (as N)
- Phosphorous (**Bray P1**)
- Potassium
- Total Organic Matter
- Water pH

**Sources:**  \(^{\text{aL}}\) Chemical Abstract Service  
\(^{\text{bE}}\) USEPA Test Method (SW-846)

**Notes:** This table was last modified on December 16, 1998.  
List subject to change based on best available data.  
For new chemistry or pesticides not listed—please call the Illinois Department of Agriculture, Bureau of Environmental Programs at 217/785-2427.

(Source: Amended at 26 Ill. Reg. 17155, effective November 18, 2002)
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Section 258. APPENDIX C  Soil Closure Objectives  Land Application Area Sampling

<table>
<thead>
<tr>
<th>PESTICIDES</th>
<th>CAS No.</th>
<th>RECOMMENDED TEST METHOD</th>
<th>SURFACE (mg/kg)</th>
</tr>
</thead>
<tbody>
<tr>
<td>acetochlor</td>
<td>34256-82-1</td>
<td>8151</td>
<td>0.9*</td>
</tr>
<tr>
<td>aclonifen sodium</td>
<td>62476-59-9</td>
<td>8151</td>
<td>2.8</td>
</tr>
<tr>
<td>alachlor</td>
<td>15972-60-8</td>
<td>8081</td>
<td>1.7*</td>
</tr>
<tr>
<td>aldicarb</td>
<td>116-06-3</td>
<td>8321</td>
<td>1.6*</td>
</tr>
<tr>
<td>aldrin</td>
<td>309-00-2</td>
<td>8081</td>
<td>0.02</td>
</tr>
<tr>
<td>atrazine</td>
<td>1912-24-9</td>
<td>8141</td>
<td>1.7*</td>
</tr>
<tr>
<td>bentazon sodium</td>
<td>50723-80-3</td>
<td>8151</td>
<td>2.6</td>
</tr>
<tr>
<td>bromacil</td>
<td>314-40-9</td>
<td>8321</td>
<td>5.2</td>
</tr>
<tr>
<td>bromoxynil (o)</td>
<td>1689-99-2</td>
<td>8270</td>
<td>6.9</td>
</tr>
<tr>
<td>butylate</td>
<td>2008-41-5</td>
<td>8270</td>
<td>27</td>
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<tr>
<td>carbofuran</td>
<td>1563-66-2</td>
<td>8270</td>
<td>0.6</td>
</tr>
<tr>
<td>chlor dane</td>
<td>57-74-9</td>
<td>8081</td>
<td>29</td>
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<tr>
<td>chlorimuron-ethyl</td>
<td>90982-32-4</td>
<td>8081</td>
<td>3.6</td>
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<tr>
<td>chlorpyrifos</td>
<td>2921-88-2</td>
<td>8141</td>
<td>50</td>
</tr>
<tr>
<td>cyanazine</td>
<td>21725-46-2</td>
<td>8141</td>
<td>1.1*</td>
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<td>2,4-D</td>
<td>94-75-7</td>
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<td>4,4'-DDD</td>
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### NOTICE OF ADOPTED AMENDMENTS

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<tr>
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<th>ARE (mg/kg)</th>
<th>Notes</th>
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### NUTRIENTS

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<thead>
<tr>
<th>Nutrient</th>
<th>Surface (mg/kg)</th>
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<tbody>
<tr>
<td>Ammonia (as N) plus Nitrate (as N)</td>
<td>100</td>
</tr>
<tr>
<td>Phosphorous (Bray P1)</td>
<td>150</td>
</tr>
</tbody>
</table>

Notes:
- Chemical Abstract Service (CAS)
- USEPA Test Methods (SW-846)
- Application Rate Equivalents (AREs) are based on USEPA-approved pesticide label rates for the specific pesticide active ingredient and conservative assumptions about soil properties. AREs only apply to the upper three inches of soil and are used as the Soil Cleanup Objective (SCO) if the ARE is greater than the SCO value calculated using the Equation in 8 Ill. Adm. Code 259.350(a).

The application rate equivalents can be determined using the equation below:

\[
ARE\ (mg/kg) = \frac{Application\ Rate\ (1b/acre)}{(1\ acre-foot/43,560\ ft^3)} \times \frac{(1\ ft^3/110\ lb)}{(1/0.25\ ft)} \times (1.0 \times 10^6\ mg/kg)
\]

Where:
- ARE = application rate equivalent (mg/kg) for coarse-textured, low organic matter content soils
- Application Rate = current label application rate (1b/acre)
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

(Source: Old Section 258.APPENDIX C renumbered to Section 258.APPENDIX D. New Section 258.APPENDIX C added at 26 Ill. Reg. 17155, effective November 18, 2002)
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Section 258. APPENDIX D  Land Application Area Sampling

The number of composite samples collected from the land application area will depend on the size of the land application area. For areas up to 20 acres in size, the land application area must be divided into quadrants and a composite sample will be collected from each quadrant, providing four samples. Land application areas larger than 20 acres will be divided into five-acre square grids approximately 467 feet long on each side. A composite sample will be collected from each of 4 randomly selected five-acre squares in land application areas up to 80 acres in size, representing no less than 25 percent of the five-acre grids. Land application areas larger than 80 acres will have 25 percent of the five-acre squares randomly sampled. The five-acre squares will be sampled by dividing the square into quadrants and obtaining a composite grab sample will be collected from each of the four quadrants. The number of composite samples for each land application area must be determined by multiplying the number of five-acre squares by 0.25 and rounding to the nearest whole number.

<table>
<thead>
<tr>
<th>LAND APPLICATION AREA (ACRES)</th>
<th>NUMBER OF FIVE ACRE SQUARES (N)</th>
<th>NUMBER OF SAMPLES (S)</th>
</tr>
</thead>
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<tr>
<td>5</td>
<td>N/A</td>
<td>4</td>
</tr>
<tr>
<td>10</td>
<td>N/A</td>
<td>4</td>
</tr>
<tr>
<td>15</td>
<td>N/A</td>
<td>4</td>
</tr>
<tr>
<td>20</td>
<td>N/A</td>
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<td>140</td>
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<td>7</td>
</tr>
<tr>
<td>160</td>
<td>32</td>
<td>8</td>
</tr>
<tr>
<td>A</td>
<td>N=A/5</td>
<td>S=N/4</td>
</tr>
</tbody>
</table>

The sample locations must be determined by assigning consecutive numbers to each five-acre square. A five-acre square can only be counted if 50 percent or more of the land application area makes up its area. A series of random numbers must be generated using a computer spreadsheet program or a random number table. The numbered five-acre squares that correspond to the random numbers must be sampled until the required number of samples is obtained. This sampling plan is designed to statistically represent agrichemical concentrations in the land application areas by sampling no less than 20 percent of the five-acre squares in a field larger...
than 80 acres.

The laboratory results must be evaluated to determine the mean concentration and standard deviation of the sample. The value of the concentration reported as present but below detection limit will be used in the calculations. A value of zero will be used for results that are reported as non-detectable. The laboratory results, mean concentration, and standard deviation will be included in the closure report submitted to the Department.

All land field application area samples must be collected from the soil profile, starting at the soil surface and extending to a depth specified in Section 258.90 of this Part no greater than six inches.

(Source: Section 258.APPENDIX D renumbered from Section 258.APPENDIX C and amended at 26 Ill. Reg. 17155, effective November 18, 2002)
DEPARTMENT OF HUMAN SERVICES
NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Temporary Assistance for Needy Families

2) Code Citation: 89 Ill. Adm. Code 112

3) Section Numbers: Adopted Action:
   112.251 Amendment
   112.252 Amendment
   112.253 Amendment
   112.254 Amendment


5) Effective Date of Amendments: November 15, 2002

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

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 12, 2002 (26 Ill. Reg. 10190)

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

11) Differences between proposal and final version: No substantive changes were made to the proposed amendments.

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 amendments currently in effect? Yes

14) Are there any amendments pending on this Part: Yes

<table>
<thead>
<tr>
<th>Section Numbers</th>
<th>Proposed Action</th>
<th>Illinois Register Citation</th>
</tr>
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<tbody>
<tr>
<td>112.78</td>
<td>Amendment</td>
<td>26 Ill. Reg. 14416, October 4, 2002</td>
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<tr>
<td>112.83</td>
<td>Amendment</td>
<td>26 Ill. Reg. 14416, October 4, 2002</td>
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</table>
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

15) **Summary and Purpose of Rulemaking:** A change in State law has authorized an increase in the cash assistance payment levels. As a result, this rulemaking increases the payment levels for Group I, Group II, and Group III Counties. This increase is effective for all Refugee and TANF cases beginning with the July 2002 cash assistance payments.

16) **Information and questions regarding these adopted amendments shall be directed to:**

    Robert Doyle, Bureau Chief
    Bureau of Administrative Rules and Procedures
    Department of Human Services
    100 South Grand Avenue East
    3rd Floor, Harris Bldg.
    Springfield, Illinois 62762
    Telephone number: (217) 785-9772

The full text of adopted amendments begin on the next page:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 112
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SUBPART A: GENERAL PROVISIONS

Section 112.1 Description of the Assistance Program and Time Limit
Section 112.2 Time Limit on Receipt of Benefits for Clients Enrolled in Post-Secondary Education
Section 112.3 Receipt of Cash Benefits Beyond the 60 Month Lifetime Limit
Section 112.5 Incorporation by Reference
Section 112.6 The Family Violence Option

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section 112.8 Caretaker Relative
Section 112.9 Client Cooperation
Section 112.10 Citizenship
Section 112.20 Residence
Section 112.30 Age
Section 112.40 Relationship
Section 112.50 Living Arrangement
Section 112.52 Social Security Numbers
Section 112.54 Assignment of Medical Support Rights
Section 112.60 Basis of Eligibility
Section 112.61 Death of a Parent (Repealed)
Section 112.62 Incapacity of a Parent (Repealed)
Section 112.63 Continued Absence of a Parent (Repealed)
Section 112.64 Unemployment of the Parent (Repealed)
Section 112.65 Responsibility and Services Plan
Section 112.66 Alcohol and Substance Abuse Treatment
Section 112.67 Restriction in Payment to Households Headed by a Minor Parent
Section 112.68 School Attendance Initiative
Section 112.69 Felons and Violators of Parole or Probation

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section
112.70 Employment and Work Activity Requirements
112.71 Individuals Exempt from TANF Employment and Work Activity Requirements
112.72 Participation/Cooperation Requirements
112.73 Adolescent Parent Program (Repealed)
112.74 Responsibility and Services Plan
112.75 Teen Parent Personal Responsibility Plan (Repealed)
112.76 TANF Orientation
112.77 Reconciliation and Fair Hearings
112.78 TANF Employment and Work Activities
112.79 Sanctions
112.80 Good Cause for Failure to Comply with TANF Participation Requirements
112.81 Responsible Relative Eligibility for JOBS (Repealed)
112.82 Supportive Services
112.83 Teen Parent Services
112.84 Employment Retention and Advancement Project
112.85 Four Year College/Vocational Training Demonstration Project (Repealed)

SUBPART E: PROJECT ADVANCE

Section
112.86 Project Advance (Repealed)
112.87 Project Advance Experimental and Control Groups (Repealed)
112.88 Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.89 Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.90 Project Advance Sanctions (Repealed)
112.91 Good Cause for Failure to Comply with Project Advance (Repealed)
112.93 Individuals Exempt From Project Advance (Repealed)
112.95 Project Advance Supportive Services (Repealed)

SUBPART F: EXCHANGE PROGRAM

Section
112.98 Exchange Program (Repealed)

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

112.100 Unearned Income
112.101 Unearned Income of Stepparent or Parent
112.105 Budgeting Unearned Income
112.106 Budgeting Unearned Income of Applicants Employed On Date of Application And/Or Date of Decision
112.107 Initial Receipt of Unearned Income
112.108 Termination of Unearned Income
112.110 Exempt Unearned Income
112.115 Education Benefits
112.120 Incentive Allowances
112.125 Unearned Income In-Kind
112.126 Earmarked Income
112.127 Lump-Sum Payments
112.128 Protected Income (Repealed)
112.130 Earned Income
112.131 Earned Income Tax Credit
112.132 Budgeting Earned Income
112.133 Budgeting Earned Income of Employed Applicants
112.134 Initial Employment
112.135 Budgeting Earned Income For Contractual Employees
112.136 Budgeting Earned Income For Non-contractual Non-Contractual School Employees
112.137 Termination of Employment
112.138 Transitional Payments (Repealed)
112.140 Exempt Earned Income
112.141 Earned Income Exemption
112.142 Exclusion from Earned Income Exemption
112.143 Recognized Employment Expenses
112.144 Income from Work-Study and Training Programs
112.145 Earned Income From Self-Employment
112.146 Earned Income From Roomer and Boarder
112.147 Income From Rental Property
112.148 Payments from the Illinois Department of Children and Family Services
112.149 Earned Income In-Kind
112.150 Assets
112.151 Exempt Assets
112.152 Asset Disregards
112.153 Deferral of Consideration of Assets
112.154 Property Transfers (Repealed)
112.155 Income Limit
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

SUBPART H: PAYMENT AMOUNTS

Section
112.250 Grant Levels
112.251 Payment Levels
112.252 Payment Levels in Group I Counties
112.253 Payment Levels in Group II Counties
112.254 Payment Levels in Group III Counties
112.255 Limitation on Amount of TANF Assistance to Recipients from Other States (Repealed)

SUBPART I: OTHER PROVISIONS

Section
112.300 Persons Who May Be Included in the Assistance Unit
112.301 Presumptive Eligibility
112.302 Reporting Requirements for Clients with Earnings
112.303 Retrospective Budgeting
112.304 Budgeting Schedule
112.305 Strikers
112.306 Foster Care Program
112.307 Responsibility of Sponsors of Non-Citizens Entering the Country Prior to 8/22/96
112.308 Responsibility of Sponsors of Non-Citizens Entering the Country On or After 8/22/96
112.309 Institutional Status
112.310 Child Care for Representative Payees
112.315 Young Parents Program (Renumbered)
112.320 Redetermination of Eligibility
112.330 Extension of Medical Assistance Due to Increased Income from Employment
112.331 Four Month Extension of Medical Assistance Due to Child Support Collections
112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)
112.340 New Start Payments to Individuals Released from Department of Corrections Facilities (Repealed)

SUBPART J: CHILD CARE

Section
112.350 Child Care (Repealed)
112.352 Child Care Eligibility (Repealed)
112.354 Qualified Provider (Repealed)
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

112.356 Notification of Available Services (Repealed)
112.358 Participant Rights and Responsibilities (Repealed)
112.362 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
112.364 Rates of Payment for Child Care (Repealed)
112.366 Method of Providing Child Care (Repealed)
112.370 Non-JOBS Education and Training Program (Repealed)

SUBPART K: TRANSITIONAL CHILD CARE

Section
112.400 Transitional Child Care Eligibility (Repealed)
112.404 Duration of Eligibility for Transitional Child Care (Repealed)
112.406 Loss of Eligibility for Transitional Child Care (Repealed)
112.408 Qualified Child Care Providers (Repealed)
112.410 Notification of Available Services (Repealed)
112.412 Participant Rights and Responsibilities (Repealed)
112.414 Child Care Overpayments and Recoveries (Repealed)
112.416 Fees for Service for Transitional Child Care (Repealed)
112.418 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS


SUBPART H: PAYMENT AMOUNTS

Section 112.251 Payment Levels

a) The Payment Levels are flat, monthly standard amounts. The amount for an assistance unit is based on three variables:
   1) the number in the assistance unit except as specified in subsection (b) of this Section below;
   2) the presence or absence of an adult in the assistance unit; and
   3) the grouping of the county in which the assistance unit lives.

b) Effective January 1, 1996 cash assistance will not increase solely because of the
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

birth of a child to any member of the assistance unit. The cash assistance shall be capped at the pre-birth payment level. Medicaid coverage, food stamps and child care are not included in the cap.

1) Cash assistance will not increase due to the birth of a child to any member of the assistance unit if an assistance unit fails to comply with the eligibility requirements or an assistance unit voluntarily requests termination of cash assistance and subsequently becomes eligible for cash assistance within nine months.

2) An increase in the payment level due to the birth of a child to any member of the assistance unit is allowed if:

A) the birth is to a pregnant woman who became eligible for cash assistance during the pregnancy;

B) for cases active as of January 1, 1996 the birth occurs within ten months after the date of implementation (by October 31, 1996);

C) the child is conceived after the family became ineligible for cash assistance due to income or marriage and at least three payment months of ineligibility have passed before any reapplication;

D) the child was born while the parent or caretaker relative was on cash assistance, the assistance unit did not receive an increase in assistance due to the birth of this child and the parent or other caretaker relative has been off cash assistance for nine payment months;

E) the child was born as a result of incest or forcible rape based on the statement of the woman which is corroborated by a third party; or

F) the child (including all children in the case of multiple births) was born to a minor included in the grant who became a first-time minor parent.

c) The assistance unit may receive a general increase in the amount of aid that is provided to all recipients.

d) All rounding in determining payment levels is done by rounding down to the next whole dollar amount.

(Source: Amended at 26 Ill. Reg. 17182, effective November 15, 2002)

Section 112.252 Payment Levels in Group I Counties

a) The following Payment Levels are established for Group I Counties.

b) The counties included in Group I are:

Boone   Kane   Ogle
Champaign Kankakee Whiteside
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

<table>
<thead>
<tr>
<th>County</th>
<th>Cook</th>
<th>Kendall</th>
<th>Winnebago</th>
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<tbody>
<tr>
<td></td>
<td>DeKalb</td>
<td>Lake</td>
<td>Woodford</td>
</tr>
<tr>
<td></td>
<td>Dupage</td>
<td>McHenry</td>
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</table>

### Table: Caretaker Relative or Relatives and Child or Children

<table>
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<tr>
<th>Size of Assistance Unit</th>
<th>Caretaker Relative or Relatives and Child or Children</th>
<th>Child or Children Only</th>
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<tbody>
<tr>
<td>1</td>
<td>223412</td>
<td>107402</td>
</tr>
<tr>
<td>2</td>
<td>292278</td>
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<td>3</td>
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<td>435444</td>
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<td>572545</td>
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</tbody>
</table>

e) For family sizes greater than 18 or 12, the amount of the payment level shall be determined by adding $50 or $38, respectively, for each person above 18 or 12.

(Source: Amended at 26 Ill. Reg. 17182, effective November 15, 2002)

**Section 112.253 Payment Levels in Group II Counties**

a) The following Payment Levels are established for Group II Counties.
b) The counties included in Group II are:

<table>
<thead>
<tr>
<th>County</th>
<th>Adams</th>
<th>Lee</th>
<th>Stephenson</th>
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</thead>
<tbody>
<tr>
<td>Bureau</td>
<td>Livingston</td>
<td>Tazewell</td>
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<tr>
<td>Carroll</td>
<td>Logan</td>
<td>Vermilion</td>
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<td>Macon</td>
<td>Wabash</td>
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DEPARTMENT OF HUMAN SERVICES
NOTICE OF ADOPTED AMENDMENTS

Coles  Macoupin  Warren
DeWitt  Madison  Will
Douglas  McDonough
Effingham  McLean
Ford  Mercer
Fulton  Monroe
Grundy  Morgan
Henry  Moultrie
Iroquois  Peoria
Jackson  Piatt
Jo Daviess  Putnam
Knox  Rock Island
LaSalle  Sangamon
          St. Clair

<table>
<thead>
<tr>
<th>SIZE OF ASSISTANCE UNIT</th>
<th>CARETAKER RELATIVE OR RELATIVES AND CHILD OR CHILDREN</th>
<th>CHILD OR CHILDREN ONLY</th>
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e) For family sizes greater than 18 or 12, the amount of the payment level shall be determined by adding $48 or $38, respectively, for each person above 18 or 12.
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 26 Ill. Reg. 17182, effective November 15, 2002)

Section 112.254 Payment Levels in Group III Counties

a) The following Payment Levels are established for Group III Counties.
b) The counties included in Group III are:

<table>
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<tr>
<th>County</th>
<th>County</th>
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<th>County</th>
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<td>Stark</td>
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<td>Hardin</td>
<td>Massac</td>
<td>Schuyler</td>
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<td>Menard</td>
<td>Scott</td>
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e) For family sizes greater than 18 or 12, the amount of the payment level shall be determined by adding $48 or $36, respectively, for each person above 18 or 12.

(Source: Amended at 26 Ill. Reg. 17182, effective November 15, 2002)
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** General Assistance

2) **Code Citation:** 89 Ill. Adm. Code 114

3) **Section Numbers:**
   - 114.350 Amendment
   - 114.351 Amendment
   - 114.352 Amendment
   - 114.353 Amendment

4) **Statutory Authority:** Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. VI and 12-13] and Public Act 92-538

5) **Effective Date of Amendments:** November 15, 2002

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Do these amendments contain incorporations by reference?** No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** July 12, 2002 (26 Ill. Reg. 10192)

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

11) **Differences between proposal and final version:** No substantive changes were made in the text of the proposed amendments.

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 these amendments replace any emergency amendments currently in effect?** Yes

14) **Are there any amendments pending on this Part:** No

15) **Summary and Purpose of Rulemaking:** A change in State law has authorized an increase in the cash assistance payment levels. As a result, this rulemaking increases the payment levels for Group I, Group II, and Group III Counties. This increase is effective for all General Assistance – Family and Children Assistance cases beginning with the July 2002 cash assistance payments.
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding these adopted amendments shall be directed to:

   Robert Doyle, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue East
   3rd Floor, Harris Bldg.
   Springfield, Illinois 62762
   Telephone number: (217) 785-9772

The full text of adopted amendments begins on the next page:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 114
GENERAL ASSISTANCE

SUBPART A: GENERAL PROVISIONS

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
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<tbody>
<tr>
<td>114.1</td>
<td>Description of the Assistance Program</td>
</tr>
<tr>
<td>114.2</td>
<td>Determination of Not Employable</td>
</tr>
<tr>
<td>114.3</td>
<td>Advocacy Program for Persons Receiving State Transitional Assistance</td>
</tr>
<tr>
<td>114.5</td>
<td>Incorporation By Reference</td>
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</table>

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>114.9</td>
<td>Client Cooperation</td>
</tr>
<tr>
<td>114.10</td>
<td>Citizenship</td>
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<tr>
<td>114.20</td>
<td>Residence</td>
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<tr>
<td>114.30</td>
<td>Age</td>
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<td>Relationship</td>
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<td>114.50</td>
<td>Living Arrangement</td>
</tr>
<tr>
<td>114.52</td>
<td>Social Security Numbers</td>
</tr>
<tr>
<td>114.60</td>
<td>Work Registration Requirements (Outside City of Chicago only)</td>
</tr>
<tr>
<td>114.61</td>
<td>Individuals Exempt From Work Registration Requirements (Outside City of Chicago only)</td>
</tr>
<tr>
<td>114.62</td>
<td>Job Service Registration (Outside City of Chicago only)</td>
</tr>
<tr>
<td>114.63</td>
<td>Failure to Maintain Current Job Service Registration (Outside City of Chicago only)</td>
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<tr>
<td>114.64</td>
<td>Responsibility to Seek Employment (Outside City of Chicago only)</td>
</tr>
<tr>
<td>114.70</td>
<td>Initial Employment Expenses (Outside City of Chicago only)</td>
</tr>
<tr>
<td>114.80</td>
<td>Downstate General Assistance Work and Training Programs</td>
</tr>
<tr>
<td>114.85</td>
<td>Downstate General Assistance – Food Stamps Employment and Training Pilot Project</td>
</tr>
<tr>
<td>114.90</td>
<td>Work and Training Programs Project Chance Participation/Cooperation Requirements (Renumbered)</td>
</tr>
<tr>
<td>114.100</td>
<td>General Assistance Jobs Program (Repealed)</td>
</tr>
<tr>
<td>114.101</td>
<td>Persons Ineligible for TANF Due to Time Limits</td>
</tr>
</tbody>
</table>
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

SUBPART C: PROJECT ADVANCE

Section
114.108 Project Advance (Repealed)
114.109 Project Advance Participation Requirements of Adjudicated Fathers (Repealed)
114.110 Project Advance Cooperation Requirements of Adjudicated Fathers (Repealed)
114.111 Project Advance Sanctions (Repealed)
114.113 Project Advance Good Cause for Failure to Comply (Repealed)
114.115 Individuals Exempt From Project Advance (Repealed)
114.117 Project Advance Supportive Services (Repealed)

SUBPART D: EMPLOYMENT AND TRAINING REQUIREMENTS

Section
114.120 Employment and Training Requirements
114.121 Persons Required to Participate in Project Chance (Repealed)
114.122 Advocacy Program for Persons Who Have Applied for Supplemental Security Income (SSI) Under Title XVI of the Social Security Act (Repealed)
114.123 Persons in Need of Work Rehabilitative Services (WRS) to Become Employable (Repealed)
114.124 Employment and Training Participation/Cooperation Requirements (Repealed)
114.125 Employment and Training Program Orientation (Repealed)
114.126 Employment and Training Program Full Assessment Process/Development of an Employment Plan (Repealed)
114.127 Employment and Training Program Components (Repealed)
114.128 Employment and Training Sanctions (Repealed)
114.129 Good Cause For Failure to Cooperate With Work and Training Participation Requirements (Repealed)
114.130 Employment and Training Supportive Services (Repealed)
114.135 Conciliation and Fair Hearings (Repealed)
114.140 Employment Child Care (Repealed)

SUBPART E: FINANCIAL FACTORS OF ELIGIBILITY

Section
114.200 Unearned Income
114.201 Budgeting Unearned Income
114.202 Budgeting Unearned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
114.203 Initial Receipt of Unearned Income
114.204 Termination of Unearned Income
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

114.210 Exempt Unearned Income
114.220 Education Benefits
114.221 Unearned Income In-Kind
114.222 Earmarked Income
114.223 Lump-Sum Payments
114.224 Protected Income
114.225 Earned Income
114.226 Budgeting Earned Income
114.227 Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
114.228 Initial Employment
114.229 Termination of Employment
114.230 Exempt Earned Income
114.235 Recognized Employment Expenses
114.240 Income From Work/Study/Training Program (Repealed)
114.241 Earned Income From Self-Employment
114.242 Earned Income From Roomer and Boarder
114.243 Earned Income From Rental Property
114.244 Earned Income In-Kind
114.245 Payments from the Illinois Department of Children and Family Services
114.246 Budgeting Earned Income for Contractual Employees
114.247 Budgeting Earned Income for Non-contractual School Employees
114.250 Assets
114.251 Exempt Assets
114.252 Asset Disregards
114.260 Deferral of Consideration of Assets (Repealed)
114.270 Property Transfers (Repealed)
114.280 Supplemental Payments

**SUBPART F: PAYMENT AMOUNTS**

Section
114.350 Payment Levels
114.351 Payment Levels in Group I Counties
114.352 Payment Levels in Group II Counties
114.353 Payment Levels in Group III Counties

**SUBPART G: OTHER PROVISIONS**

Section
114.400 Persons Who May Be Included In the Assistance Unit
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

114.401 Eligibility of Strikers
114.402 Special Needs Authorizations (Repealed)
114.403 Institutional Status
114.404 Retrospective-Budgeting
114.405 Budgeting Schedule
114.406 Limitation on Amount of General Assistance to Recipients from Other States (Repealed)
114.408 Responsibility of Sponsors of Non-citizens Entering the Country On or After 8/22/96
114.420 Redetermination of Eligibility
114.430 Extension of Medical Assistance Due to Increased Income from Employment
114.440 Attorney's Fees for VA Appellants
114.442 Attorney's Fees for SSI Applicants

SUBPART H: CHILD CARE

Section
114.450 Child Care (Repealed)
114.452 Child Care Eligibility (Repealed)
114.454 Qualified Provider (Repealed)
114.456 Notification of Available Services (Repealed)
114.458 Participant Rights and Responsibilities (Repealed)
114.462 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
114.464 Rates of Payment for Child Care (Repealed)
114.466 Method of Providing Child Care (Repealed)

SUBPART I: TRANSITIONAL CHILD CARE

Section
114.500 Transitional Child Care Eligibility (Repealed)
114.504 Duration of Eligibility for Transitional Child Care (Repealed)
114.506 Loss of Eligibility for Transitional Child Care (Repealed)
114.508 Qualified Provider (Repealed)
114.510 Notification of Available Services (Repealed)
114.512 Participant Rights and Responsibilities (Repealed)
114.514 Child Care Overpayments and Recoveries (Repealed)
114.516 Fees for Service for Transitional Child Care (Repealed)
114.518 Rates of Payment for Transitional Child Care (Repealed)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

effective January 1, 2002; amended at 26 Ill. Reg. 9821, effective June 24, 2002; emergency amendment at 26 Ill. Reg. 11009, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17198, effective November 15, 2002

SUBPART F: PAYMENT AMOUNTS

Section 114.350 Payment Levels

a) The payment levels for GA cases are flat, monthly standard amounts. The amount for an assistance unit is based on three variables:
1) the number in the assistance unit;
2) the presence or absence of an adult in the assistance unit;
3) the grouping of the county in which the assistance unit lives.
b) All rounding in determining payment levels is done by rounding down to the next whole dollar amount.

be) Local governmental units which receive State funds and whose administration is thus subject to the Department's supervision may not establish payment levels whose amounts exceed the payment standards established herein without prior permission of the Department. Such permission will be granted only if proper administrative controls and agreements can be established which will insure that the Department will not thereby be required to expend more funds than it would have expended had the payment levels in this Part been employed by the local governmental unit.

(Source: Amended at 26 Ill. Reg. 17198, effective November 15, 2002)

Section 114.351 Payment Levels in Group I Counties

a) The following payment levels are established for the GA Program.
b) The counties included in Group I are:

<table>
<thead>
<tr>
<th>Boone</th>
<th>Kane</th>
<th>Ogle</th>
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<tbody>
<tr>
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<td>Whiteside</td>
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<td>Cook</td>
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</table>

1) Family and Children Assistance Case Payment Levels
**DEPARTMENT OF HUMAN SERVICES**

**NOTICE OF ADOPTED AMENDMENTS**

<table>
<thead>
<tr>
<th>SIZE OF ASSISTANCE UNIT</th>
<th>CARETAKER RELATIVE OR RELATIVE AND CHILD OR CHILDREN CURRENT</th>
<th>CHILD ONLY CURRENT</th>
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<td>18</td>
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</table>

2) The Transitional Assistance case payment level in Group I Counties is $100.

c) For family sizes greater than 18 or 12, the amount of the payment level shall be determined by adding $50 or $38 respectively for each person above 18 or 12.

(Source: Amended at 26 Ill. Reg. 17198, effective November 15, 2002)

**Section 114.352 Payment Levels in Group II Counties**

a) The following payment levels are established for the GA Program in Group II Counties.

b) The counties included in Group II are:

- Adams
- Bureau
- Carroll
- Clinton
- Lee
- Livingston
- Logan
- Macon
- St. Clair
- Stephenson
- Tazewell
- Vermilion
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Coles          Macoupin          Wabash  
DeWitt        Madison          Warren  
Douglas       McDonough        Will  
Effingham     McLean    
Ford               Mercer  
Fulton       Monroe          
Grundy       Morgan         
Henry         Moultrie       
Iroquois     Peoria         
Jackson     Piatt         
Jo Daviess   Putnam       
Knox               Rock Island  
LaSalle   Sangamon     

1) Family and Children Assistance Case Payment Levels

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<tr>
<th>SIZE OF ASSISTANCE UNIT</th>
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<th>CHILD OR CHILDREN ONLY CURRENT</th>
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<td>856</td>
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<td>18</td>
<td>1031982</td>
<td></td>
</tr>
</tbody>
</table>
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

2) The Transitional Assistance case payment level in Group II Counties is $100.

e) For family sizes greater than 18 or 12, the amount of the payment level shall be determined by adding $48.00 or $38.00 respectively for each person above 18 or 12.

(Source: Amended at 26 Ill. Reg. 17198, effective November 15, 2002)

Section 114.353 Payment Levels in Group III Counties

a) The following payment levels are established for the GA Program in Group III Counties.

b) The counties included in Group III are:

<table>
<thead>
<tr>
<th>Alexander</th>
<th>Edgar</th>
<th>Jasper</th>
<th>Montgomery</th>
<th>Shelby</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bond</td>
<td>Edwards</td>
<td>Jefferson</td>
<td>Perry</td>
<td>Stark</td>
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<td>Brown</td>
<td>Fayette</td>
<td>Jersey</td>
<td>Pike</td>
<td>Union</td>
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<td>Calhoun</td>
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<td>Cass</td>
<td>Gallatin</td>
<td>Lawrence</td>
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<tr>
<td>Christian</td>
<td>Greene</td>
<td>Marion</td>
<td>Randolph</td>
<td>White</td>
</tr>
<tr>
<td>Clark</td>
<td>Hamilton</td>
<td>Marshall</td>
<td>Richland</td>
<td>Williamson</td>
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<tr>
<td>Clay</td>
<td>Hancock</td>
<td>Mason</td>
<td>Saline</td>
<td></td>
</tr>
<tr>
<td>Crawford</td>
<td>Hardin</td>
<td>Massac</td>
<td>Schuyler</td>
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<tr>
<td>Cumberland</td>
<td>Henderson</td>
<td>Menard</td>
<td>Scott</td>
<td></td>
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</table>

1) Family and Children Assistance Case Payment Levels

<table>
<thead>
<tr>
<th>SIZE OF ASSISTANCE UNIT</th>
<th>CARETAKER RELATIVE OR RELATIVE AND CHILD OR CHILDREN CURRENT</th>
<th>CHILD OR CHILDREN ONLY CURRENT</th>
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</thead>
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<tr>
<td>1</td>
<td>182454</td>
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<td>270257</td>
<td>197488</td>
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<td>408389</td>
<td>317302</td>
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<td>5</td>
<td>476453</td>
<td>377359</td>
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<td>6</td>
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<td>406387</td>
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<td>7</td>
<td>565538</td>
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DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

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<td>821</td>
</tr>
<tr>
<td>18</td>
<td>995948</td>
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</tr>
</tbody>
</table>

2) The Transitional Assistance case payment level in Group III Counties is $100.

e) For family sizes greater than 18 or 12, the amount of the payment level shall be determined by adding $48.00 or $36.00 respectively for each person above 18 or 12.

(Source: Amended at 26 Ill. Reg. 17198, effective November 15, 2002)
DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Access to Information

2) **Code Citation:** 2 Ill. Adm. Code 926

3) **Section Number:** 926.210  **Proposed Action:** Amendment

4) **Statutory Authority:** Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and the Freedom of Information Act [5 ILCS 140], and authorized by Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A)].

5) **Effective date of amendment:** November 18, 2002

6) **Will this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) **Date filed in agency’s principal office:** A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) **Date Notice of Proposed Amendment was published in the Illinois Register:** August 9, 2002; 26 Ill. Reg. 12113

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

11) **Differences between the proposal and the final version:** The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?** Yes

13) **Will this amendment replace an emergency amendment currently in effect?** No

14) **Are there any other proposed amendments pending on this Part?** No

15) **Summary and purpose of amendment:** This amendment codifies changes to the request for review procedures. These changes are being made because of an injunction in *Cooper v.*
Salazar, 98C2930, Federal District Court, N.D. Illinois, Eastern Division. As a result of this amendment, the parties may participate more fully in the request for review process.

16) Information and questions regarding this adopted amendment shall be directed to:

   Brent A. Harzman
   Staff Attorney
   Illinois Department of Human Rights
   100 West Randolph Street
   Suite 10-100
   Chicago IL 60601
   Telephone number: 312-814-1906
   T.D.D.: 312-263-1579

   If, because of physical disability, you are unable to put comments in writing, you may make them orally to the person listed above.

   The full text of the adopted amendment begins on the next page:
DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENT

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE D: CODE DEPARTMENTS
CHAPTER X: DEPARTMENT OF HUMAN RIGHTS

PART 926
ACCESS TO INFORMATION

SUBPART A: GENERAL PROVISIONS

Section  
926.10 Summary and Purpose (Repealed)  
926.20 Definitions (Renumbered)  
926.110 Publications (Repealed)  
926.120 Speakers Bureau (Repealed)  
926.130 Requests and Inquiries (Repealed)  
926.200 Definitions  
926.210 Investigation Records and Files  
926.220 Conciliation Records (Repealed)  
926.230 Public Contracts Records  
926.231 Other Record Systems  
926.235 Access by Government Agencies  
926.236 Copies  
926.240 Other Record Systems (Renumbered)

SUBPART B: FOIA

926.250 Requests for Access to Records  
926.260 Response to Request  
926.270 Appeal of Denial of Access  
926.280 Copies (Renumbered)  
926.290 Access by Governmental Agencies (Renumbered)


DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENT


SUBPART A: GENERAL PROVISIONS

Section 926.210 Investigation Records and Files

a) All contents of files maintained by the Department pertaining to charges shall be confidential and not subject to public disclosure. The only exceptions are as follows:

1) The parties to a charge may request permission to inspect portions of a file, pursuant to subsection (b) of this Section, excluding:
   A) internal memoranda;
   B) work papers and draft documents;
   C) fact finding conference notes and EEOC investigator's notes, including staff notes;
   D) materials reflecting the deliberative processes, mental impressions, or legal theories and advice of the Department;
   E) material generated in preparation for judicial or administrative proceedings;
   F) notes concerning confidential witnesses and/or the identities of any confidential witnesses; and
   G) any documents maintained by the Department pertaining to conciliation, mediation, or other settlement effort conducted upon any charge, including but not limited to any reports furnished to or prepared by the Department in connection with such conciliation efforts, unless all parties and the Department agree in writing to disclosure and to the persons to whom they may be disclosed.

Parties to a charge may inspect materials which are disclosable pursuant to this subsection only after all of the allegations of the charge have been disposed of by the following: filing of a complaint; dismissal of allegations and no request for review; approval of terms of settlement by the Human Rights Commission; or entry of an order of default by the Human Rights Commission based on a petition for default filed by the Department;

b) the Department may acknowledge publicly the existence of a charge, the names of the parties and the stage of proceedings at which it is pending;

2) After the filing of a complaint with the Commission or the institution of judicial proceedings involving a charge, the Director may release
DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENT

information pertaining to the charge if:

A) such information is requested of the Department; or

B) the Director finds such information newsworthy, useful in education or training materials, relevant to an issue before the General Assembly, or similarly appropriate for disclosure.

3) If the Director determines that the disclosure of such information is in the public interest, at any stage of the proceedings, the Director may authorize release; however, documents that are privileged pursuant to subsection (a)(1) of this Section may not be disclosed unless the Director finds in writing that disclosure would be in the public interest.

b) Parties to a charge may inspect materials that are disclosable pursuant to subsection (a)(1) of this Section upon making arrangements with the Department at any time subsequent to:

1) Written notification of substantial evidence, notice of default, or notice of dismissal;

2) Administrative closure; or

3) Approval of terms of settlement by the Human Rights Commission.

c) During Request for Review proceedings, the Department's Chief Legal Counsel may inspect the Department's investigation file, except for documents listed in subsections (a)(1)(A) through (E) and (G) of this Section. The Chief Legal Counsel may review documents listed in subsection (a)(1)(F) of this Section.

d) The Department may acknowledge publicly the existence of a charge, the names of the parties and the stage of the proceedings at which it is pending.

e) Notwithstanding any other provision of this Section, the Director may assert a privilege with respect to any item available for inspection by a party if disclosure might jeopardize or prejudice pending proceedings or reveal the identity of a confidential informant, or if such item otherwise qualifies for a privilege against disclosure under applicable law.

(Source: Amended at 26 Ill. Reg. 17212, effective November 18, 2002)
DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part**: Procedures of the Department of Human Rights

2) **Code Citation**: 56 Ill. Adm. Code 2520

3) **Section Numbers**: Proposed Action:
   - 2520.573   Amendment
   - 2520.575   Amendment
   - 2520.580   Amendment
   - 2520.583   Amendment
   - 2520.585   Amendment
   - 2520.587   Amendment

4) **Statutory Authority**: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].

5) **Effective date of Amendments**: November 18, 2002

6) **Will these amendments contain an automatic repeal date?** No

7) **Do these amendments contain incorporations by reference?** No

8) **A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.**

9) **Date Notice of Proposed Amendment was published in the Illinois Register**: August 9, 2002; 26 Ill. Reg. 12118

10) **Has JCAR has issued a Statement of Objection to these amendments?** No

11) **Differences between the proposal and the final version**: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?** Yes

13) **Will this amendment replace any emergency amendments currently in effect?** No
DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

14) Are there any other proposed amendments pending on this Part? No

15) Summary and purpose of amendments: These adopted amendments codify changes to the request for review procedures. These changes are being made because of an injunction in Cooper v. Salazar, 98C2930, Federal District Court, N.D. Illinois, Eastern Division. As a result of these adopted amendments, the parties may participate more fully in the request for review process.

16) Information and questions regarding these adopted amendments shall be directed to:

Brent A. Harzman
Staff Attorney
Illinois Department of Human Rights
100 West Randolph Street
Suite 10-100
Chicago IL 60601
312-814-1906
T.D.D.: 312-263-1579

If, because of physical disability, you are unable to put comments in writing, you may make them orally to the person listed above.

The full text of the adopted amendments begins on the next page:
DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER II: DEPARTMENT OF HUMAN RIGHTS

PART 2520
PROCEDURES OF THE DEPARTMENT OF HUMAN RIGHTS

SUBPART A: INTERPRETATIONS

Section
2520.10  Definition of Terms
2520.20  Computation of Time
2520.30  Service of Documents
2520.40  Filing with the Department
2520.50  Separability
2520.110 Preservation of Records by Employers, Labor Organizations, Employment Agencies and Respondents

SUBPART B: CHARGE

Section
2520.310  Time of Filing (Repealed)
2520.320  Form (Repealed)
2520.330  Contents
2520.340  Requirements for Charge (Repealed)
2520.350  Unperfected Charge
2520.360  Amendment
2520.370  Substitution and Addition of Parties (Repealed)
2520.380  Withdrawal of Charge

SUBPART C: PROCEDURE UPON CHARGE

Section
2520.410  Docketing and Service of Charge (Repealed)
2520.420  Maintenance of Records (Repealed)
2520.430  Investigation
2520.440  Fact-Finding Conference
2520.450  Administrative Closure (Repealed)
2520.460  Determination After Investigation (Repealed)
2520.470  Conciliation (Repealed)
2520.480  Complaint (Repealed)
DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

SUBPART D: SETTLEMENTS

Section
2520.510 Settlement
2520.520 Non-Disclosure (Repealed)
2520.530 Dismissal for Refusal to Accept Settlement Offer (Repealed)
2520.540 Non-Compliance with Settlement Terms (Repealed)

SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

Section
2520.550 Administrative Closure
2520.560 Dismissal
2520.570 Default

SUBPART F: REQUESTS FOR REVIEW

2520.573 Filing with Chief Legal Counsel
2520.575 Contents of Request for Review
2520.577 Notice by the Chief Legal Counsel
2520.580 Extensions of Time
2520.583 Reply to Request for Review and Surreply
2520.585 Additional Investigation
2520.587 Decision

SUBPART G: RELATIONS WITH LOCAL HUMAN RIGHTS AGENCIES

Section
2520.610 Scope and Purpose (Repealed)
2520.620 Definitions (Repealed)
2520.630 Cooperative Agreements
2520.640 Nature of Cooperative Agreements
2520.650 Training and Technical Assistance
2520.660 Promotion of Communication and Goodwill

SUBPART H.G: EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION
BY STATE EXECUTIVE AGENCIES

Section
DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

2520.700 Definitions
2520.710 Scope and Purpose
2520.720 Affirmative Action Groups
2520.730 Consideration of Additional Groups
2520.740 Definitions (Renumbered)
2520.750 Nondiscrimination (Repealed)
2520.760 Plans
2520.770 Reporting and Record-Keeping
2520.780 Equal Employment Opportunity Officers
2520.790 Complaint Process
2520.795 Compliance Reviews
2520.797 Sanctions for Noncompliance

APPENDIX A   Contents of Affirmative Action Plans
APPENDIX B   Value Weight Assignment Chart

AUTHORITY: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].


SUBPART F: REQUESTS FOR REVIEW

Section 2520.573 Filing with Chief Legal Counsel

For charges filed on or after January 1, 1996:
   a) A Complainant may request review by the Chief Legal Counsel of a
DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

determination by the Director to dismiss one or more allegations of a charge for that:
1) lack of substantial evidence;
2) the Department lacks jurisdiction;
3) a charge should be dismissed for failure of a Complainant to proceed; or
4) a charge should be dismissed for failure of a Complainant to accept a settlement offer.

b) A Respondent may request review by the Chief Legal Counsel of a decision by the Director to issue a notice of default.

c) Any such request for review must be filed with the Chief Legal Counsel at the Department's Chicago office within 30 days after receipt of the Department's decision.

d) Neither the parties nor the Department may communicate directly or indirectly with the Chief Legal Counsel or staff attorney assigned to a request for review in connection with any issue, except in writing with copies to all parties and the Department.

e) If resources permit, the Chief Legal Counsel shall not assign a request for review to the staff attorney who has conducted the substantial evidence review. The Chief Legal Counsel shall have sole discretion over assignment of requests for review.

(Source: Amended at 26 Ill. Reg. 17217, effective November 18, 2002)

Section 2520.575 Contents of Request for Review

A request for review must state the reasons the party disagrees with the Director's decision. A request for review may also present relevant or supporting documents and/or identify witnesses with direct knowledge and state how to contact each named witness. The party should state how each document and/or witness is relevant to the request for review. If such names or documents were not previously provided to the Department, in order for them to be considered, good cause must be shown for not providing such names or documents during the Department's investigation.

(Source: Amended at 26 Ill. Reg. 17217, effective November 18, 2002)

Section 2520.580 Extensions of Time

a) For good cause shown, a party may request in writing an extension of time to file a request for review, reply or surreply of no more than 14 days. Requests for extensions of time must be filed with the Chief Legal Counsel no later than the original deadline for filing the request for review and will be granted if the Chief
DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

Legal Counsel determines that good cause has been established.

b) To determine whether there is good cause for extensions, the Chief Legal Counsel will consider, among other factors:
   1) complexity of the issues;
   2) death or serious illness of a party or a party's representative; and
   3) death or serious illness of an immediate family member of a party or a party's representative.

c) Such determinations shall be mailed to all parties and the Department the party who has filed the request for an extension.

d) If a party files a timely request for an extension that is granted but does not file a request for review, reply or surreply on or before the extended deadline, the Chief Legal Counsel will consider the pleading request for review to be one filed without evidence or argument.

(Source: Amended at 26 Ill. Reg. 17217, effective November 18, 2002)

Section 2520.583 Reply to Request for Review and Surreply

a) Reply. When a party files a timely request for review, the Chief Legal Counsel may request other parties and the Department to submit a reply to the request for review. Such reply must be filed received within 14 days after the request by the Chief Legal Counsel. The reply must be served on all other parties and proof of service must be provided or the Chief Legal Counsel cannot consider it. Replies should be limited to the issues raised in the request for review.

b) Surreply. If a reply to a request for review is timely filed with the Department, the party requesting review may file a surreply to the reply with the Chief Legal Counsel within 14 days after the deadline for filing the reply. The surreply must be served on all other parties and proof of service must be provided or the Chief Legal Counsel cannot consider it. Surreplies should be limited to the issues raised in the reply.

(Source: Amended at 26 Ill. Reg. 17217, effective November 18, 2002)

Section 2520.585 Additional Investigation

a) If the Chief Legal Counsel requests additional investigation pursuant to Section 7-101.1(B) of the Act, all parties and the Department shall be:
   1) informed of the request in writing;
   2) informed of the results of the additional investigation and provided copies of any documents submitted in response to the additional investigation;
DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

and

3) given 14 days to file a supplemental request for review, reply and surreply to address the results of the additional investigation.

ba) If the Director or staff attorney conducts additional investigation pursuant to Section 7-101.1(B) of the Act that affects the findings of the Chief Legal Counsel, the pertinent parts of the such investigation shall be included in the order entered pursuant to Section 2520.587 of this Part.

cb) Before assigning a request for review to a staff attorney for additional investigation or any other work, the Chief Legal Counsel will consider whether the staff attorney has conducted a substantial evidence review of that charge. If resources permit, the Chief Legal Counsel shall not assign a request for review to the staff attorney who has conducted the substantial evidence review. The Chief Legal Counsel shall have sole discretion over assignment of requests for review.

(Source: Amended at 26 Ill. Reg. 17217, effective November 18, 2002)

Section 2520.587 Decision

If, after a de novo review of the Director's decision to dismiss a charge or issue a Notice of Default, the Chief Legal Counsel determines that the Director's decision should be sustained, he/she shall enter an order stating the findings and reasons for that determination. Otherwise, the Chief Legal Counsel shall order that the dismissal or default be vacated and either that the charge be returned to the Charge Processing Division of the Department for additional work or that a substantial evidence finding be entered. The Chief Legal Counsel shall immediately cause the order to be served on the Director and all parties to the charge. In the case of a default that is sustained, a copy of the order shall also be served on the Human Rights Commission, so that it may conduct further proceedings pursuant to Section 7-101.1(C) of the Act.

(Source: Amended at 26 Ill. Reg. 17217, effective November 18, 2002)
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Nursing and Advanced Practice Nursing Act – Registered Professional Nurse and Licensed Practical Nurse

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

3) Section Numbers: Adopted Action:
   1300.20   Amendment
   1300.25   Amendment
   1300.30   Amendment
   1300.35   Amendment
   1300.40   Amendment
   1300.44   Amendment

4) Statutory Authority: Nursing and Advanced Practice Nursing Act [225 ILCS 65]

5) Effective Date of Amendments: November 18, 2002

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

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposal Published in Illinois Register: June 21, 2002, 26 Ill. Reg. 8728

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: Proposed Section 1300.80 providing for a nursing survey was deleted from this rulemaking and will be proposed at a later date. Various technical, nonsubstantive changes were also made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any amendments pending on this Part? No
15) **Summary and Purpose of Amendments:** Public Act 92-39, effective June 29, 2001, states that if the licensure examination is not passed within 3 years of the date of application, the applicant shall not be allowed to retake the exam without recompleting the nursing education program or completing an approved remedial nursing program; this rulemaking implements this provision and clarifies that it does not apply to applicants already licensed in another jurisdiction. Changes are also made to various sections to clarify that work histories and certifications are required from the last 5 years rather than since originally licensed. Section 1300.40 is amended to require that RN curriculums must include starting intravenous therapy, while Section 1300.44 permits LPN curriculum to include starting IV therapy. Section 1300.40 also clarifies that all programs approved through the National League of Nursing or the Commission on Collegiate Accreditation meet our requirements except for those programs whose curriculums do not include a concurrent theory and clinical practice education component.

16) **Information and questions regarding this amended Part shall be directed to:**

Department of Professional Regulation  
Attention: Jean Courtney  
320 West Washington, 3rd Floor  
Springfield, Illinois  62786  
217/785-0813     Fax #: 217/782-7645

The full text of the adopted amendments begins on the next page:
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1300
NURSING AND ADVANCED PRACTICE NURSING ACT -
REGISTERED PROFESSIONAL NURSE AND LICENSED PRACTICAL NURSE

Section  
1300.10 Definitions  
1300.15 Fees  
1300.20 Application for Examination or Licensure  
1300.25 The Licensure Examination  
1300.27 Application for Licensure on the Basis of Examination (Repealed)  
1300.30 Licensure by Endorsement  
1300.35 Remedial Education  
1300.40 Approval of Programs  
1300.41 Approval of Current Nursing Practice Update Course  
1300.42 Standards of Professional Conduct for Registered Professional Nurses  
1300.43 Standards of Professional Conduct for Licensed Practical Nurses  
1300.44 Standards for Pharmacology/Administration of Medication Course for Practical Nurses  
1300.45 Renewals  
1300.48 Restoration  
1300.50 Granting Variances  
1300.60 Practice of Nursing  
1300.65 Unethical or Unprofessional Conduct in Nursing Practice  
1300.70 Fines  
1300.75 Refusal to Issue a Nurse License Based on Criminal History Record  
APPENDIX A Minimal Skills List for Registered Professional Nurses  
APPENDIX B Minimal Assignment List for Registered Professional Nurses  
APPENDIX C Minimal Skills List for Licensed Practical Nurses  
APPENDIX D Minimal Assignment List for Licensed Practical Nurses

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

Section 1300.20 Application for Examination or Licensure

a) Each applicant shall file, with the Department of Professional Regulation (Department) or the testing service designated by the Department of Professional Regulation (the Department), a completed, signed application, on forms supplied by the Department, that which includes:

1) proof of graduation from a nursing education program that meets the requirements of Section 1300.40 of this Part;

2) signature of the Director of the nursing education program or other person designated by the Director of the nursing education program;

23) a complete work history within the last 5 years since graduation from a practical nurse education program or a professional nurse education program, whichever came first;

24) verification of fingerprint processing from the Illinois Department of State Police, 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 the Illinois Department of State Police, or its designated agent, for fingerprint processing. Out-of-state residents unable to utilize the State Police fingerprint process may submit to the Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 1300.15. Fingerprints shall be taken within the 60 days prior to application;
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

45) the required fees set forth in Section 1300.15 of this Part;
56) proof of passage for registered professional nurse applicants of:
   A) the Commission on Graduates of Foreign Nursing Schools
      (CGFNS) Examination for all persons applying after January 1, 1984, who completed a
      nursing education program in a country other than the United States or its territories;
   B) the Test of English as a Foreign Language (TOEFL) with a
      minimum score of 550 or 213 on the TOEFL computer-based test
      for those applicants who submit proof of denial of eligibility to sit
      for the CGFNS examination and who are licensed in a country
      other than the United States or its territories and determined by the
      Board educationally prepared in nursing;
   62) 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 1300.40; and
78) verification certification, on forms provided by the Department, from the
    jurisdictions jurisdiction(s) 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, has ever been licensed,
    if applicable, stating:
    A) The time during which the applicant was licensed in that
        jurisdiction, including the date of original issuance of the license;
        and
    B) 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 under Section 5-15(g) or (i)
   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 course(s)
   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 10-35 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
   Department may grant a license to an applicant who has applied in accordance
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

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 with 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

2) Clinical practice shall not include:
   A) Telephone or Triage Nursing
   B) Patient Education (i.e., diabetic education)
   C) Patient Counseling

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 Department.

g) If an applicant has taken and passed the National Council Licensure Examination (NCLEX) in accordance with Section 1300.25 of this Part, the applicant shall file an application in accordance with subsection (a) above and shall have the examination scores submitted to the Department directly from the testing entity or from the state of original licensure.

(Source: Amended at 26 Ill. Reg. 17225, effective November 18, 2002)

Section 1300.25 The Licensure Examination

a) The Board of Nursing (Board) shall make recommendations to the Department regarding content, design, and contractor for a licensure examination. A licensure examination contract shall be negotiated and approved by the Department of Professional Regulation.
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 professional nurse competency. A pass/fail grade will be assigned.

2) A registered professional nurse applicant who fails the examination is not eligible for licensure. If the applicant has been practicing professional nursing under Section 5-15(i) of the Act, the applicant shall discontinue such practice until a passing grade is achieved on the examination and a license has been received from the Department.

3) If the examination is not passed within three years from the date of application the first examination taken, regardless of jurisdiction in which the examination was written, the applicant shall not be permitted to retake the examination until such time as the applicant has successfully recompleted the entire approved nursing education program as set forth in Section 1300.40(f)(9) or completion of an approved remedial nursing education program or course as set forth in Section 1300.35. Upon successful completion of the approved nursing education program or remedial program or course, the applicant shall submit proof to the Department. This subsection (b)(3) does not apply to applicants who are licensed in another jurisdiction that utilizes the examination set forth in 68 Ill. Adm. Code 1320.25.

4) If three years from the date of original application has lapsed, the applicant shall be required to submit a new application to the Department pursuant to Section 10-30 of the Act and provide evidence of meeting the requirements in force at the time of the new application.

c) Licensed Practical Nurse Examination

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

2) A licensed practical nurse applicant who fails the examination is not eligible for licensure. If the applicant has been practicing as a licensed practical nurse under Section 5-15(g) of the Act, the applicant shall discontinue such practice until a passing grade has been achieved on the examination and a license has been received from the Department.

3) If the examination is not passed within three 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
NOTICE OF ADOPTED AMENDMENTS

examination until such time as the applicant has successfully recompleted the entire approved nursing education program as set forth in Section 1300.40(f)(10) or completed an approved remedial licensed practical nurse education program or course as set forth in Section 1300.35. Upon successful completion of the approved nursing education program or remedial program or course, the applicant shall submit proof to the Department. **This subsection (c)(3) does not apply to applicants licensed in another jurisdiction that utilizes the examination set forth in 68 Ill. Adm. Code 1320.25.**

4) If 3 three years from the date of original application has lapsed, the applicant shall be required to submit a new application to the Department pursuant to Section 10-30 of the Act.

d) 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 such applicant has graduated from an approved practical nursing education program.

(Source: Amended at 26 Ill. Reg. 17225, effective November 18, 2002)

Section 1300.30 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 Department. The application shall include:

1) the required fee in Section 1300.15 of this Part;

2) proof of graduation from a nursing education program that meets the requirements of Section 1300.40;

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

4) a complete work history **within the last 5 years since graduation** from a practical nurse education program or a professional nurse education program, whichever came first;

5) verification of fingerprint processing from the Illinois Department of State Police, 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 the Illinois Department of State Police, or its designated agent, for fingerprint processing. Out-of-
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

state residents unable to utilize the State Police fingerprint process may submit to the Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 1300.15. Fingerprints shall be taken within the 60 days prior to application;

6) for registered nurse applicants who received education outside of the United States:
   A) proof of passage of the Commission on Graduates of Foreign Nursing Schools (CGFNS) Examination for all persons licensed in their original jurisdictions subsequent to January 1, 1984, who completed their nursing education program in a country other than the United States or its territories. An applicant shall be exempt from taking the CGFNS examination if the applicant:
      i) has passed the examination authorized by the Department as set forth in Section 1300.25;
      ii) holds an active, unencumbered license in another state; and
      iii) has been actively practicing for a minimum of 2 years in the other state.
   Applicants who are exempt from taking the CGFNS examination shall submit a copy of the evaluation (the Nursing and Science Course Report) of nursing education credentials submitted by a Department approved nursing credentialing evaluation service. The Department has determined, upon recommendation of the Board, that the Commission on Graduates of Foreign Nursing Schools is an approved evaluation service;
   B) proof of passage of the Test of English as a Foreign Language (TOEFL) with a score of 550 or 213 on the TOEFL computer based test is required of those applicants who submit proof of denial of eligibility to sit for the CGFNS examination and who are licensed in a country other than the United States or its territories if determined educationally prepared in nursing;

7) 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 as set forth in Section 1300.40;

8) 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 all jurisdictions in which licensure has ever been granted that includes active practice in another
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

9) A candidate who is unable to pass the registered professional nurse examination in another 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.

f) Individuals applying for licensure by endorsement may apply to the Department, on forms provided by the Department, to receive a Temporary Endorsement Permit pursuant to Section 10-40 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 completed, signed endorsement application, along with the required endorsement licensure fee as set forth in Section 1300.15 of this Part. All supporting documents shall be submitted to the Department before a permanent license by endorsement shall be issued;

B) photostatic copies 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 National Council Network (NCNET) disciplinary data bank to determine if any disciplinary action is pending on the applicant's file;

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

D) the fee for a temporary permit as required in Section 1300.15 of this Part.

2) The Department shall issue a temporary endorsement permit no later than 14 days after receipt of a completed application as set forth in subsection (f)(1) above.
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

3) Temporary permits shall be terminated upon:
   A) the issuance of a permanent license by endorsement;
   B) failure to complete the application process within 6 months from the date of issuance of the permit;
   C) a finding by the Department that the applicant has been convicted of any crime under the laws of any jurisdiction of the United States which is a:
      i) felony, or
      ii) misdemeanor directly related to the practice of nursing within the last 5 years;
   D) a finding by the Department that 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, within the last 5 years; or
   E) a finding by the Department that the applicant does not meet the licensure requirements for endorsement as set forth in this Section. The Department shall notify the applicant in writing of such termination.

   The Department shall notify the applicant by certified or registered mail of the intent to deny licensure pursuant to subsections (f)(3)(D) and (E) above and/or Section 10-30 of the Act.

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

(Source: Amended at 26 Ill. Reg. 17225, effective November 18, 2002)

Section 1300.35 Remedial Education

Pursuant to Section 10-30 of the Act, no applicant (unless licensed in another jurisdiction) shall be issued a license as a registered nurse or practical nurse unless he/she has passed the examination set forth in Section 1300.25 within 3 years after filing an application completion.
and graduation from an approved nursing program, unless the such applicant submits proof of successful completion of the entire nursing education program or one of the following remedial nursing education requirements:

a) Registered nurse and practical nurse applicants licensed in another U.S. jurisdiction on the basis of successful completion of the national licensure examination may complete the current nursing practice update course set forth in Section 1300.41.

b) Registered nurse applicants, not licensed in another jurisdiction, may enroll in an approved professional nursing education program's medical/surgical theory and clinical course that includes the content and clinical experiences as set forth in Appendix A (Minimal Skills List for Registered Nurses) and Appendix B (Minimal Assignment List for Registered Nurses) of this Part.

c) Practical nurse applicants, not licensed in another jurisdiction, may enroll in an approved practical nursing education program's medical/surgical theory and clinical course that includes the content and clinical experiences as set forth in Appendix C (Minimal Skills List for Licensed Practical Nurses) and Appendix D (Minimal Assignment List for Licensed Practical Nurses) of this Part.

d) Registered nurse applicants and practical nurse applicants may participate in an individual self-study plan developed by an approved nursing education program in Illinois that includes theory and coordinated clinical practice components.

1) The theory component shall have the following minimum components:
   A) Assessment of theory learning needs through use of published tests measuring knowledge in medical/surgical nursing, growth and development across the life span and pharmacology;
   B) Specification by a nursing education program of units of content, objectives and unit plans for study;
   C) Documented hours equivalent to at least 48 contact hours of theory for registered nurse applicants and 32 contact hours of theory for licensed practical nurse applicants;
   D) Use of a medical/surgical nursing text currently used in basic nursing education programs;
   E) A means for demonstrating achievement of objectives.

2) The clinical practice component shall be sponsored by a nursing education program. The clinical practice experience shall include the following minimum components:
   A) Assessment of skill learning needs, arranged by the applicant with the nursing education program prior to assignment to a unit of the institution;
   B) Mastery of the registered nurse or practical nurse minimal skills set forth in Appendix A and C of this Part;
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

C) Clinical practice component of at least 96 contact hours for registered nurse applicants and 64 contact hours for licensed practical nurse applicants that includes the clinical practice experience set forth in Appendix B and D of this Part; and

D) Identification of a faculty member or registered nurse preceptor.

e) Registered nurse or licensed practical nurse applicants, taking a self-study course approved by another state board, shall have the course approved by the Department in order for the course to be accepted. The clinical practice component of the course must be provided by an Illinois health care delivery institution and must incorporate the Department's minimal requirements for the clinical practice component. The nurse taking the course must make arrangements with the health care delivery institution for the clinical practice component and identification of a registered nurse preceptor.

f) Individuals may request a review, by the Board of Nursing, of any other pertinent documents or training that are not set forth in this Section for approval as meeting these requirements.

(Source: Amended at 26 Ill. Reg. 17225, effective November 18, 2002)

Section 1300.40 Approval of Programs

a) Program Approval
Institutions desiring to establish a new nursing program that would lead to meeting requirements for licensure, or 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 Department.
2) Provide a feasibility study to the Department, on forms provided by the Department, 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;
   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
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

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.

4) Submit 15 copies of 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; and
   I) Facilities and utilization plan.

A site visit will be conducted by the Department prior to the program being approved.

b) Continued Program Approval

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

2) Full routine site visits shall be conducted by the Department for periodic evaluation. The visits will be utilized to determine compliance with the Act. Full routine site visits shall be announced. Unannounced site visits may be conducted when the Department 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 writers 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 writers for one year will receive a written warning of noncompliance from the Department.
   C) A nursing education program having an annual pass rate of less than 75% of first time writers for 2 consecutive years will receive a site visit for evaluation and recommendation by the Department and will be placed on probation for program revision in accordance with 68 Ill. Adm. Code 1110.
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

D) The nursing education program shall 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: 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 Department; and
2) Submit 15 copies of the proposed changes and new material to the Department, at least one term prior to implementation, for Board recommendation and Department 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 Department 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 Department;
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 shall be
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

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 objectives shall be established;

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

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. Must be course available with nursing major and identified on transcript.

B) Faculty must meet approved nursing education program qualifications and hold faculty status with 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) Course shall be based on program purpose philosophy, objectives and framework.

G) Course evaluation shall be consistent with 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,
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

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) Prepare the professional nurse to start intravenous therapy;

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 1300.44), nutrition and diet therapy, 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 as
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

outlined in subsection (f)(10)(A).

  g) 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 experience in clinical nursing practice;
   B) 2 years of experience as an instructor in a nursing education program; and
   C) 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 experience in clinical nursing practice;
   B) A master's degree or higher with a major in nursing.

6) Nurse faculty of a practical nursing program shall have:
   A) At least 2 years experience in clinical nursing practice; and
   B) A baccalaureate degree or higher with a major in nursing.

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

8) 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;
   F) Notification to the Department of program changes.

9) 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;
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

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.

10) 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.

11) 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.

12) 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
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

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 Department 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 Department 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 Variance
1) The nursing program may request a variance for a faculty member who has not received a master's degree if:
   A) the faculty member is within one year of completion of the master's in nursing;
   B) the faculty member is continuously enrolled in the master's in nursing program;
   C) a plan exists for the timely completion of the master's program; and
   D) no other faculty members are teaching with a current variance.
2) The Board of Nursing will consider each request for a variance and if a variance is granted the nursing program shall be placed on probation until the faculty member has completed the master's degree. A variance will be granted for one year and consecutive variances will not be granted to any program.

j) Discontinuance of a Nursing Program
1) A nursing education program shall:
   A) Notify the Department, 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 Department 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
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

student graduating.

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

k) Disapproval of a Program

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 as set forth in this Section; or
   D) Failure to comply with recommendations made by the Department as a result of a site visit.

2) Upon written notification of the Department's proposed action, the nursing education program may:
   A) Submit a written response;
   B) Request a hearing before the Board.

l) 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 agency(s) and the clinical units unit(s) to be utilized.
   C) A course syllabus for the clinical experiences experience(s) 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
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

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 least 2 years experience in clinical nursing practice; and
   ii) a master's degree or higher with a major in nursing.

C) Nurse faculty of a practical nursing program shall have:
   i) at least 2 years experience in clinical nursing practice; and
   ii) a baccalaureate degree or higher with a major in nursing.

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

E) 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.

F) 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 (l).

5) A written report of current clinical offerings and current data shall be submitted to the Department 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.

m) 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 Department within 30 days after the of such name change. If the Department is not notified within the 30 days, the program's approval may be withdrawn.

n) The Department has determined that nurse programs approved through the National League of Nursing 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
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

component as required by Section 10-35 of the Act.

(Source: Amended at 26 Ill. Reg. 17225, effective November 18, 2002)

Section 1300.44 Standards for Pharmacology/Administration of Medication Course for Practical Nurses

a) Approved licensed practical nursing programs shall include a course designed to educate practical nursing students and/or licensed practical nurses to administer medications via oral, topical, subcutaneous, intradermal and intramuscular routes under the direction of a registered professional nurse, licensed physician, or licensed dentist that contains the following minimum components:

1) Prerequisites
   A) Basic computational math and high school algebra with proficiency in the following concepts, including, but not limited to, ratios and proportions and metric, apothecary and household measurements as documented via examination and/or coursework completed.
   B) Basic scientific knowledge, including, but not limited to, microbiology/asepsis and anatomy and physiology with a basic understanding of fluid and electrolytes, the inflammatory response, the immune response, and body systems as documented via examination or coursework.

2) Pharmacology
   A) An introduction to pharmacology including the areas of:
      i) Terminology and abbreviations
      ii) Federal and State laws related to pharmacology (e.g., Illinois Controlled Substances Act [720 ILCS 570]; federal Food, Drug and Cosmetic Act (21 USC 360))
      iii) Drug standards and references (i.e., United States Pharmacopoeia/National Formulary)
      iv) Generic versus brand name drugs
      v) Misuse/abuse of drugs
   B) Classifications of drugs (with commonly used examples) including:
      i) Action/Physiological effect
      ii) Interactions
      iii) Side effects and contraindications
      iv) Dosages and routes
      v) Nursing implications (including legal implications)
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

3) Administration of Medication
   A) Following procedures of safety as described in subsections (a)(3)(C), (a)(3)(D), (a)(3)(E), and (a)(3)(F) in administering medications.
   B) Developmental adaptations for administering medications to patients of all ages.
   C) Assessment of patient condition.
   D) Planning for administration of medication including:
      i) Checking for doctor's order
      ii) Securing proper equipment
      iii) Verifying proper packaging of medication
   E) Implementation of administration of medication including:
      i) Site selection
      ii) Verifying route of administration
      iii) Administering the medication
      iv) Recording medication administration
      v) Patient education for compliance
   F) Evaluation of patient response including:
      i) Effects/side effects/allergic responses
      ii) Recording/reporting of effects

b) These requirements shall not preclude a flexible curriculum that would provide appropriate integration into other practical nursing courses.

c) The course/instruction shall include at least 32 hours of theory and 64 hours of lab and clinical with administration of medication to patients performed under direct supervision of qualified faculty as set forth in subsection (d) of this Section.

d) Nurse faculty of pharmacology and administration of medication courses shall have:
   1) At least two years experience in clinical nursing practice;
   2) A baccalaureate degree with a major in nursing;
   3) A current Illinois Registered Professional Nurse license.

e) Approved licensed practical nursing programs shall include a curriculum designed to educate practical nursing students and/or licensed practical nurses to perform the following activities related to intravenous therapy under the supervision of a registered professional nurse, licensed physician, or licensed dentist:
   1) Monitoring the flow rate of existing intravenous lines.
   2) Regulating peripheral fluid infusion rates.
   3) Observing sites for local reaction and reporting results to the registered nurse.
   4) Discontinuing intravenous therapy with an order from a physician.
   5) Adding non-medicated solutions to existing patent lines.
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

6) Changing peripheral intravenous tubings and dressings.
7) Monitoring existing transfusions of blood and blood components.
8) Documenting intravenous procedures performed and observations made.

Practical nursing programs have until August 2000 to add the intravenous therapy content set forth in this subsection (e) to their curriculum.

f) This curriculum may is not designed to prepare the licensed practical nurse to start intravenous therapy.

g) The curriculum shall not include the following procedures:
   1) Administering chemotherapeutic agents via intravenous routes.
   2) Starting or adding blood or blood components.
   3) Administering medications via intravenous push.
   4) Adding medication to existing intravenous infusions, including heparin in heparin locks.

(Source: Amended at 26 Ill. Reg. 17225, effective November 18, 2002)
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part**: Income Tax

2) **Code Citation**: 86 Ill. Adm. Code 100

3) **Section Numbers**: 100.2480 Amendment 100.9720 Amendment

4) **Statutory Authority**: 35 ILCS 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M), 203(d)(2)(K) and 35 ILCS 5/14001

5) **Effective Date of Amendments**: November 18, 2002

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 amendments, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register**: 26 Ill. Reg. 10372, 7/12/02 26 Ill. Reg. 11389, 7/26/02

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposal and final version**: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made. This is a consolidated rulemaking of 2 amendments that were proposed separately. Two sections are being amended.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?** Yes

13) **Will these amendments replace any emergency amendments currently in effect?** No

14) **Are there any amendments pending on this Part?** Yes

<table>
<thead>
<tr>
<th>Section Numbers</th>
<th>Proposed Action</th>
<th>IL Register Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>100.9710</td>
<td>Amendment</td>
<td>26 Ill. Reg. 12715, 08/23/02</td>
</tr>
</tbody>
</table>
NOTICE OF ADOPTED AMENDMENTS

100.2490  New Section  26 Ill. Reg. 13790, 09/20/02

15) Summary and Purpose of Amendments: Regulations Section 100.2480, relating to dividends paid by a corporation that conducts all or substantially all of its business activities within an Illinois Enterprise Zone, is clarified. The previous regulation required that a corporation use only its property and payroll factors, and not its sales factor, to determine whether dividends may be eligible for subtraction under IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) or 203(d)(2)(K). The adopted regulation makes clear that such requirement is not affected by the amendment of IITA Section 304 by Section 5 of Public Act 90-613. Therefore, even though a corporation's apportionment factor may consist solely of its sales factor, such corporation still determines whether it conducts all or substantially all of its business activities within an Illinois Enterprise Zone by means of its property and payroll factors.

The amendment to Section 100.9720 clarifies the regulation on nexus by stating that a person does not have nexus with this State merely because the apportionment and allocation rules in IITA Article 3 would cause that person to have Illinois net income.

16) Information and questions regarding these adopted amendments shall be directed to:

Paul Caselton
Deputy General Counsel - Income Tax
Brian Stocker
Associate Counsel - Income Tax
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois  62794
Phone: (217) 782-7055

The full text of the adopted amendments begins on the next page.
## DEPARTMENT OF REVENUE

**NOTICE OF ADOPTED AMENDMENTS**

**TITLE 86: REVENUE**  
**CHAPTER I: DEPARTMENT OF REVENUE**

**PART 100**  
**INCOME TAX**

### SUBPART A: TAX IMPOSED

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>100.2000</td>
<td>Introduction</td>
</tr>
<tr>
<td>100.2050</td>
<td>Net Income (IITA Section 202)</td>
</tr>
</tbody>
</table>

### SUBPART B: CREDITS

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>100.2100</td>
<td>Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))</td>
</tr>
<tr>
<td>100.2101</td>
<td>Replacement Tax Investment Credit (IITA 201(e))</td>
</tr>
<tr>
<td>100.2110</td>
<td>Investment Credit; Enterprise Zone (IITA 201(f))</td>
</tr>
<tr>
<td>100.2120</td>
<td>Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))</td>
</tr>
<tr>
<td>100.2130</td>
<td>Investment Credit; High Impact Business (IITA 201(h))</td>
</tr>
<tr>
<td>100.2140</td>
<td>Credit Against Income Tax for Replacement Tax (IITA 201(i))</td>
</tr>
<tr>
<td>100.2150</td>
<td>Training Expense Credit (IITA 201(j))</td>
</tr>
<tr>
<td>100.2160</td>
<td>Research and Development Credit (IITA 201(k))</td>
</tr>
<tr>
<td>100.2163</td>
<td>Environmental Remediation Credit (IITA 201(l))</td>
</tr>
<tr>
<td>100.2165</td>
<td>Education Expense Credit (IITA 201(m))</td>
</tr>
<tr>
<td>100.2170</td>
<td>Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)</td>
</tr>
<tr>
<td>100.2180</td>
<td>Credit for Residential Real Property Taxes (IITA 208)</td>
</tr>
<tr>
<td>100.2195</td>
<td>Dependent Care Assistance Program Tax Credit (IITA 210)</td>
</tr>
<tr>
<td>100.2197</td>
<td>Foreign Tax Credit (IITA Section 601(b)(3))</td>
</tr>
<tr>
<td>100.2198</td>
<td>Economic Development for a Growing Economy Credit (IITA 211)</td>
</tr>
<tr>
<td>100.2199</td>
<td>Illinois Earned Income Tax Credit (IITA 212)</td>
</tr>
</tbody>
</table>

### SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS OCCURRING PRIOR TO DECEMBER 31, 1986

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>100.2200</td>
<td>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</td>
</tr>
</tbody>
</table>
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

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


100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER DECEMBER 31, 1986

Section 100.2300 Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986

100.2310 Computation of the Illinois Net Loss Deduction

100.2320 Determination of the Amount of Illinois Net Loss Carryovers

100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring on or After December 31, 1986

100.2340 Illinois Net Loss Deductions of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns

100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the
NOTICE OF ADOPTED AMENDMENTS

Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))

100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section
100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section
100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section
100.3000 Terms Used in Article 3 (IITA Section 301)
100.3010 Business and Nonbusiness Income (IITA Section 301)
100.3020 Resident (IITA Section 301)

SUBPART J: COMPENSATION PAID TO NONRESIDENTS

Section
100.3100 Compensation (IITA Section 302)
100.3110 State (IITA Section 302)
100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3200 Taxability in Other State (IITA Section 303)
100.3210 Commercial Domicile (IITA Section 303)
100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other than
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100.3300</td>
<td>Allocation and Apportionment of Base Income (IITA Section 304)</td>
</tr>
<tr>
<td>100.3310</td>
<td>Business Income of Persons Other than Residents (IITA Section 304) – In General</td>
</tr>
<tr>
<td>100.3320</td>
<td>Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)</td>
</tr>
<tr>
<td>100.3330</td>
<td>Business Income of Persons Other Than Residents (IITA Section 304) – Allocation</td>
</tr>
<tr>
<td>100.3340</td>
<td>Business Income of Persons Other Than Residents (IITA Section 304)</td>
</tr>
<tr>
<td>100.3350</td>
<td>Property Factor (IITA Section 304)</td>
</tr>
<tr>
<td>100.3360</td>
<td>Payroll Factor (IITA Section 304)</td>
</tr>
<tr>
<td>100.3370</td>
<td>Sales Factor (IITA Section 304)</td>
</tr>
<tr>
<td>100.3380</td>
<td>Special Rules (IITA Section 304)</td>
</tr>
<tr>
<td>100.3390</td>
<td>Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))</td>
</tr>
<tr>
<td>100.3400</td>
<td>Apportionment of Business Income of Financial Organizations (IITA Section 304(c))</td>
</tr>
</tbody>
</table>

SUBPART M: ACCOUNTING

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100.4500</td>
<td>Carryovers of Tax Attributes (IITA Section 405)</td>
</tr>
</tbody>
</table>

SUBPART N: TIME AND PLACE FOR FILING RETURNS

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100.5000</td>
<td>Time for Filing Returns: Individuals (IITA Section 505)</td>
</tr>
<tr>
<td>100.5010</td>
<td>Place for Filing Returns: All Taxpayers (IITA Section 505)</td>
</tr>
<tr>
<td>100.5020</td>
<td>Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)</td>
</tr>
<tr>
<td>100.5030</td>
<td>Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)</td>
</tr>
<tr>
<td>100.5040</td>
<td>Innocent Spouses</td>
</tr>
</tbody>
</table>

SUBPART O: COMPOSITE RETURNS

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
</table>
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.5100 Composite Returns: Eligibility
100.5110 Composite Returns: Responsibilities of Authorized Agent
100.5120 Composite Returns: Individual Liability
100.5130 Composite Returns: Required forms and computation of Income
100.5140 Composite Returns: Estimated Payments
100.5150 Composite Returns: Tax, Penalties and Interest
100.5160 Composite Returns: Credit for Resident Individuals
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

SUBPART P: COMBINED RETURNS

Section
100.5200 Filing of Combined Returns
100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205 Election to File a Combined Return
100.5210 Procedures for Elective and Mandatory Filing of Combined Returns
100.5215 Filing of Separate Unitary Returns
100.5220 Designated Agent for the Members
100.5230 Combined Estimated Tax Payments
100.5240 Claims for Credit of Overpayments
100.5250 Liability for Combined Tax, Penalty and Interest
100.5260 Combined Amended Returns
100.5265 Common Taxable Year
100.5270 Computation of Combined Net Income and Tax
100.5280 Combined Return Issues Related to Audits

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section
100.7000 Requirement of Withholding (IITA Section 701)
100.7010 Compensation Paid in this State (IITA Section 701)
100.7020 Transacting Business Within this State (IITA Section 701)
100.7030 Payments to Residents (IITA Section 701)
100.7040 Employer Registration (IITA Section 701)
100.7050 Computation of Amount Withheld (IITA Section 701)
100.7060 Additional Withholding (IITA Section 701)
100.7070 Voluntary Withholding (IITA Section 701)
100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090 Reciprocal Agreement (IITA Section 701)
100.7095 Cross References
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section
100.7100 Withholding Exemption (IITA Section 702)
100.7110 Withholding Exemption Certificate (IITA Section 702)
100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

Section
100.7200 Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
100.7300 Returns of Income Withheld from Wages (IITA Section 704)
100.7310 Quarterly Returns Filed on an Annual Basis (IITA Section 704)
100.7320 Time for Filing Returns (IITA Section 704)
100.7330 Payment of Tax Deducted and Withheld (IITA Section 704)
100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)

SUBPART U: COLLECTION AUTHORITY

Section
100.9000 General Income Tax Procedures (IITA Section 901)
100.9010 Collection Authority (IITA Section 901)
100.9020 Child Support Collection (IITA Section 901)

SUBPART V: NOTICE AND DEMAND

Section
100.9100 Notice and Demand (IITA Section 902)

SUBPART W: ASSESSMENT

Section
100.9200 Assessment (IITA Section 903)
100.9210 Waiver of Restrictions on Assessments (IITA Section 907)
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

SUBPART X:  DEFICIENCIES AND OVERPAYMENTS

Section
100.9300  Deficiencies and Overpayments (IITA Section 904)
100.9310  Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9320  Limitations on Notices of Deficiency (IITA Section 905)
100.9330  Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Y:  CREDITS AND REFUNDS

Section
100.9400  Credits and Refunds (IITA Section 909)
100.9410  Limitations on Claims for Refund (IITA Section 911)
100.9420  Recovery of Erroneous Refund (IITA Section 912)

SUBPART Z:  INVESTIGATIONS AND HEARINGS

Section
100.9500  Access to Books and Records (IITA Section 913)
100.9505  Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)
100.9510  Taxpayer Representation and Practice Requirements
100.9520  Conduct of Investigations and Hearings
100.9530  Books and Records

SUBPART AA:  JUDICIAL REVIEW

Section
100.9600  Administrative Review Law (IITA Section 1201)

SUBPART BB:  DEFINITIONS

Section
100.9700  Unitary Business Group Defined (IITA Section 1501)
100.9710  Financial Organizations (IITA Section 1501)
100.9720  Nexus
100.9750  Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART CC:  LETTER RULING PROCEDURES
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section
100.9800 Letter Ruling Procedures

APPENDIX A Business Income Of Persons Other Than Residents
TABLE A Example of Unitary Business Apportionment
TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas


DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS


Section 100.2480  Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))

a) Taxpayers are entitled to subtract from taxable income (adjusted gross income, in the case of an individual) an amount equal to dividends paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act, and conducts all or substantially all of its operations in the Enterprise Zone or zones (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K)).

b) A corporation conducts substantially all of its business within an Enterprise Zone when 95% or more of its total business activity during a taxable year is operated within an Enterprise Zone. For the purpose of this Section, business activity within an Enterprise Zone shall be measured by means of the factors ordinarily applicable to the corporation under subsection (a), (b), (c), or (d) of IITA Section 304 except that, in the case of a corporation ordinarily required to apportion business income by means of the 3-factor formula of property, payroll and sales specified in subsection (a) of Section 304, such corporation shall not use the sales factor in the computation. Thus, for example, for taxable years ending on or after December 31, 2000, for purposes of determining whether dividends may be subtracted under this Section, a corporation that apportions its business income under subsection (a) of Section 304 using only the sales factor in accordance with subsection (h) of Section 304 must still compute its property and payroll factors.
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

In measuring the business activity of a corporation within an Enterprise Zone, the apportionment factors of that corporation shall be determined without regard to the factors or business activity of any other corporation and, in the case of a corporation engaged in a unitary business with any other person, the apportionment factors of that corporation shall be determined as if it were not engaged in a unitary business with such other person.

1) Section 304(a) 3-Factor Corporations: A corporation using Section 304(a) property, payroll and sales to apportion business income to Illinois under subsection (a) of Section 304 shall compare the corporation's property and payroll within an Enterprise Zone to the corporation's property and payroll everywhere. The result of the property and payroll factor computations shall be divided by 2 (by one if either the property or payroll factor has a denominator of zero). If the amount so computed is 95% or greater, the dividends paid by the corporation shall qualify for this subtraction. In the case where a corporation does not have any payroll or property within an Enterprise Zone, the corporation is not conducting any of its business operations within an Enterprise Zone for the purpose of this Section.

2) All Other Corporations: A corporation using a 1-factor apportionment formula under subsection (b), (c) or (d) of IITA Section 304 shall determine business activity conducted within an Enterprise Zone by comparing business income from sources within the Enterprise Zone and everywhere else pursuant to its ordinarily applicable factor under subsection (b), (c) or (d) of Section 304. A corporation using an alternative method of apportionment under Section 304(f) shall petition the Department for approval of an appropriate method of determining its qualification under this Section, and only upon the Department's approval shall the corporation be allowed to use a method not provided in this Section.

3) Example: In the tax year ending December 31, 1995, Taxpayer received dividends from a bank holding company, whose sole asset was the stock in a bank with which it was conducting a unitary business. Both the bank holding company and the bank are headquartered in an Enterprise Zone created under the Illinois Enterprise Zone Act. During 1995, the operations of the bank consisted of accepting deposits, making loans and purchasing investments. The bank conducted business in its branches located throughout the State. However, the bank holding company's sole source of income on a separate-company basis was the dividends it received from the bank, and all of this income was received within the Enterprise Zone. In determining its business income apportionable to Illinois in 1995, the bank holding company and the bank used the
apportionment formula under IITA Section 304(c) on a combined basis. In order to determine whether 95% or more of its income is from sources within the Enterprise Zone, the bank holding company is required to use the same apportionment formula under IITA Section 304(c) as if it were not engaged in a unitary business with the bank. Pursuant to the formula, dividends which are received within this State are apportionable to Illinois. As a result, the bank holding company in this case must compute the percentage of dividends which are received within the Enterprise Zone to determine income apportionable to the Enterprise Zone. Since it received all of its business income from sources within the Enterprise Zone, the bank holding company would meet the 95% test.

c) Taxpayers are entitled to this subtraction in the taxable year in which qualifying dividends are paid by corporations. Corporations paying dividends shall be deemed to have started business operations within an Enterprise Zone from the later of:

1) The date the Enterprise Zone in which the corporation paying the dividends is located was officially designated by the Department of Commerce and Community Affairs;
2) The date the corporation paying dividends commenced operations in the Enterprise Zone; or
3) The effective date of the Public Act enacting this subtraction (December 7, 1982).

d) Limitations.

1) This Section allows taxpayers to subtract distributions from a corporation only to the extent:
   A) such distributions are characterized as dividends;
   B) such dividends are included in federal taxable income (in the case of an individual, adjusted gross income) of the taxpayer; and
   C) the taxpayer has not subtracted such dividends from federal taxable income (in the case of an individual, adjusted gross income) under any other provision of Section 203 of the IITA.

2) Example: Taxpayer, an S corporation shareholder, receives a distribution from an S corporation which conducts substantially all of its business in an Enterprise Zone. Although the S corporation satisfies the 95% test, Taxpayer is not entitled to this subtraction modification since a distribution by an S corporation is generally not characterized as a dividend. See Section 1368 of the Internal Revenue Code.

3) Example: Taxpayer, a corporation, receives a dividend from another corporation which qualifies for the 70% dividends received deduction under Section 243(a)(1) of the Internal Revenue Code. Because only 30%
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

of the dividend is included in Taxpayer's federal taxable income, this Section allows Taxpayer to subtract only 30% of the dividend from its federal taxable income.

(Source: Amended at 26 Ill. Reg. 17250, effective November 18, 2002)

Section 100.9720  Nexus

a)  IITA Section 201(a) imposes the Illinois Income Tax, a tax measured by net income, on individuals, corporations, trusts and estates for the privilege of earning or receiving income in or as a resident of this State.  IITA Section 201(c) imposes a second tax measured by net income, the Personal Property Tax Replacement Income Tax, on corporations, partnerships and trusts for the privilege of earning or receiving income in or as a resident of this State.  In general, a resident of this State will always be subject to these taxes.  Activity conducted in interstate commerce may establish sufficient nexus with Illinois to permit imposition of these taxes on a non-resident taxpayer, as well, when the non-resident earns or receives income in this State within the meaning of the IITA.  Complete Auto Transit, Inc. v. Brady, 430 U.S. 274, 97 S. Ct. 1076 (1977); Quill v. North Dakota, 504 U.S. 298, 112 S. Ct. 1904 (1992).  However, the fact that Article 3 of the IITA requires a non-resident taxpayer to allocate or apportion income to this State does not create a presumption that the taxpayer has nexus.

b)  Standards for determining sufficient tax nexus are found in federal statutes regulating interstate commerce, in United States Constitutional jurisprudence, and in Illinois tax statutes.

c)  The scope of federal statutes limiting nexus for imposition of Illinois income and replacement taxes are described in this subsection (c):

1)  Public Law 86-272.  In 1959, Congress enacted PL 86-272 (15 USC 381-384), which prohibits states and their political subdivisions from imposing a net income tax on nonresident taxpayers who operate primarily in interstate commerce and whose activity within a state is limited.  PL 86-272 provides in pertinent part:

   A)  No state or political subdivision thereof shall have the power to impose . . . a net income tax on the income derived within such state by any person from interstate commerce if the only business activities within such state by or on behalf of such person during such taxable year are either, or both of the following:

   i)  the solicitation of orders by such person, or his representative, in such state for sales of tangible personal property, which orders are sent outside the state for
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

approval or rejection, and, if approved, are filled by shipment or delivery from a point outside the state; and

ii) the solicitation of orders by such person, or his representative, in such state in the name of or for the benefit of a prospective customer of such person, if orders by such customer to such person to enable such customer to fill orders resulting from such solicitation are orders described in subsection (c)(1)(A)(i).

B) The provisions of subsection (c)(1)(A) of this Section shall not apply to the imposition of a net income tax by any State or political subdivision thereof, with respect to –

i) Any corporation which is incorporated under the laws of such state; or

ii) any individual who, under the laws of such state, is domiciled in, or a resident of, such state.

C) For the purposes of subsection (c)(1)(A) of this Section, a person shall not be considered to have engaged in business activities within a state during any taxable year merely by reason of sales in such state, or the solicitation of orders for sales in such state, of tangible personal property on behalf of such person by one or more independent contractors whose activities on behalf of such person in such state consist solely of making sales, or soliciting orders for sales, of tangible personal property.

D) For purposes of this subsection (c)(1) –

i) The term "independent contractor" means a commission agent, broker, or other independent contractor who is engaged in selling, or soliciting orders for the sale of tangible personal property for more than one principal and who holds himself out as such in the regular course of his business activities; and

ii) the term "representative" does not include an independent contractor.

2) The terms of PL 86-272 affect nexus for taxation under the IITA according to the following principles:

A) If a nonresident taxpayer's activities exceed "mere solicitation", as set forth in subsection (a) of PL 86-272 (subsection (c)(1)(A) of this Section), it obtains no immunity under that federal statute. The taxpayer is subject to Illinois income tax and personal property tax replacement income tax for the entire taxable year and its business income is apportioned under IITA Section 304. Whether
NOTICE OF ADOPTED AMENDMENTS

a nonresident taxpayer's conduct exceeds "mere solicitation" depends upon the facts in each particular case.

B) Nature of Property Being Sold
   i) PL 86-272 immunizes solicitation only for sale of tangible personal property. Efforts to sell intangibles, such as services, franchises, patents, copyrights, trademarks and service marks, are not protected, nor is solicitation for the leasing, renting or licensing of tangible personal property.
   ii) The sale, delivery and the solicitation for the sale or delivery of any type of service that is not either ancillary to solicitation, or otherwise set forth as a protected activity under subsection (c)(5), is also not protected under PL 86-272 or this Section.

C) Solicitation of Orders. Solicitation of orders means speech or conduct that explicitly or implicitly invites an order and activity ancillary to invitations for an order.
   i) To be ancillary to invitations for orders, an activity must serve no independent business function for the seller apart from its connection to the solicitation of orders.
   ii) Activity that a seller would engage in apart from soliciting orders shall not be considered ancillary to the solicitation of orders.
   iii) Assignment of an activity to a salesperson does not, merely by such assignment, make that activity ancillary to solicitation of orders.
   iv) Activity that attempts to promote sales is not ancillary, nor is activity that facilitates sales. PL 86-272 only protects ancillary activity that facilitates the invitation of an order.

D) De minimus activities are those that, when taken together, establish only a trivial additional connection with this State. An activity regularly conducted within this State on a regular or systematic basis or pursuant to a company policy (whether such policy is in writing or not) shall normally not be considered trivial. Whether an activity consists of a trivial or non-trivial additional connection with this State is to be measured on both a qualitative and quantitative basis. If the activity either qualitatively or quantitatively creates a non-trivial connection with this State, then the activity exceeds the protection of PL 86-272. The amount of unprotected activities conducted within this State relative to the amount of protected activities conducted within this State is not
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

determinative of the issue of whether the unprotected activities are de minimus. The determination of whether an unprotected activity creates a non-trivial connection with this State is made on the basis of the taxpayer's entire business activity, not merely its activities conducted within this State. An unprotected activity that would not be de minimus if it were the only business activity of the taxpayer conducted in this State will not be de minimus merely because the taxpayer also conducts a substantial amount of protected activities within this State, nor will an unprotected activity that would be de minimus if conducted in conjunction with a substantial amount of protected activities fail to be de minimus merely because no protected activities are conducted in this State.

3) Listing of Specific Unprotected and Protected Activities.
   A) Subsection (c)(4) lists specific activities that are considered to be beyond "mere solicitation" and, therefore, unprotected by PL 86-272.
   B) Subsection (c)(5) lists specific activities that are considered by this State to be "protected activities". Included on the list of "protected activities" are those specific activities that are protected by PL 86-272 and those specific activities that this State, in its discretion, deems worthy of protection. Inclusion of an activity on the listing of "protected activities" is neither a declaration nor an admission by this State that the activity must be afforded protection under PL 86-272.

4) Unprotected Activities. The following activities (assuming they are not de minimus) do not constitute "mere solicitation" of orders, nor are they ancillary, nor otherwise protected under PL 86-272. If one or more of the following activities are conducted within this State, an otherwise protected nonresident taxpayer shall become subject to taxation by Illinois.
   A) Making repairs or providing maintenance or service to the property sold or to be sold.
   B) Collecting current or delinquent accounts, whether directly or by third parties, through assignment or otherwise.
   C) Investigating credit worthiness.
   D) Installation or supervision of installation at or after shipment or delivery.
   E) Conducting training courses, seminars or lectures for personnel other than personnel involved only in solicitation of sales of tangible personal property.
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

F) Providing any kind of technical assistance or services, including, but not limited to, engineering assistance or design service, when one of the purposes of the assistance or service is other than the facilitation of the solicitation of orders.

G) Investigating, handling, or otherwise assisting in resolving customer complaints, other than mediating direct customer complaints when the sole purpose of such mediation is to ingratiate the sales personnel with the customer.

H) Approving or accepting orders.

I) Repossessing property.

J) Securing deposits on sales.

K) Picking up or replacing damaged or returned property.

L) Hiring, training, or supervising personnel, other than personnel involved only in solicitation.

M) Maintaining a sample or display room in excess of two weeks (14 days) at any one location within the State during the tax year.

N) Carrying samples for sale, exchange or distribution in any manner for consideration.

O) Owning, leasing, or maintaining any of the following facilities or property in-state:
   i) Repair shop.
   ii) Parts department.
   iii) Any kind of office other than an in-home office as described as permitted under subsections (c)(4)(Q) and (c)(5)(B).
   iv) Warehouse.
   v) Meeting place for directors, officers, or employees.
   vi) Stock of goods other than samples for sales personnel or that are used entirely ancillary to solicitation.
   vii) Telephone answering service that is publicly attributed to the nonresident or to an employee or agent of the nonresident in his or her representative status.
   viii) Mobile stores, i.e., vehicles with drivers who are sales personnel making sales from the vehicles.
   ix) Real property or fixtures to real property of any kind.

P) Consigning stock of goods or other tangible personal property to any person, including an independent contractor, for sale.

Q) The maintenance of any office or other place of business in this State that does not strictly qualify as an "in-home" office as described in subsection (c)(5)(M) shall, by itself, cause the loss of
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

protection under PL 86-272. A telephone listing or other public listing within the State for the nonresident or for an employee or other representative of the nonresident in such capacity or other indication through advertising or business literature that the nonresident or its employee or representative can be contacted at a specific address within the State shall normally be determined as the nonresident maintaining within this State an office or place of business attributable to the nonresident or to its employee or representative in a representative capacity. However, the normal distribution and use of business cards and stationary identifying the employee's or representative's name, address, telephone and fax numbers and affiliation with the nonresident shall not, by itself, be considered as advertising or otherwise publicly attributing an office to the nonresident or to its employee or other representative.

R) Entering into franchising or licensing agreements; selling or otherwise disposing of franchises and licenses; or selling or otherwise transferring tangible personal property pursuant to such franchise or license by the franchiser or licensor to its franchisee or licensee within the State.

S) Conducting any activity that is not on the list of "protected activities" in subsection (c)(5), and that is not entirely ancillary to requests for orders, even if the activity helps to increase purchases.

5) Protected Activities. The following in-state activities will not cause the loss of immunity for otherwise protected sales:

A) Soliciting orders for sales by any type of advertising.

B) Soliciting orders for sales by an in-state resident employee or representative of the nonresident, so long as that person does not maintain or use any office or place of business in the State besides an "in-home" office as described in subsection Section (c)(5)(M).

C) Carrying samples and promotional materials only for display or for distribution without charge or other consideration.

D) Furnishing and setting up display racks and advising customers on the display of the nonresident's products without charge or other consideration.

E) Providing automobiles to sales personnel for their use in conducting protected activities.

F) Passing orders, inquiries and complaints on to the home office.

G) Missionary sales activities; i.e., the solicitation of indirect customers for the nonresident's goods. For example, a manufacturer's solicitation of retailers to buy the manufacturer's
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

goods from the manufacturer's wholesale customers would be protected if those solicitation activities are otherwise immune.

H) Coordinating shipment or delivery without payment or other consideration and providing information relating to shipment or delivery either prior or subsequent to the placement of an order.

I) Checking of customers' inventories without charge (for re-order, but not for other purposes such as quality control).

J) Maintaining a sample or display room for two weeks (14 days) or less at any one location within the State during the tax year.

K) Recruiting, training or evaluating sales personnel, including occasionally using homes, hotels or similar places for meetings with sales personnel.

L) Mediating direct customer complaints when the purpose is solely for ingratiating the sales personnel with the customer and facilitating requests for orders.

M) Owning, leasing, using or maintaining personal property for use in the employee's or representative's "in-home" office located within the residence of the employee or other representative that is not publicly attributed to the nonresident or to the employee or other representative of the nonresident in a representative capacity or automobile, when that use is solely limited to the conducting of protected activities. Therefore, the use of personal property such as a cellular telephone, facsimile machine, duplicating equipment, personal computer and computer software, shall not, by itself, remove the protection under this Section, so long as the use of the office is limited to:

i) soliciting and receiving orders from customers;

ii) transmitting orders outside the State for acceptance or rejection by the nonresident; or

iii) other activities that are protected under PL 86-272 or this Section.

N) Shipping or delivering goods into this State by means of vehicles or other modes of transportation owned or leased by the nonresident taxpayer or by means of private carrier, whether by motor vehicle, rail, water, air or other carrier and irrespective of whether a shipment or delivery fee or other charge is imposed, directly or indirectly, upon the purchaser.

6) Independent Contractors. PL 86-272 provides immunity to certain in-state activities, if conducted by an independent contractor, that would not be afforded if performed by the nonresident or its employees or other
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

representatives.

A) Notwithstanding the provisions of subsection (c)(4), independent contractors may engage in the following limited activities in the State without the nonresident's loss of immunity:
   i) soliciting sales;
   ii) making sales;
   iii) maintaining an office.

B) Sales representatives who represent a single principal are not considered to be independent contractors and are subject to the same limitations as those provided under PL 86-272 and this Section.

C) Maintenance of a stock of goods in the State, by the independent contractor under consignment or any other type of arrangement with the nonresident, except for purposes of display and solicitation, shall remove the protection.

7) Application of Destination State Law in Case of Conflict.
   A) When it appears that Illinois and one or more other states that are signatories to the "Statement of Information concerning practices of the Multistate Tax Commission and Signatory States under PL 86-272" have included or will include the same receipts from a sale in their respective sales factor numerators, at the written request of the nonresident, the states will, in good faith, confer with one another to determine which state should be assigned the receipts. The conference shall identify what law, regulation or written guideline, if any, has been adopted in the state of destination with respect to the issue. The state of destination shall be that location at which the purchaser or its designee actually receives the property, regardless of F.O.B. (Free on Board) point or other conditions of sale.

   B) In determining which state is to receive the assignment of the receipts at issue, preference shall be given to any clearly applicable law, regulation or written guideline that has been adopted in the state of destination. However, except in the case of the definition of what constitutes "tangible personal property", Illinois is not required by this Section to follow any other state's law, regulation or written guideline should Illinois determine that to do so:
      i) would conflict with Illinois laws, regulations, or written guidelines; and
      ii) would not clearly reflect the income-producing activity of the nonresident within Illinois.
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

C) Notwithstanding any provision set forth in this Section to the contrary, as between Illinois and any other signatory state, Illinois agrees to apply the definition of "tangible personal property" that exists in the state of destination to determine the application of PL 86-272 and issues of throwback, if any. Should the state of destination not have any applicable definition of tangible personal property so that it could be reasonably determined whether the property at issue constitutes tangible personal property, then each signatory state may treat the property in any manner that would clearly reflect the income-producing activity of the nonresident within that state.

8) Application of this Section to Foreign Commerce
   A) PL 86-272 specifically applies, by its terms, to "interstate commerce" and does not directly apply to foreign commerce. The states are free, however, to apply the same standards set forth in PL 86-272 to business activities in foreign commerce to ensure that foreign and interstate commerce are treated on the same basis. Such an application also avoids the necessity of expensive and difficult efforts in the identification and application of the varied jurisdictional laws and rules existing in foreign countries.
   B) Illinois will apply the provisions of PL 86-272 and of this Section to business activities conducted in foreign commerce. Therefore, whether business activities are conducted by a nonresident selling tangible personal property into a country outside of the United States from a point within Illinois or by a nonresident selling such property into Illinois from a point outside of the United States, the principles under this Section apply equally to determine whether the sales transactions are protected and the nonresident is immune from taxation in either Illinois or in the foreign country, as the case might be, and whether, if applicable, Illinois will apply its throwback provisions.

9) Application to Corporation Incorporated in this State or to a Person Resident or Domiciled in this State. The protection afforded by PL 86-272 and this Section does not apply to any corporation incorporated within Illinois or to any person who is a resident of or domiciled in Illinois.

10) Registration or Qualification to do Business. A business that registers or otherwise formally qualifies to do business within Illinois does not, by that fact alone, lose its protection under PL 86-272.

11) Loss of Protection for Conducting Unprotected Activity During Part of a Tax Year. The protection afforded under PL 86-272 and this Section shall
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

be determined on a tax year by tax year basis. Therefore, if at any time during a tax year the nonresident conducts activities that are not protected under PL 86-272 or this Section, no income earned or received in this State by the nonresident during any part of that tax year shall be protected from taxation under PL 86-272 or this Section.

d) Illinois Statutory Provisions. PA 88-361 amended the Illinois Income Tax Act to provide that a person not otherwise subject to the tax imposed under the IITA shall not become subject to the tax imposed by the IITA by reason of:

1) that person's ownership of tangible personal property located at the premises of a printer in this State with which the person has contracted for printing; or

2) activities of the person's employees or agents located solely at the premises of a printer and related to quality control, distribution, or printing services performed by a printer in the State with which the person has contracted for printing. (IITA Section 205(f))

e) U.S. Constitutional Jurisprudence. If not protected by U.S. or Illinois statute, an income-producing activity may, nonetheless, be protected from State taxation by principles of U.S. Constitutional jurisprudence. Controlling decisions that assert protections afforded by the Interstate Commerce Clause, the Foreign Commerce Clause and the Due Process Clause are accepted by this State as limitations on the reach of its income tax and personal property tax replacement income tax statutes. However, nothing stated in this subsection (e) shall prevent Illinois from challenging taxpayer assertions of U.S. Constitutional protection.

f) Application of the Joyce Rule. In determining whether the activity of a nonresident taxpayer conducted in this State is sufficient to create nexus for application of Illinois income tax or replacement tax, the principles established in Appeal of Joyce Inc., Cal. St. Bd. of Equal. (11/23/66), commonly known as the "Joyce rule", shall apply. Only activity conducted by or on behalf of the nonresident taxpayer shall be considered for this purpose. Because the income of a partnership, a Subchapter S corporation or any other pass-through entity is treated as income of its owners, activity of a pass-through entity is conducted on behalf of its owners. Activity conducted by any other person, whether or not affiliated with the nonresident taxpayer, shall not be considered attributable to the taxpayer, unless the other person was acting in a representative capacity on behalf of the taxpayer.

(Source: Amended at 26 Ill. Reg. 17250, effective November 18, 2002)
DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF EMERGENCY AMENDMENT

1) **Heading of the Part:** Standards for Protection Against Radiation

2) **Code Citation:** 32 Ill. Adm. Code 340

3) **Section Number:** 340.1205 **Emergency Action:** New Section

4) **Statutory Authority:** Implementing and authorized by Section 16 of the Radiation Protection Act of 1990 [420 ILCS 40/16].

5) **Effective Date of Amendment:** November 18, 2002

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment will expire when the proposed amendment is adopted.

7) **Date filed with the Index Department:** November 18, 2002

8) A copy of the emergency amendment, 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:** To better protect the health and safety of Illinois citizens who may be affected by credible threats against radioactive material users.

10) **A Complete Description of the Subjects and Issues Involved:** The Department is adopting this amendment to ensure that it receives prompt notification of credible threats against radioactive material to facilitate prompt emergency response if necessary. Notification to the Department is not required if law enforcement directs otherwise.

   The Department’s action should not be understood as a desire to limit or preclude public comment. Elsewhere in this issue of the *Illinois Register*, the Department is proposing, for public comment, a general rulemaking that covers the topics included in the Emergency rule.

11) **Are there any other proposed amendments to this Part pending?** Yes. Elsewhere in today’s *Illinois Register*, the Department has proposed, for public comment, a general rulemaking that covers the topics included in the Emergency Amendment.

12) **Statement of Statewide Policy Objectives:** The requirements imposed by the emergency rulemaking are not expected to require local governments to establish, expand, or modify
DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF EMERGENCY AMENDMENT

...their activities in such a way as to necessitate additional expenditures from local revenues.

13) Information and questions regarding this emergency amendment shall be directed to:

Louise Michels
Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-0770 (voice)
(217) 782-6133 (TDD)

The full text of the emergency amendment begins on the next page:
DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF EMERGENCY AMENDMENT

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 340
STANDARDS FOR PROTECTION AGAINST RADIATION

SUBPART A: GENERAL PROVISIONS

Section
340.10 Purpose
340.20 Scope
340.25 Incorporations by Reference
340.30 Definitions
340.40 Implementation

SUBPART B: RADIATION PROTECTION PROGRAMS

Section
340.110 Radiation Protection Programs

SUBPART C: OCCUPATIONAL DOSE LIMITS

Section
340.210 Occupational Dose Limits for Adults
340.220 Compliance with Requirements for Summation of External and Internal Doses
340.230 Determination of External Dose from Airborne Radioactive Material
340.240 Determination of Internal Exposure
340.250 Determination of Prior Occupational Dose
340.260 Planned Special Exposures
340.270 Occupational Dose Limits for Minors
340.280 Dose to an Embryo/Fetus

SUBPART D: RADIATION DOSE LIMITS FOR INDIVIDUAL MEMBERS OF THE PUBLIC

Section
340.310 Dose Limits for Individual Members of the Public
340.320 Compliance with Dose Limits for Individual Members of the Public
DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF EMERGENCY AMENDMENT

SUBPART E: TESTING FOR LEAKAGE OR CONTAMINATION OF SEALED SOURCES

Section 340.410 Testing for Leakage or Contamination of Sealed Sources

SUBPART F: SURVEYS AND MONITORING

Section 340.510 General
340.520 Conditions Requiring Individual Monitoring of External and Internal Occupational Dose
340.530 Location of Individual Monitoring Devices

SUBPART G: CONTROL OF EXPOSURE FROM EXTERNAL SOURCES IN RESTRICTED AREAS

Section 340.610 Control of Access to High Radiation Areas
340.620 Control of Access to Very High Radiation Areas
340.630 Control of Access to Very High Radiation Areas – Irradiators

SUBPART H: RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT INTERNAL EXPOSURE IN RESTRICTED AREAS

Section 340.710 Use of Process or Other Engineering Controls
340.720 Use of Other Controls
340.730 Use of Individual Respiratory Protection Equipment

SUBPART I: STORAGE AND CONTROL OF LICENSED OR REGISTERED SOURCES OF RADIATION

Section 340.810 Security and Control of Licensed or Registered Sources of Radiation

SUBPART J: PRECAUTIONARY PROCEDURES

Section 340.910 Caution Signs
340.920 Posting Requirements
DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF EMERGENCY AMENDMENT

340.930 Exceptions to Posting Requirements
340.940 Labeling Containers and Radiation Machines
340.950 Exemptions to Labeling Requirements
340.960 Procedures for Receiving and Opening Packages

SUBPART K: WASTE DISPOSAL

Section
340.1010 General Requirements
340.1020 Method for Obtaining Approval of Proposed Disposal Procedures
340.1030 Disposal by Release into Sanitary Sewerage
340.1040 Treatment or Disposal by Incineration
340.1050 Disposal of Specific Wastes
340.1052 Classification of Radioactive Waste for Land Disposal
340.1055 Radioactive Waste Characteristics
340.1057 Labeling
340.1060 Transfer for Disposal and Manifests
340.1070 Compliance with Environmental and Health Protection Regulations

SUBPART L: RECORDS

Section
340.1110 General Provisions
340.1120 Records of Radiation Protection Programs
340.1130 Records of Surveys and Calibrations
340.1135 Records of Tests for Leakage or Contamination of Sealed Sources
340.1140 Records of Prior Occupational Dose
340.1150 Records of Planned Special Exposures
340.1160 Records of Individual Monitoring Results
340.1170 Records of Dose to Members of the Public
340.1180 Records of Waste Disposal
340.1190 Records of Testing Entry Control Devices for Very High Radiation Areas
340.1195 Form of Records

SUBPART M: REPORTS AND NOTIFICATIONS

Section
340.1205 Notification of Credible Threats

EMERGENCY
340.1210 Reports of Stolen, Lost or Missing Sources of Radiation
DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF EMERGENCY AMENDMENT

340.1220 Notification of Incidents
340.1230 Reports of Exposures, Radiation Levels and Concentrations of Radioactive Material Exceeding the Limits
340.1240 Reports of Planned Special Exposures
340.1250 Notifications and Reports to Individuals
340.1260 Reports of Leaking or Contaminated Sealed Sources
340.1270 Reports of Missing Waste Shipments

SUBPART N: ADDITIONAL REQUIREMENTS

Section
340.1310 Vacating Premises
340.1320 Removal of Radioactive Contamination

APPENDIX A Decontamination Guidelines
ILLUSTRATION A Radiation Symbol

AUTHORITY: Implementing and authorized by Section 16 of the Radiation Protection Act of 1990 [420 ILCS 40/16].


SUBPART M: REPORTS AND NOTIFICATIONS

Section 340.1205 Notification of Credible Threats

Upon notification to or by any law enforcement agency that radioactive material licensed by the Department is the subject of a credible threat, the licensee shall:

a) follow the instructions from the law enforcement agency; and

b) notify the Department within 1 hour by calling the Department’s 24-hour emergency number at (217) 785-0600. This notification is required unless otherwise instructed by the law enforcement agency.
DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF EMERGENCY AMENDMENT

AGENCY NOTE: “Credible threat” means any threat to radioactive material that a licensee believes warrants notice to law enforcement or any threat that law enforcement believes warrants notice to a licensee.

(Source: Added by emergency rulemaking at 27 Ill. Reg. 17273, effective November 18, 2002, for a maximum of 150 days)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

1) **Heading of the Part**: Pay Plan

2) **Code Citation**: 80 Ill. Adm. Code 310

3) **Section Numbers**: Peremptory Action:
   - Table O: Amend
   - Table W: Amend

4) **Reference to the specific State or Federal Court Order, Federal Rule or Statute which requires this Peremptory Rulemaking**: Section 1-5(d) of the Illinois Administrative Procedure Act [5 ILCS 100/1-5(d)]

5) **Statutory Authority**: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a.]

6) **Effective Date**: November 18, 2002

7) **A Complete Description of the Subjects and Issues Involved**: In Section 310.Appendix A, Table O RC-028 (Paraprofessional Human Services Employees, AFSCME), the new classifications of Health Information Associate and Health Information Technician are being included with the monthly salary ranges of $2,129 – $2,871 and $2,300 – $3,149, respectively. These titles are replacing the Medical Records Assistant and Medical Records Technician.

   In Section 310.Appendix A, Tables O (RC-028) and W (RC-062), a study regarding the Historic Site classifications has resulted in the new classifications of Site Interpreter (RC-028), Site Interpretive Coordinator (RC-062), Site Services Coordinator I and II (RC-062) with the monthly salary ranges of $2,129 – $2,871, $2,387 – $3,305, $2,585 – $3,654 and $2,819 – $4,057, respectively. These titles are replacing the Historic Site Interpreter, Historic Site Assistant Manager I and II (RC-028), Historic Site Assistant Manager I and II (RC-062).

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

9) **Date Filed in Agency's Principal Office**: November 18, 2002

10) **Is this Rulemaking in compliance with Section 5-50 of the Illinois Administrative Procedure Act?** Yes

11) **Are there any proposed amendments pending to this part?** Yes
### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

### NOTICE OF PEREMPTORY AMENDMENTS

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12) **Statement of Statewide Objective:** This amendment to the Pay Plan pertains only to State employees subject to the Personnel Code and does not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

13) **The name, address and telephone number of the person to whom information and questions concerning this peremptory rule shall be directed to:**

   Ms. Marianne Armento  
   Department of Central Management Services  
   Division of Technical Services  
   504 William G. Stratton Building  
   Springfield, Illinois  62706  
   Telephone: (217) 785-8609

The full text of the Peremptory Amendments begin on the next page:
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section 310.20  Policy and Responsibilities
310.30  Jurisdiction
310.40  Pay Schedules
310.50  Definitions
310.60  Conversion of Base Salary to Pay Period Units
310.70  Conversion of Base Salary to Daily or Hourly Equivalents
310.80  Increases in Pay
310.90  Decreases in Pay
310.100  Other Pay Provisions
310.110  Implementation of Pay Plan Changes for Fiscal Year 2002
310.120  Interpretation and Application of Pay Plan
310.130  Effective Date
310.140  Reinstitution of Within Grade Salary Increases (Repealed)
310.150  Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section 310.205  Introduction
310.210  Prevailing Rate
310.220  Negotiated Rate
310.230  Part-Time Daily or Hourly Special Services Rate
310.240  Hourly Rate
310.250  Member, Patient and Inmate Rate
310.260  Trainee Rate
310.270  Legislated and Contracted Rate
310.280  Designated Rate
310.290  Out-of-State or Foreign Service Rate
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

310.300 Educator Schedule for RC-063 and HR-010
310.310 Physician Specialist Rate
310.320 Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.330 Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

Section
310.410 Jurisdiction
310.420 Objectives
310.430 Responsibilities
310.440 Merit Compensation Salary Schedule
310.450 Procedures for Determining Annual Merit Increases
310.455 Intermittent Merit Increase
310.456 Merit Zone (Repealed)
310.460 Other Pay Increases
310.470 Adjustment
310.480 Decreases in Pay
310.490 Other Pay Provisions
310.495 Broad-Band Pay Range Classes
310.500 Definitions
310.510 Conversion of Base Salary to Pay Period Units
310.520 Conversion of Base Salary to Daily or Hourly Equivalents
310.530 Implementation
310.540 Annual Merit Increase Guidechart for Fiscal Year 2002
310.550 Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A Negotiated Rates of Pay
TABLE A HR-190 (Department of Central Management Services – State of Illinois Building – SEIU)
TABLE AA NR-916 (Department of Natural Resources, Teamsters)
TABLE AB VR-007 (Plant Maintenance Engineers, Operating Engineers)
TABLE B HR-200 (Department of Labor - Chicago, Illinois – SEIU) (Repealed)
TABLE C RC-069 (Firefighters, AFSCME) (Repealed)
TABLE D HR-001 (Teamsters Local #726)
TABLE E RC-020 (Teamsters Local #330)
TABLE F RC-019 (Teamsters Local #25)
TABLE G RC-045 (Automotive Mechanics, IFPE)
NOTICE OF PEREMPTORY AMENDMENTS

TABLE H  RC-006 (Corrections Employees, AFSCME)
TABLE I  RC-009 (Institutional Employees, AFSCME)
TABLE J  RC-014 (Clerical Employees, AFSCME)
TABLE K  RC-023 (Registered Nurses, INA)
TABLE L  RC-008 (Boilermakers)
TABLE M  RC-110 (Conservation Police Lodge)
TABLE N  RC-010 (Professional Legal Unit, AFSCME)
TABLE O  RC-028 (Paraprofessional Human Services Employees, AFSCME)
TABLE P  RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
TABLE Q  RC-033 (Meat Inspectors, IFPE)
TABLE R  RC-042 (Residual Maintenance Workers, AFSCME)
TABLE S  HR-012 (Fair Employment Practices Employees, SEIU) (Repealed)
TABLE T  HR-010 (Teachers of Deaf, IFT)
TABLE U  HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V  CU-500 (Corrections, Meet and Confer Employees)
TABLE W  RC-062 (Technical Employees, AFSCME)
TABLE X  RC-063 (Professional Employees, AFSCME)
TABLE Y  RC-063 (Educators, AFSCME)
TABLE Z  RC-063 (Physicians, AFSCME)

APPENDIX B  Schedule of Salary Grades – Monthly Rates of Pay for Fiscal Year 2002
APPENDIX C  Medical Administrator Rates for Fiscal Year 2002
APPENDIX D  Merit Compensation System Salary Schedule for Fiscal Year 2002
APPENDIX E  Teaching Salary Schedule (Repealed)
APPENDIX F  Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX G  Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2002

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill.
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

### NOTICE OF PEREMPTORY AMENDMENTS

**Section 310.**

**APPENDIX A**  Negotiated Rates of Pay

**Section 310.TABLE O**  RC-028 (Paraprofessional Human Services Employees, AFSCME)

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Environmental Protection Technician II RC-028-10 13832
Health Information Associate RC-028-10 18045
Health Information Technician RC-028-12 18047
Hearing & Speech Technician I RC-028-06 18261
Hearing & Speech Technician II RC-028-09 18262
Historic Site Interpreter RC-028-09 18955
Historic Site Lead I RC-028-13 18961
Historic Site Lead II RC-028-14 18962
Housekeeper II RC-028-03a 19602
Inhalation Therapist RC-028-08 21259
Intermittent Unemployment Insurance Technician (Hourly)
Laboratory Assistant RC-028-04 22995
Laboratory Associate I RC-028-10 22997
Laboratory Associate II RC-028-12 22998
Legal Research Assistant RC-028-13 23350
Licensed Practical Nurse I RC-028-09a 23551
Licensed Practical Nurse II RC-028-10a 23552
Lock and Dam Tender RC-028-10 24290
Medical Records Assistant RC-028-09 26520
Medical Records Technician RC-028-11 26575
Office Administrative Specialist RC-028-12 29990
Office Specialist RC-028-11 30080
Pharmacist Lead Technician RC-028-09 32007
Pharmacist Technician RC-028-07 32008
Public Aid Eligibility Assistant RC-028-08 35825
Radiologic Technologist RC-028-11 37500
Radiologic Technologist Program Coordinator RC-028-12 37507
Ranger RC-028-13 37725
Rehabilitation Counselor Aide I RC-028-09 38155
Rehabilitation Counselor Aide II RC-028-11 38156
Senior Ranger RC-028-14 40090
Site Interpreter RC-028-10 41090
Site Technician I RC-028-10 41131
Site Technician II RC-028-12 41132
Social Service Community Planner RC-028-11 41295
State Police Crime Information Evaluator RC-028-11 41801
State Police Evidence Technician I RC-028-12 41901
State Police Evidence Technician II RC-028-13 41902
Statistical Research Technician RC-028-11 42748
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Veterans Service Officer RC-028-14 47800
Vocational Instructor RC-028-12 48200

Effective July 1, 2001

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

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Effective July 1, 2002

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Effective July 1, 2003

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

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(Source: Peremptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Section 310. APPENDIX A  Negotiated Rates of Pay

Section 310. TABLE W  RC-062 (Technical Employees, AFSCME)

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Mental Health Specialist Trainee RC-062-11 26928
Meteorologist RC-062-18 27120
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Methods and Procedures Career Associate Trainee RC-062-09 27137
Metrologist Associate RC-062-14 27146
Microbiologist I RC-062-16 27151
Microbiologist II RC-062-19 27152
Natural Resources Coordinator RC-062-15 28831
Natural Resources Specialist RC-062-18 28832
Natural Resources Advanced Specialist RC-062-20 28833
Network Control Center Specialist RC-062-21 28873
Network Control Center Technician I RC-062-13 28875
Network Control Center Technician II RC-062-16 28876
Network Control Center Technician Trainee RC-062-10 28879
Paralegal Assistant RC-062-14 30860
Police Training Specialist RC-062-17 32990
Property Consultant RC-062-15 34900
Property Tax Analyst I RC-062-12 34921
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Public Aid Appeals Advisor RC-062-18 35750
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Public Aid Lead Casework Specialist RC-062-17 35880
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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**DEPARTMENT OF CENTRAL MANAGEMENT SERVICES**

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

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Effective July 1, 2002

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Effective July 1, 2003

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| RC-062-21a | 3878 3901 4016 4137 4352 4565 4780 5001 5211 5534 5589 5645 |
| RC-062-21m | 3639 3747 3856 3971 4171 4369 4572 4777 4973 5280 5333 5386 |
| RC-062-22 | 3675 3786 3900 4016 4225 4432 4641 4856 5058 5269 5591 5647 |
| RC-062-22a | 3843 3956 4074 4195 4408 4623 4836 5058 5269 5591 5647 5703 |
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| RC-062-24 | 3675 3786 3900 4016 4225 4432 4641 4856 5058 5269 5591 5647 |
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Effective July 1, 2003

STEPS

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Eff. 1/1/04
### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

#### NOTICE OF PEREMPTORY AMENDMENTS

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| RC-062-12Ha | 15.14 | 15.52 | 15.91 | 16.33 | 16.94 | 17.50 | 18.18 | 18.79 | 19.48 | 20.54 | 20.95 | 21.15 |
| RC-062-12Hm | 15.46 | 15.83 | 16.23 | 16.66 | 17.27 | 17.83 | 18.52 | 19.14 | 19.84 | 20.90 | 21.32 | 21.53 |
| RC-062-13 | 2487 | 2550 | 2616 | 2684 | 2783 | 2889 | 2998 | 3108 | 3223 | 3403 | 3471 | 3505 |
| RC-062-13a | 2550 | 2616 | 2684 | 2755 | 2857 | 2969 | 3085 | 3197 | 3316 | 3505 | 3575 | 3610 |
| RC-062-13m | 2601 | 2669 | 2738 | 2809 | 2912 | 3026 | 3143 | 3255 | 3376 | 3565 | 3636 | 3672 |
| RC-062-14 | 2588 | 2656 | 2727 | 2800 | 2907 | 3020 | 3152 | 3267 | 3391 | 3588 | 3660 | 3696 |
| RC-062-14a | 2656 | 2727 | 2800 | 2875 | 2988 | 3108 | 3243 | 3364 | 3493 | 3696 | 3770 | 3807 |
| RC-062-14m | 2709 | 2780 | 2853 | 2930 | 3045 | 3165 | 3301 | 3423 | 3552 | 3755 | 3830 | 3868 |
| RC-062-14H | 15.93 | 16.34 | 16.78 | 17.23 | 17.89 | 18.58 | 19.40 | 20.10 | 20.87 | 22.08 | 22.52 | 22.74 |
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| RC-062-14Hm | 16.67 | 17.11 | 17.56 | 18.03 | 18.74 | 19.48 | 20.31 | 21.06 | 21.86 | 23.11 | 23.57 | 23.80 |
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**DEPARTMENT OF CENTRAL MANAGEMENT SERVICES**

**NOTICE OF PEREMPTORY AMENDMENTS**

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(Source: Peremptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002)
DEAF AND HARD OF HEARING COMMISSION

NOTICE OF CORRECTIONS TO NOTICE ONLY

1) The Heading of the Part: Rulemaking, Public Information and Organization

2) Code Citation: 2 Ill. Adm. 3300


4) The information being corrected is as follows: Item #11 on the Notice Page should have included the information below.

"Time, place and manner in which interested persons may comment on this proposed rulemaking:

Gerald L. Covell, Director
Deaf and Hard of Hearing Commission
1630 South Sixth Street
Springfield, Illinois 62703

(217) 557-4495 (Voice/TTY)"
JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

No second notices were received by the Joint Committee on Administrative Rules during the period of November 12, 2002 through November 18, 2002. Second notices received earlier are scheduled for review by the Committee at its December 17, 2002 meeting in Chicago. 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.
PROCLAMATIONS

2002-581
November 14, 2002, as Diabetes Awareness Day

WHEREAS, diabetes has reached epidemic proportions in the United States. In Illinois alone, more than 513,735 adults (age 18 and older) have diabetes, and another 3 million people are at increased risk for developing diabetes due to age, obesity and sedentary lifestyle; and

WHEREAS, more than 397,000 people in Illinois have been unable to achieve adequate blood sugar control and therefore remain at increased risk for the serious consequences associated with uncontrolled diabetes such as blindness, amputation, kidney failure, heart disease and stroke; and

WHEREAS, a commitment to helping the diabetes community at large requires a strong effort to raise awareness about A1c, a standard for measuring blood sugar control over a three-month period, and to educate people about the need for and the benefits of reaching an A1c of less than seven percent; and

WHEREAS, an A1c level of less than seven percent is a standard set by the American Diabetes Association and is important to reduce the risk of serious complications. However, more than half of Americans with diabetes undergoing treatment have unacceptably high blood sugar levels; and

WHEREAS, in Illinois, diabetes-both type 2 and type 1C account for nearly $7.3 billion in total healthcare costs every year. It is estimated that the direct medical care costs per person per year with diabetes is 4.3 times higher than the person without diabetes; and

WHEREAS, getting patients to an A1c of less than seven percent could produce significant savings to the Illinois’ healthcare budget. Studies estimate that a one percent reduction in A1c can reduce total healthcare costs for a patient with type 2 diabetes by up to $950 per year; and

WHEREAS, there is a great need for the community at large to commit to ensuring that diabetes is properly monitored and treated in the United States, and especially in the State of Illinois;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 14, 2002, as DIABETES AWARENESS DAY in Illinois.

Issued by the Governor November 07, 2002
Filed by the Secretary of State November 18, 2002

2002-582
Commendation to the Men and Women of Commonwealth Edison for their Sacrifice and Courage as we recognize their efforts on Veteran's Day, November 11, 2002

WHEREAS, the history of our nation reflects the memories of the men and women who have endeavored to preserve our freedom, an indescribable task in terms of sacrifice and commitment; and

WHEREAS, these heroes selflessly relinquished a part of their lives in defense of the United States, and it is our responsibility as a nation to ensure that their struggles will never be forgotten, overlooked or underestimated; and
PROCLAMATIONS

WHEREAS, these veterans gave dedicated and patriotic service to our country, and the gratitude owed to those men and women could never be fully expressed through words; and

WHEREAS, the men and women of Commonwealth Edison who are veterans of the United States Armed Forces have represented the State of Illinois in heroic fashion; and

WHEREAS, Veterans’ Day is dedicated to recognizing the efforts of the men and women of Commonwealth Edison, along with all other United States veterans;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, do hereby issue this certificate of commendation to the men and women of Commonwealth Edison for their sacrifice and courage as we recognize their efforts on Veterans’ Day, November 11, 2002.

Issued by the Governor November 08, 2002
Filed by the Secretary of State November 18, 2002

2002-583
October 2002 as Ultrasound Awareness Month

WHEREAS, much of the public is familiar with the use of ultrasonography during pregnancy, however, many people are unaware of ultrasound's safety in relation to other imaging modalities; and

WHEREAS, the safety of ultrasound has allowed this noninvasive imaging modality to become increasingly popular as a screening tool in medicine diagnoses; and

WHEREAS, educating the public about the credentialing of those who perform diagnostic ultrasound examinations will help them to make more informed health care decisions; and

WHEREAS, familiarizing the public about the significance of ultrasound practice accreditation will help ensure that nationally accepted standards in patient care are met; and

WHEREAS, technological advancements in diagnostic ultrasound have had a tremendous impact on the quality of health care over the past 50 years; and

WHEREAS, ultrasound professionals will have the opportunity to educate their patients about diagnostic ultrasound through specially planned activities and educational materials;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 2002 as ULTRASOUND AWARENESS MONTH in Illinois.

Issued by the Governor November 08, 2002
Filed by the Secretary of State November 18, 2002

2002-584
November 21-30, 2002, as Family Week

WHEREAS, the State of Illinois is blessed with a multitude of families -- an essential part of the cultural, social, and spiritual fabric that is Illinois; and

WHEREAS, Illinois recognizes strong families are at the center of strong communities; and

WHEREAS, everyone has a role to play in making families successful, including neighborhood organizations, businesses, nonprofit agencies, policymakers and, of course, families themselves; and
PROCLAMATIONS

WHEREAS, during Thanksgiving week we all should take time to honor the importance of families, and recognize the special connections that support and strengthen families year-round; and
WHEREAS, we all should recommit to enhancing and extending all of the connections that strengthen and enrich families; and
WHEREAS, with the assistance and resources of agencies and organizations such as the Alliance for Children and Families and its local member agencies, we can help families of all shapes and sizes create a better future for all of Illinois and America;
THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 24-30, 2002, as FAMILY WEEK in Illinois.

Issued by the Governor November 08, 2002
Filed by the Secretary of State November 18, 2002

October 4-7, 2002, as Annunciation Greek Orthodox Church Days

WHEREAS, the Annunciation Greek Orthodox Church will celebrate its 75th anniversary the weekend of October 4-7, 2002; and
WHEREAS, the Greek community began planning the establishment of a brotherhood, with the intent to build a church. The State of Illinois granted a charter on April 14, 1919, to the organization of the Hellenic Society of Decatur, which became the first step in the building of the church; and
WHEREAS, in 1800s and early 1900s, Greek immigrants migrated to Decatur to work on the Wabash Railroad; and
WHEREAS, over the years, the Greek business community has thrived in the Decatur area. Many early businesses showed their love for their new country by using the words "American" or "Lincoln" in their names; and
WHEREAS, Christine Kareotes, Dino Balamos, Penny Frank, and Bess Greanias, Co-Chairmen of the celebration, have worked tirelessly for over a year to insure success of the Diamond Anniversary of the Annunciation Greek Orthodox Church;
THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 4-7, 2002, as ANNUNCIATION GREEK ORTHODOX CHURCH DAYS in Illinois

Issued by the Governor November 08, 2002
Filed by the Secretary of State November 18, 2002

November 2002 as Chronic Obstructive Pulmonary Disease Awareness Month

WHEREAS, the State of Illinois has long been concerned with the health of its citizens; and
WHEREAS, chronic lung diseases, known collectively as chronic obstructive pulmonary diseases (COPD), are the fourth leading cause of death in the United States; and
PROCLAMATIONS

WHEREAS, chronic obstructive pulmonary diseases cost the United States an estimated $31.9 billion each year; and
WHEREAS, 16 million people in the United States have been diagnosed with some form of COPD with a similar number undiagnosed; and
WHEREAS, awareness, early detection and treatment are crucial in the prevention or slowing of the spread of lung disease in this country; and
WHEREAS, the citizens of Illinois deserve the opportunity to grow, thrive, be healthy and be informed and aware of their respiratory health and of the factors that affect that health;
THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 2002 as CHRONIC OBSTRUCTIVE PULMONARY DISEASE AWARENESS MONTH in Illinois.
Issued by the Governor November 08, 2002
Filed by the Secretary of State November 18, 2002

2002-587
December 7, 2002, as Dr. Robert Gaylen Good Day

WHEREAS, Robert Gaylen Good graduated from the University of Northern Iowa with a Bachelor of Arts degree in Biology in 1974, and from the University of Osteopathic Medicine and Health Sciences in 1977; and
WHEREAS, Dr. Robert Gaylen Good, DO, continued his medical education with a rotating internship at Sun Coast Hospital in Largo, Florida, from 1993-1995; and
WHEREAS, Dr. Good has served as Chairman of Adult Medicine, Mattoon/Charleston Branch of the Carle Clinic Association in Urbana from 1996 until the present; and
WHEREAS, Dr. Good has held staff appointments at numerous hospitals and health centers, and has been licensed to practice medicine in the States of Illinois, Florida and Iowa; and
WHEREAS, Dr. Good has received numerous honors and awards throughout his career, including: 2001 Physician of the Year, Illinois Osteopathic Medical Society; 2000 Distinguished Service Award, Illinois Osteopathic Medical Society; 1993 Trailblazer Award for Service and Dedication, Camp Courageous of Iowa; 1988-89 Physician of the Year, Iowa Osteopathic Medical Association; Who's Who in the Midwest, 1988-1993; Who's Who in America, 1990-1998; Who's Who in Medicine and Healthcare, 1997-98; and Outstanding Young Man of America, 1984; and
WHEREAS, the Illinois Osteopathic Medical Society will be hosting their Presidential Banquet to honor outgoing President Robert Good, DÔ, on December 7, 2002, at the Oak Brook Hills Resort in Oak Brook, Illinois;
THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim December 7, 2002, as DR. ROBERT GAYLEN GOOD DAY in Illinois.
Issued by the Governor November 08, 2002
Filed by the Secretary of State November 18, 2002

2002-588
PROCLAMATIONS

October 31, 2002, as "Trick-Or-Treat for UNICEF" Day

WHEREAS, "Trick-or-Treat for UNICEF" began in Philadelphia in 1950 when a youth group collected $17 in decorated milk cartons on Halloween to help children overseas; and

WHEREAS, since that time, the children of the United States have collected more than $115 million by going door-to-door with the U.S. Fund for UNICEF's trademark orange collection boxes on October 31; and

WHEREAS, today, "Trick-or-Treat for UNICEF" provides the opportunity for school children and young adults to learn about their peers in the developing world, while also raising funds to help improve their lives; and

WHEREAS, fund-raising efforts like "Trick-or-Treat for UNICEF" have helped 80 percent of the world's children become immunized against the top six deadliest diseases, saving three million lives each year, making way for the two-thirds of the world's children that now have completed primary school; and

WHEREAS, in 2001, $4 million was collected in the nearly five million "Trick-or-Treat for UNICEF" collection boxes that were distributed across the United States in every state; and

WHEREAS, the "Trick-or-Treat for UNICEF" program provides children in the United States the chance to perform a selfless deed and gain a valuable educational experience, giving them a better sense of the world in which they live and the lives of other children around the world;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 31, 2002, as "TRICK-OR-TREAT FOR UNICEF" DAY in Illinois.

Issued by the Governor November 08, 2002
Filed by the Secretary of State November 18, 2002

2002-589

November 13, 2002, as Postpartum Depression Awareness Day

WHEREAS, postpartum depression is a debilitating disease that occurs in one in every eight women after delivery; and

WHEREAS, four out of five women will experience significant change in their mental health within one year after delivery, and of those, 10-20 percent will experience a severe postpartum depression episode; and

WHEREAS, of those women, one or two out of every thousand will experience postpartum psychosis, a rare but life-threatening illness that needs to be treated as a medical emergency; and

WHEREAS, according to Postpartum Support International, over 400,000 women nationally will struggle with postpartum depression. With over 180,000 births in the State of Illinois annually, every year over 22,000 women will suffer from postpartum depression in Illinois alone; and

WHEREAS, Joan and Charlie Mudd, in conjunction with Evanston Northwestern Healthcare, have formed the Jennifer Mudd Houghtaling Program for Postpartum Depression in memory of their daughter, whose battle with postpartum depression took her life; and
WHEREAS, the Jennifer Mudd Houghtaling Program for Postpartum Depression aims to increase awareness of postpartum depression, educate families and healthcare providers, develop methods to enhance early detection and improve treatment options for those suffering from the disease; and

WHEREAS, increased awareness, along with advancements in diagnosis and treatment, will significantly aid the fight against postpartum depression;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 13, 2002, as POSTPARTUM DEPRESSION AWARENESS DAY in Illinois.

Issued by the Governor November 08, 2002
Filed by the Secretary of State November 18, 2002
### PROCLAMATIONS

**ILLINOIS ADMINISTRATIVE CODE**

#### Issue Index

Rules acted upon in Volume 26, Issue 48 are listed in the Issues Index by Title number, Part number, Volume and Issue.

Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

**PROPOSED RULES**

<table>
<thead>
<tr>
<th>Title</th>
<th>Page</th>
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<tr>
<td>83 - 740</td>
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**ADOPTED RULES**

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**NOTICE OF CORRECTIONS TO NOTICE ONLY**

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**EXECUTIVE ORDERS AND PROCLAMATIONS**

<table>
<thead>
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<th>Title</th>
<th>Page</th>
</tr>
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<tbody>
<tr>
<td>02 - 581</td>
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