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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2015

Issue#	Rules Due Date	Date of Issue
1	December 22, 2014	January 2, 2015
2	December 29, 2014	January 9, 2015
3	January 5, 2015	January 16, 2015
4	January 12, 2015	January 23, 2015
5	January 20, 2015	January 30, 2015
6	January 26, 2015	February 6, 2015
7	February 2, 2015	February 13, 2015
8	February 9, 2015	February 20, 2015
9	February 17, 2015	February 27, 2015
10	February 23, 2015	March 6, 2015
11	March 2, 2015	March 13, 2015
12	March 9, 2015	March 20, 2015
13	March 16, 2015	March 27, 2015
14	March 23, 2015	April 3, 2015
15	March 30, 2015	April 10, 2015
16	April 6, 2015	April 17, 2015
17	April 13, 2015	April 24, 2015
18	April 20, 2015	May 1, 2015
19	April 27, 2015	May 8, 2015
20	May 4, 2015	May 15, 2015
21	May 11, 2015	May 22, 2015

22	May 18, 2015	May 29, 2015
23	May 26, 2015	June 5, 2015
24	June 1, 2015	June 12, 2015
25	June 8, 2015	June 19, 2015
26	June 15, 2015	June 26, 2015
27	June 22, 2015	July 6, 2015
28	June 29, 2015	July 10, 2015
29	July 6, 2015	July 17, 2015
30	July 13, 2015	July 24, 2015
31	July 20, 2015	July 31, 2015
32	July 27, 2015	August 7, 2015
33	August 3, 2015	August 14, 2015
34	August 10, 2015	August 21, 2015
35	August 17, 2015	August 28, 2015
36	August 24, 2015	September 4, 2015
37	August 31, 2015	September 11, 2015
38	September 8, 2015	September 18, 2015
39	September 14, 2015	September 25, 2015
40	September 21, 2015	October 2, 2015
41	September 28, 2015	October 9, 2015
42	October 5, 2015	October 16, 2015
43	October 13, 2015	October 23, 2015
44	October 19, 2015	October 30, 2015
45	October 26, 2015	November 6, 2015
46	November 2, 2015	November 13, 2015
47	November 9, 2015	November 20, 2015
48	November 16, 2015	November 30, 2015
49	November 23, 2015	December 4, 2015
50	November 30, 2015	December 11, 2015
51	December 7, 2015	December 18, 2015
52	December 14, 2015	December 28, 2015

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1455.10	Amendment
1455.100	Amendment
1455.110	Amendment
1455.130	Amendment
1455.150	Amendment
1455.160	Amendment
1455.170	Amendment
1455.180	Amendment
1455.190	Amendment
1455.200	Amendment
1455.205	Amendment
1455.210	Amendment
1455.230	Amendment
1455.240	Amendment
1455.245	New Section
1455.290	Amendment
1455.310	Amendment
1455.316	Amendment
1455.320	Amendment
1455.335	New Section
1455.355	New Section
1455.365	Amendment
1455.370	Amendment
1455.375	New Section
1455.380	New Section
- 4) Statutory Authority: Implementing and authorized by the Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458]
- 5) A Complete Description of the Subjects and Issues Involved: Various Sections will be amended to address changes pursuant to PA 98-1109. Most notably will be the addition of new Section 1455.335 concerning background checks for criminal history. Updates to the USPAP & AQB standards are included, as are numerous business practice refinements and other education provider and course provisions.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes. We are updating the AQB standards, as defined in Section 1455.10 of this Part.
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to: Interested persons may submit written comments to:

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

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

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

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Real estate appraisal schools and businesses that use real estate appraisers will be affected, but appraisers are required by federal law to operate under the most current version of USPAP.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- B) Reporting, bookkeeping or other procedures required for compliance: Please review the proposed amendments that follow.
 - C) Types of professional skills necessary for compliance: Appraiser education and experience is necessary for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1455

REAL ESTATE APPRAISER LICENSING

SUBPART A: DEFINITIONS

Section
1455.10 Definitions

SUBPART B: LICENSING REQUIREMENTS

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

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

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

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

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

SUBPART C: EDUCATION REQUIREMENTS

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

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

SUBPART D: EXPERIENCE REQUIREMENTS

Section

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

SUBPART E: BUSINESS PRACTICES; STANDARDS AND SCOPE OF PRACTICE

Section

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

SUBPART F: ENFORCEMENT PROVISIONS

Section

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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1455.316 Supervisor and Trainee Requirements

SUBPART G: ADMINISTRATIVE PROVISIONS

Section

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

SUBPART H: EDUCATION PROVIDER AND COURSE PROVISIONS

Section

1455.350 Education Provider Application; Requirements
[1455.355 USPAP Course Titles](#)
1455.360 Qualifying Education Course Requirements of Education Providers
1455.365 Practicum Course Requirements
1455.370 Qualifying Course Curriculum; State Certified General Real Estate Appraiser;
State Certified Residential Real Estate Appraiser; Associate Real Estate Trainee
Appraiser

[1455.375 Conditional Education Course – Supervisor-Trainee Course](#)
1455.380 [Instructors for the Supervisor-Trainee Conditional Education Course](#)~~Examples of
Acceptable Pre-License Education Courses (Repealed)~~
1455.390 Continuing Education Course Requirements of Education Providers
1455.400 Curriculum for Continuing Education Courses; Continuing Education Credit for
Participation Other Than as a Student
1455.410 Distance Education
1455.420 Expiration Date and Renewal for Education Providers and Qualifying Education
and Continuing Education Courses
1455.430 Continuing Education Reporting
1455.440 Transcript or Certificate of Completion
1455.445 Grounds for Education Provider Discipline

SUBPART I: TRANSITION PROVISIONS

Section

1455.450 Appraiser Applicants – Transition Provisions (Repealed)

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

SUBPART J: HEARINGS

Section

1455.470 Applicability (Repealed)

1455.480 Administrative Law Judges (Repealed)

1455.490 Disqualification of an Administrative Law Judge (Repealed)

1455.APPENDIX A Caption for a Case Filed by the Division (Repealed)

1455.APPENDIX B Caption for a Case Filed by the Petitioner (Repealed)

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

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

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2007; amended at 33 Ill. Reg. 7121, effective May 14, 2009; amended at 35 Ill. Reg. 1967, effective January 20, 2011; amended at 35 Ill. Reg. 19505, effective November 17, 2011; amended at 37 Ill. Reg. 2668, effective April 1, 2013; amended at 37 Ill. Reg. 19189, effective December 31, 2013; amended at 38 Ill. Reg. 5887, effective February 24, 2014; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 1455.10 Definitions

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

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

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

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

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

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

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

~~"Board" or~~ "AQB" means the Appraiser Qualification Board of the Appraisal

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Foundation.

"AQB ~~2015~~~~2008~~ Criteria" means the Real Property Appraiser Qualification Criteria (effective January 1, ~~2015~~~~2008~~, no later amendments or editions), published by the Appraiser Qualifications Board of The Appraisal Foundation, 1155 15th Street, NW, Suite 1111, Washington DC 20005.

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

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

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

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

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

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

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

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

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

"Extraordinary assumption" means a specifically labeled assumption, directly related to a specific assignment that, if found to be false, could alter the

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appraiser's opinions or conclusions

"Hypothetical condition" means a condition that is specifically stated to be contrary to what exists, but is supposed to exist for the purpose of analysis.

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

"Letter of concern" means a non-disciplinary advisory letter to notify a respondent that the action that is the basis of a complaint does not warrant disciplinary action, but is nonetheless cause for concern on the part of the Board and the Division and that its continuation may result in disciplinary action.

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

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

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

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

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

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

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

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

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

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

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

"USPAP" means the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board pursuant Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC 3331 et seq.) published biannually by the Appraisal Standards Board of The Appraisal Foundation, 1155 15th Street N.W., Suite 1111, Washington DC 20005 (effective January 1, 2014 through December 31, 2015, no later amendments or editions).

"Waiver valuation" means a specific valuation product utilized by the Illinois Department of Transportation to establish a basis for determining just compensation

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

"Work-file" means documentation necessary to support an appraiser's analyses, opinions and conclusions, including, but not limited to, the name of the client and the identity, by name or type, of any other intended users; true copies of any written reports, documented on any type of media; summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification; and all other data, information and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with

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USPAP, or references to the locations of other documentation. A work-file in support of a Restricted Use or Restricted Appraisal Report must be sufficient for the appraiser to produce an Appraisal Report.

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

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

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART B: LICENSING REQUIREMENTS

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

- a) Each applicant for a State Certified General Real Estate Appraiser License and a State Certified Residential Real Estate Appraiser License shall submit to the Division:
 - 1) An application, provided by the Division and signed by the applicant, on which all questions have been answered;
 - 2) The fee required~~as provided~~ by Section 1455.320;
 - 3) Proof of successful completion of the qualifying education requirements as provided by Section 1455.150~~of this Part~~;
 - 4) A score report/application that provides proof of successful completion of the qualifying education and experience requirements as provided by Subparts C and D;~~and~~
 - 5) Proof of successful completion of the examination authorized by the Division and endorsed by the Appraiser Qualification Board~~(AQB; and)~~.

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- 6) [Satisfactory completion of a criminal background check, as required by Section 5-22 of the Act.](#)
- b) Each applicant for an Associate Real Estate Trainee Appraiser License shall submit to the Division:
- 1) An application, provided by the Division and signed by the applicant, on which all questions have been answered;
 - 2) The fee ~~required as provided~~ by Section 1455.320;
 - 3) Proof of successful completion of the qualifying education requirements [within 5 years prior to initial application](#), as provided by Subpart C; ~~and~~
 - 4) A score report/application that provides proof of successful completion of the examination authorized by the Division;-
 - 5) [Proof of successful completion of any required conditional education offering; and](#)
 - 6) [Satisfactory completion of a criminal background check, as required by Section 5-22 of the Act.](#)
- c) Each non-resident applicant for a State Certified General Real Estate Appraiser license or a State Certified Residential Real Estate Appraiser license applying by endorsement shall submit to the Division:
- 1) An application, provided by the Division and signed by the applicant, on which all questions have been answered;
 - 2) The fee ~~required as provided~~ by Section 1455.320; and
 - 3) A certification of good standing from the jurisdiction of the applicant's place of residence or by a search by the Division of the Appraisal Subcommittee's (ASC) National Registry history that may be obtained from the ASC at 1401 H Street N.W., Suite 760, Washington DC 20005 or at its website at www.asc.gov.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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

- a) Each applicant for renewal of a State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Trainee Appraiser License shall submit to the Division:
 - 1) An application, provided by the Division and signed by the applicant, on which all questions have been answered;
 - 2) The fee ~~required as provided~~ by Section 1455.320; and
 - 3) Proof of successful completion of the continuing education requirements as provided by Subpart C.
- b) Any person who fails to submit a renewal application and renew his or her license by the expiration date of the license may renew his or her license for a period of 2 years following the expiration date of his or her license by submitting to the Division:
 - 1) An application, provided by the Division and signed by the applicant, on which all questions have been answered;
 - 2) The fee and late penalty ~~required as provided~~ by Section 1455.320; and
 - 3) Proof of successful completion of the continuing education requirements as provided by Subpart C.
- c) For the purposes of this Section, all licenses shall expire on September 30 of odd numbered years.
- d) Any person who fails to renew pursuant to subsection (b) shall not be eligible to

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renew his or her license, and must meet the requirements of a new applicant as required by the Act and subsection (f).

- e) License renewals shall not be processed until proof of successful completion of continuing education is submitted and awarded credit by the Division. Licensees unable to provide satisfactory evidence of completed continuing education for the prescribed renewal cycle shall have their license automatically suspended.
- f) Each applicant for reinstatement of a State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Trainee Appraiser License shall submit to the Division:
 - 1) An application, provided by the Division and signed by the applicant, on which all questions have been answered;
 - 2) The fee ~~required as provided~~ by Section 1455.320; and
 - 3) Proof of successful completion of the continuing education requirements as provided by Subpart C.
- g) Licensees with military deferrals, upon returning from active duty, shall submit to the Division:
 - 1) An application, provided by the Division and signed by the applicant, on which all questions have been answered;
 - 2) A copy of their DD 214 (Report of Separation);
 - 3) The fee ~~required as provided~~ by Section 1455.320; ~~and~~
 - 4) Proof of successful completion of the continuing education requirements as provided by Subpart C; ~~and~~
 - 5) Effective January 1, 2015, an applicant in a Reserve component of the U.S. Armed Forces who was pursuing an appraiser license or certification prior to December 1, 2011, and who was called to active duty between December 1, 2011 and December 31, 2014, may satisfy the qualifications required under the AQB 2008 Criteria for an additional time period after January 1, 2015. The extension of time shall be equal to the applicant's

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time of active duty, plus 12 months.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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

- a) Each non-resident applicant for a temporary practice permit issued pursuant to Section 5-50 of the Act shall submit to the Division:
 - 1) An application, provided by the Division and signed by the applicant, on which all questions have been answered;
 - 2) A certification of good standing from the jurisdiction of the applicant's place of residence or by a search by the Division of the ASC National Registry; and
 - 3) The fee required~~as provided~~ by Section 1455.320.
- b) The term for a temporary practice permit shall be 6 months from the date of issuance and may be extended for a period of an additional 6 months by request in writing to the Division. The Division shall not issue contemporaneous temporary practice permits involving multiple clients within any 6 month period.
- c) Any person issued a temporary practice permit shall be limited to a specific appraisal assignment. For the purposes of this Section, the term "assignment" shall mean one or more real estate appraisals and written appraisal reports that are covered by a contract to provide an appraisal. A copy of the master agreement, as defined in Section 1455.10, must be supplied to the Division in the absence of a specific engagement.
- d) Any person issued a temporary practice permit shall be subject to the provisions of the Act and this Part, and the Division shall take regulatory responsibility for any person violating any provisions of the Act and this Part while the person is practicing in the State of Illinois.
- e) If the Division takes any disciplinary action against an appraiser practicing in the State of Illinois under a temporary practice permit, it shall notify the jurisdiction of the appraiser's place of residence.

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- f) Persons issued a temporary practice permit shall affix the temporary practice permit number, issuance date, expiration date of the temporary practice permit, and permit title within the body of the report beneath the licensee's signature, on the certification page and wherever the signature appears.
- g) The permit title is "Illinois Temporary Practice Permit". Temporary Practice Permit assignments covered by a master agreement, as defined in Section 1455.10, or a written engagement must include, at a minimum, the date of the master agreement, the intended user, the intended use, the property type and the location of the Illinois property that is the subject of the report.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART C: EDUCATION REQUIREMENTS

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

- a) Residential
An applicant for licensure as a State Certified Residential Real Estate Appraiser shall meet the following criteria:
- 1) 2500 hours of experience obtained during no fewer than 24 months is required, of which, no less than 50% must be in residential 1 to 4 families, USPAP compliant, appraisal work. While the hours may be cumulative, the required number of months must accrue before an individual can be certified~~AQB Appraisal Experience~~;
 - 2) 200 hours of modular appraisal education as stated in the Guide Notes (GN-1) of the AQB 2008 Criteria;
 - 3) Bachelor's~~Associates~~ degree or equivalent from an accredited college, junior college, ~~junior college~~, community college or university; and
 - 4) If an individual applicant for licensure submits integrated course credit for approval, the course must have been approved by the Course Approval

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Program of the AQB and a topic matrix revealing the exact number of hours for each section of course content must be provided for review. Only integrated course credit bundled together to equal a module will be accepted. Partial credit toward a module will not be accepted. It is the applicant's responsibility to demonstrate compliance as part of the application.

- b) Any person who makes application for an Associate Real Estate Trainee Appraiser License shall be required, as a pre-requisite to examination, to successfully complete 75 classroom hours of qualifying education in subjects related to real estate appraisal, as outlined by Subpart H, and shall include 15 hours of instruction relative to USPAP that is approved by the AQB and taught by an AQB certified instructor. All qualifying education requirements shall only be accepted from education providers and courses approved by the Division. [All 75 education hours of qualifying education for the Associate Real Estate Trainee Appraiser license must be completed within 5 years after initial application.](#)
- c) The Division may accept evidence of successful completion of qualifying education credit from another jurisdiction, if that jurisdiction's requirements are substantially the same as the State of Illinois' and meet the minimum licensing requirements of the AQB ~~20152008~~ Criteria and may be in modular format for licensure after January 1, ~~20152008~~. A real estate appraiser who wishes to obtain credit for qualifying education courses not licensed by the Division shall submit to the Division:
 - 1) An application provided by the Division requesting approval for qualifying education credit, signed by the applicant, on which all questions are answered;
 - 2) A certificate of successful completion provided by the education provider, a certification by the jurisdiction of the appraiser's place of residence of successful completion of the requested qualifying education credit, or any other evidence to be considered by the Division; and
 - 3) The fee ~~required by~~ ~~provided in~~ Section 1455.320.
- d) General
An applicant for licensure as a State Certified General Real Estate Appraiser who has not gained appraisal experience shall meet the following criteria:

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- 1) ~~3000~~Three thousand hours of experience obtained during no fewer than 30 months is required, of which, 1,500 hours must be in non-residential appraisal work. While the hours may be cumulative, the required number of months must accrue before an individual can be certified;
 - 2) 300 hours of modular appraisal education as stated in the Required Course Curriculum~~Guide Notes (GN-1)~~ of the AQB ~~20152008~~ Criteria;
 - 3) Bachelors degree or higher or equivalent (see subsection ~~(g)(1)~~), from an accredited college or university; and
 - 4) If an individual applicant for licensure submits integrated course credit for approval, the course must have been approved by the Course Approval Program of the AQB and a topic matrix revealing the exact number of hours for each section of course content must be provided for review. Only integrated course credit bundled together to equal a module will be accepted. Partial credit toward a module will not be accepted. It is the applicant's responsibility to demonstrate compliance as part of the application.
- e) The Division may accept evidence of successful completion of qualifying education credit from another jurisdiction, if that jurisdiction's requirements are substantially the same as the State of Illinois' and meet the minimum licensing requirements of the AQB ~~20152008~~ Criteria and may be in modular format for licensure after January 1, ~~20152008~~. A real estate appraiser who wishes to obtain credit for qualifying education courses not licensed by the Division shall submit to the Division:
- 1) An application provided by the Division requesting approval for qualifying education credit, signed by the applicant, on which all questions are answered;
 - 2) A certificate of successful completion provided by the education provider, a certification by the jurisdiction of the appraiser's place of residence of successful completion of the requested qualifying education credit, or any other evidence to be considered by the Division; and
 - 3) The fee required by~~as provided in~~ Section 1455.320.

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- f) Credit toward qualifying education requirements may also be obtained via the completion of a graduate (masters or doctoral) degree in Real Estate from an accredited college or university approved by The Association to Advance Collegiate Schools of Business, or a regional or national accreditation agency recognized by the U.S. Secretary of Education, provided that the college or university has had its curriculum reviewed and approved by the AQB.
- g) ~~Non-degree Course Work Accepted for Licensure—Certified Residential License~~
- 1) ~~In lieu of the Associate degree, an applicant for the Certified Residential license shall successfully pass all of the following collegiate subject matter courses from an accredited college, junior college community college, or university:~~
- ~~A) English Composition;~~
 - ~~B) Principles of Economics;~~
 - ~~C) Finance;~~
 - ~~D) Algebra, Geometry or higher mathematics;~~
 - ~~E) Statistics;~~
 - ~~F) Computer Science; and~~
 - ~~G) Business or Real Estate Law.~~
- 2) ~~Total hours of equivalent college courses in lieu of an Associate degree: 21 semester credit hours or its equivalent for the Certified Residential Appraiser. If an accredited college or university (accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized the U.S. Secretary of Education) accepts the College Level Examination Program[®] (CLEP) examinations and issues a transcript for the exam, showing its approval, college course credit will be granted for CLEP exam.~~
- h) ~~Non-degree Course Work Accepted for Certification—Certified General~~

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~~Credential~~

- ~~1) In lieu of the Bachelors degree, an applicant for the Certified General credential shall successfully pass all of the following collegiate level subject matter courses from an accredited college, junior college, community college or university:~~
 - ~~A) English Composition;~~
 - ~~B) Micro Economics;~~
 - ~~C) Macro Economics;~~
 - ~~D) Finance;~~
 - ~~E) Algebra, Geometry or higher mathematics;~~
 - ~~F) Statistics;~~
 - ~~G) Computer Science;~~
 - ~~H) Business or Real Estate Law; and~~
 - ~~I) Two elective courses in accounting, geography, agricultural economies, business management or real estate.~~
- 2) ~~Total hours of equivalent college courses in lieu of a Bachelors degree: 30 semester credit hours or its equivalent for the certified general appraiser. If an accredited college or university (accredited by the Commission on Colleges, a regional or national accreditation association, or an accrediting agency that is recognized by the U.S. Secretary of Education) accepts the College Level Examination Program[®] (CLEP) examinations and issues a transcript for the exam, showing its approval, college course credit will be granted for the CLEP exam.~~
- g) Applicants seeking credit for foreign degrees shall have an evaluation of their education credentials to convert the credentials to American equivalent semester credits and courses. Only vendors and organizations recognized by the Illinois State Board of Education will be permitted to

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conduct the evaluations.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1455.160 Continuing Education Requirements for State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, and Associate Real Estate Trainee Appraiser; Non-Resident Continuing Education Approval

- a) CE Credit
- 1) A State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, or Associate Real Estate Trainee Appraiser who makes application to renew his or her real estate appraiser license shall successfully complete the equivalent of 14 hours of approved continuing education per year preceding the renewal, e.g., a total of 28 hours of approved continuing education for a 2 year renewal. Continuing education credit will only be accepted from education providers and courses approved by the Division.
 - 2) If a real estate appraiser was issued an initial license for less than 185 days prior to the expiration of the license, then no continuing education is required for that renewal. If a real estate appraiser has held a license 185 days or more prior to the expiration, but less than two years, then 14 hours of approved continuing education is required.
 - 3) A real estate appraiser must complete the 7-hour National USPAP Update Course or its equivalent as determined by the AQB or an alternate method established by the AQB taught by an AQB certified instructor who also hold a current appraiser certification by a state during each pre-renewal period prior to renewing or converting his or her real estate appraiser license, unless the real estate appraiser was issued his or her initial license for a period of less than 185 days prior to the expiration date. A real estate appraiser must complete the 7-hour National USPAP Update Course or its equivalent by June 30 of an even-numbered year, following the release~~the date that is 6 months after the effective date~~ of USPAP. Those real estate appraisers issued a license more than 6 months after the effective date of USPAP shall complete the 7-hour National USPAP Update Course within 6 months after licensure.

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- b) CE Credit from Another Jurisdiction
The Division may accept evidence of successful completion of continuing education credit from another jurisdiction if that jurisdiction's requirements are substantially the same as the State of Illinois' and meet the recommendations of the AQB, and if the credit was earned during the appropriate pre-renewal period. A real estate appraiser who wishes to obtain credit for continuing education courses not licensed by the Division shall submit to the Division:
- 1) An application provided by the Division requesting approval for continuing education credit, signed by the applicant, on which all questions are answered;
 - 2) A certificate of successful completion provided by the education provider or a certification by the jurisdiction of the appraiser's place of residence of successful completion of the requested continuing education credit; and
 - 3) The fee ~~required by~~ ~~as provided in~~ Section 1455.320.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART D: EXPERIENCE REQUIREMENTS

Section 1455.170 Experience Requirements for a State Certified General Real Estate Appraiser License

Any person who makes application for a State Certified General Real Estate Appraiser License shall be required, as a pre-requisite to examination, to provide evidence of obtaining 3,000 hours of appraisal experience during no fewer than 30 months, of which 1,500 hours shall be in non-residential appraisal work, and shall submit such evidence to the Division as required by Section 1455.190. The total number of submitted appraisal experience hours shall not exceed 4,000.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1455.180 Experience Requirements for a State Certified Residential Real Estate Appraiser License

Any person who makes application for a State Certified Residential Real Estate Appraiser License shall be required, as a pre-requisite to examination, to provide evidence of obtaining no less than 2,500 hours of appraisal experience during no fewer than 24 months and shall submit

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~~that such~~ evidence to the Division as required by Section 1455.190. Waiver valuations prepared in accordance with Section 5-5 of the Act shall not be counted toward appraisal experience credit for any credential classification. The total number of submitted appraisal experience hours shall not exceed 3,500.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1455.190 Verification of Experience Credit

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

- a) For applicants intending to upgrade to a State Certified Residential Real Estate Appraiser License:
 - 1) No more than 30% of the residential experience shall be claimed for appraisal review or appraisal consulting assignments.
 - 2) No more than 30% of the residential experience shall be claimed for the appraisal of vacant land.
 - 3) No more than 30% of the total experience shall be non-residential assignments.
 - 4) No less than 50% of the total experience submitted shall contain signed certifications by the applicant.
 - 5) All experience logs must contain original signatures.

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- b) For applicants intending to upgrade to a State Certified General Real Estate Appraiser License:
- 1) No more than 30% of the experience shall be claimed for appraisal review or appraisal consulting assignments.
 - 2) No more than 30% of the residential experience shall be claimed for the appraisal of vacant land.
 - 3) No less than 50% of the total experience submitted shall contain signed certifications by the applicant.
 - 4) All experience logs must contain original signatures (not stamps or digital signatures).
- c) Real Estate Mass Appraisal/Ad Valorem Experience
- 1) Each applicant seeking acceptance of experience as an assessment official, or as deputy or employee of an assessment official, in applying for a State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, or Associate Real Estate Trainee Appraiser License shall submit to the Division:
 - A) An application, provided by the Division and signed by the applicant, on which all questions have been answered;
 - B) A notarized Real Estate Mass Appraisal/Ad Valorem Affidavit;
 - C) The Assessment Experience Certification;
 - D) A completed work log;
 - E) The fee required by Section 1455.320.
 - 2) The applicant must demonstrate qualitative experience through no fewer than 5 appraisals for ad valorem tax/assessment purposes utilizing or considering the three approaches to value. If the applicant is intending to upgrade to a State Certified General Real Estate Appraiser License, then 3 of the 5 must be non-residential samples.

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- d) Practicum ~~Course as Experience~~~~Practicum~~ courses that are approved by the AQB Course Approval Program or by the Division shall satisfy the non-traditional client experience requirement.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1455.200 Acceptable Appraisal Experience Credit

- a) Acceptable appraisal experience shall include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal, condemnation appraisal, ~~technical~~-review appraisal, appraisal analysis, ~~real estate consulting~~, highest and best use analysis, and feasibility analysis/study. All appraisal experience shall conform to USPAP and shall meet the requirements of the AQB. All experience credit must have been obtained after January 30, 1989.
- b) Appraisal education may not be substituted for appraisal experience, except for practicum courses approved by the AQB Course Approval Program and/or the Division.
- c) A traditional client is not necessary for an appraisal to qualify for appraisal experience. Experience gained for work without a traditional client cannot exceed 50% of the total experience requirement. An hour of appraisal experience is defined as verifiable time spent in performing tasks in accordance with acceptable appraisal experience as identified by AQB ~~20152008~~ Criteria.
- d) Time spent in travel to and from the subject property and to other data sources shall not count toward appraisal experience.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART E: BUSINESS PRACTICES; STANDARDS AND SCOPE OF PRACTICE

Section 1455.205 Record Keeping Requirements

Licenses must retain any communication, including but not limited to written, oral or web form, of an appraisal, appraisal review or appraisal-~~consulting~~ service that is transmitted to the client upon completion of an assignment for a period of at least five years, or at least two years after

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final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1455.210 Notification of Name Change

It is the responsibility of each licensee issued a license under ~~the~~this Act to notify the Division, on forms provided by the Division, within 15 days after any change of name. For example, if the licensee has had a name change either by court order or due to a change in marital status, the licensee shall notify the Division of the name change, together with a certified copy of the marriage certificate or portions of the court order relating to the name change, and indicate under which name the license shall be issued.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1455.230 Address Change; Street Address

It is the responsibility of the licensee to notify the Division, on forms provided by the Division, ~~in writing~~ of a change of address, e-mail address, or website address or addresses within 15 days after the change. The licensee shall provide a street address of the licensee's residence or business location. The licensee's address of record shall not be a Post Office Box or a mailbox located within a retail postal business.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1455.240 Uniform Standards of Professional Appraisal Practice (USPAP)

- a) Pursuant to Section 10-10 of the Act, the ~~2015~~2014 USPAP are hereby incorporated by reference with no later amendments or editions.
- b) All real estate appraisers licensed under the Act shall practice in accordance with USPAP except where the standards are contrary to Illinois law or public policy (USPAP, Jurisdictional Exception).
- c) All investigators, board members, auditors and examiners employed or retained by the Division are exempt from the requirements of USPAP Standard 3 while performing an investigation, audit or examination.

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- d) If the Division files a formal complaint alleging violations of USPAP, a USPAP Standard 3 review shall be utilized by the Division at a formal hearing. ~~The~~when available, except the Division may limit the scope of the USPAP Standard 3 review to exclude valuation. ~~USPAP Standard 3 review shall be provided in cases in which an existing appraisal report is central to the proceeding.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1455.245 Scope of Property Condition Inspections by Real Estate Appraisers

Licensed real estate appraisers may include in an appraisal report comments on the condition of the property that affect property value, including physical deficiencies, adverse conditions and renovations, based on observations by the licensed real estate appraiser during the appraisal of the property. Licensed real estate appraisers may not provide these comments for compensation, or with the expectation of receiving compensation, directly or indirectly, as a substitute for a home inspection, or a home inspection report, prepared by a licensed home inspector. All appraisal reports prepared by licensed real estate appraisers must include the following statement: "The comments by the licensed real estate appraiser contained within this appraisal report on the condition of the property do not address "standards of practice" as defined in the Home Inspector License Act [225 ILCS 441] and 68 Ill. Adm. Code 1410 and are not to be considered a home inspection or home inspection report."

(Source: Added at 39 Ill. Reg. _____, effective _____)

SUBPART F: ENFORCEMENT PROVISIONS

Section 1455.290 Cooperation Required with the Division

Pursuant to Section 15-10(a)(17) of the Act, all licensees are required to fully cooperate with any audit, investigation, interrogatory, examination or request for information regarding any aspect of the licensee's appraisal practice or application for licensure. Full cooperation includes, but is not necessarily limited to providing to the Division within 30 days after its request:

- a) A complete copy of ~~ana signed~~ appraisal or; appraisal review ~~or appraisal consulting~~ assignment as it was transmitted to the client, including file memoranda, work files, supporting and/or verification documentation that are required to be maintained by the Act and this Part;

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- b) Continuing education certificates or experience/work log that are required to be maintained by the Act or this Part; or
- c) A complete answer to any written interrogatory or request for clarification submitted to a licensee or applicant.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1455.310 Unprofessional Conduct

Dishonorable, unethical or unprofessional conduct includes, but is not limited to, the commission of any one of the following:

- a) Aiding or assisting another in the violation of the Act or this Part;
- b) Failing to satisfy a material term of a consent to administrative supervision order or consent order;
- c) Aiding, assisting or facilitating another in using or appropriating credentials or a license for the purpose of preparing an appraisal report;
- d) Delivering an appraisal report in a manner in which the appraiser knows, or should know, a true copy of the report will not be delivered to all intended users;
- e) Providing false information with regard to the completion of continuing education;
- f) Failure of a supervisor to sign the Associate Real Estate Trainee Appraiser's log, without good cause;
- g) Failing to exercise due care to prevent unauthorized use of his or her digital signature;
- h) Failing to complete the 7-hour National USPAP Update Course or its equivalent by June 30 of an even-numbered year~~July 1, 2012~~;
- i) Denying an employee or contracted appraiser reasonable access to his or her workfile contents and/or reports without good cause;

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- j) Failing to provide a completed report to a client for which the total agreed compensation has been received by the licensee, without good cause; or
- k) Transmitting an unsigned assignment result to a client or end-user client.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1455.316 Supervisor and Trainee Requirements

- a) Requirements of a Supervising Appraiser
 - 1) A supervising appraiser shall provide to the Division in writing the name and address of each Associate Real Estate Trainee Appraiser within 10 days after engagement, and notify the Division in writing within 10 days after immediately upon termination of the engagement on a form provided by the Division.
 - 2) A supervising appraiser shall instruct and directly supervise an Associate Real Estate Trainee Appraiser for any classification of license or certificate in the entire preparation of each appraisal. A supervising appraiser shall provide direct supervision, being personally and physically present, during the first 500 hours of experience for no fewer than 25 assignments. If a State Certified General Real Estate Appraiser is supervising an Associate Real Estate Trainee Appraiser, all appraisals completed during the first 500 hours of experience may be non-residential appraisals. The supervising appraiser shall approve and sign all final appraisal documents certifying that the appraisals are in compliance with USPAP.
 - 3) A supervising appraiser shall hold an active valid license issued under the Act as a Certified General Real Estate Appraiser or a Certified Residential Real Estate Appraiser. The license held by the supervising appraiser shall be in good standing and shall not have been subject to any disciplinary action within any jurisdiction within the last 3 years that affects the supervisory appraiser's legal eligibility to engage in appraisal practice. A supervisory appraiser subject to a disciplinary action would be considered to be in "good standing" 3 years after the successful completion/termination of the sanction imposed against the appraiser.

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- b) Requirements of an Associate Real Estate Trainee Appraiser
- 1) An Associate Real Estate Trainee Appraiser shall provide to the Division, in writing, the name and address of each supervising appraiser within 10 days ~~of~~after engagement, on a form provided by the Division, and shall notify the Division, on a form provided by the Division, within 10 days after in writing immediately upon termination ~~of~~after the engagement.
 - 2) An Associate Real Estate Trainee Appraiser shall maintain an appraisal log for each supervising appraiser and, at a minimum, include the following in the log for each appraisal:
 - A) Type of property;
 - B) Date of report;
 - C) Property description;
 - D) Description of work performed by the trainee and scope of review and supervision by the supervising appraiser;
 - E) Number of actual work hours by the trainee on the assignment; and
 - F) The signature and State license number of the supervising appraiser.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART G: ADMINISTRATIVE PROVISIONS

Section 1455.320 Fees

- a) Initial application fee for appraiser license
- 1) The application fee for an initial license as a State Certified General Real Estate Appraiser and a State Certified Residential Real Estate Appraiser shall be \$315, which shall include the National Registry fee.
 - 2) The application fee for an initial license as an Associate Real Estate

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Trainee Appraiser shall be \$225.

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

The application fee for a temporary practice permit pursuant to the Act and this Part shall be \$100. The additional fee required for an extension granted pursuant to the Act and this Part for a temporary practice permit shall be \$50.
- d) Initial application fee for a license as an education provider, a qualifying education course, a continuing education course, and a practicum course
 - 1) The application fee for a license as an education provider shall be \$550, plus course application fees.
 - 2) The application fee for a license for a qualifying education course shall be \$150.
 - 3) The application fee for a license for a continuing education course shall be \$50.
 - 4) The application fee for the 15-Hour National USPAP Course or its equivalent shall be \$50.

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- 5) The fee to convert an Illinois licensed qualifying education course, except for the 15-Hour National USPAP Course, to a continuing education course shall be \$25.
 - 6) The application fee for the 7-Hour National USPAP Update Course or its equivalent shall be \$25.
- e) Application fee to renew a license as an education provider, a qualifying education course, and a continuing education course
- 1) The application fee to renew a license as an education provider shall be ~~\$250~~\$500 per year.
 - 2) The application fee to renew a license that has expired as an education provider shall be the sum of all lapsed renewal fees plus a \$50 late fee.
 - 3) The application fee to renew a license as a qualifying education course, except for the 15-Hour National USPAP Course, with no material changes, shall be \$50 per year.
 - 4) The application fee to renew a license that has expired as a qualifying education course, with no material changes, shall be the sum of all lapsed renewal fees plus a \$50 late fee.
 - 5) The application fee to renew a license as a continuing education course, except for the 7-Hour National USPAP Update Course, with no material changes, shall be \$25 per year.
 - 6) The application fee to renew a license that has expired as a continuing education course, with no material changes, shall be the sum of all lapsed renewal fees plus a \$50 late fee.
- f) For the purposes of determining if a license has expired under this Section, Department of Financial and Professional Regulation-Division of Professional Regulation (Division) shall consider the license expired if the postmark on the renewal application is a date later than the expiration date or, if delivered other than by mail, the license shall be considered expired if the renewal application is received by the Division on a date later than the expiration date.

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- g) General
- 1) All fees paid pursuant to the Act and this Part are non-refundable.
 - 2) The fee for the issuance of a duplicate license certificate or pocket card, for the issuance of a replacement license certificate or pocket card that has been lost or destroyed, or for the issuance of a license certificate or pocket card with a name or address change, other than during the renewal period, shall be \$25.
 - 3) The fee for a certification of a licensee's record for any purpose shall be \$25.
 - 4) The fee for a decorative wall license showing registration shall be the cost of producing the license.
 - 5) The fee for a roster of persons licensed under the Act shall be the cost of producing the roster.
 - 6) Applicants for an examination as a State Certified General Real Estate Appraiser, a State Certified Residential Real Estate Appraiser, or an Associate Real Estate Trainee Appraiser shall be required to pay a fee covering the cost of providing the examination. If a designated testing service is utilized for the examination, the fee shall be paid directly to the designated testing service. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged, shall result in the forfeiture of the examination fee.
 - 7) The fee for a copy of the transcript of any proceeding under the Act shall be the cost to produce the copy.
 - 8) The fee for certifying any record, e.g., a copy of a disciplinary order or application, shall be \$1 per page.
 - 9) The Division may charge an administrative fee not to exceed \$2,000, as a part of a compliance agreement issued with an administrative warning letter pursuant to Section 1455.280.

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(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1445.335 Refusal to Issue an Appraiser License Based on Criminal History Record

- a) For purposes of this Part, criminal history record information is defined as information collected by criminal justice agencies (see the Criminal Identification Act [20 ILCS 2630]) on individuals consisting of identifiable descriptions and notation of arrests, detention, indictments, information or other formal criminal charges, and any disposition arising from those actions, sentencing, correctional supervision and release. The individual records must contain both information sufficient to identify the subject of the record and notations regarding any formal criminal justice transaction involving the identified individual.
- b) In determining whether an applicant for an appraiser's license is unfit for licensure because of criminal history record information, the Division shall consider the following standards:
- 1) Whether the crime was one of armed violence (see Article 33A of the Criminal Code of 2012 [720 ILCS 5]) or moral turpitude. Moral turpitude consists of:
 - A) Crime involving dishonesty, false statement or some other element of deceit, untruthfulness or falsification (including but not limited to perjury, inducement of perjury, false statement, criminal fraud, embezzlement, false pretense, forgery, counterfeiting and theft).
 - B) Drug offenses, including but not limited to violations of the Illinois Controlled Substances Act [720 ILCS 570] and Federal Drug Enforcement Laws (21 USC 801 et seq.).
 - C) Sex offenses, including but not limited to all crimes listed in Article 11 of the Criminal Code of 2012 [720 ILCS 5].
 - 2) Whether the crime is related to any of the real estate professions.
 - 3) Whether more than 10 years have elapsed since the date of completion of the imposed sentence.

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- 4) Whether the conviction was from a city ordinance violation or a conviction for which a jail sentence was not imposed.
- 5) Whether the applicant has been sufficiently rehabilitated to warrant the public trust. The Division shall consider, but not be bound by, the following in considering whether an applicant has been presumed to be rehabilitated:
 - A) Completion of probation;
 - B) Completion of parole supervision; or
 - C) If no parole was granted, a period of 10 years has elapsed after final discharge or release from any term of imprisonment without any subsequent conviction.
- c) If any one of the following factors exists, this outweighs the presumption of rehabilitation established in subsection (b)(5):
 - 1) Lack of compliance with terms of punishment (i.e., failure to pay fines or make restitution, violation of the terms of probation or parole);
 - 2) Unwillingness to undergo, or lack of cooperation in, medical or psychiatric treatment/counseling;
 - 3) Falsification of an application for licensure with the Division;
 - 4) Failure to furnish to the Division additional information or failure to appear for an interview or meeting with the Division in relation to the applicant's application for licensure.
- d) The following criminal history records shall not be considered in connection with an application for licensure:
 - 1) Juvenile adjudications;
 - 2) Records of arrest not followed by a conviction;
 - 3) Convictions overturned by a higher court;

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- 4) Convictions that have been the subject of a pardon or expungement.
- e) Notification of Denial, Revocation, Suspension or Intent to Refuse to Renew; Request for Hearing
 - 1) If the determination is made that the applicant is unfit for licensure, the Division shall send notice of denial, revocation, suspension or intent to refuse to renew by certified mail, return receipt requested, to the applicant at the applicant's address of record. All such notices will include a statement of the reason for the Division's action.
 - 2) An applicant may request a hearing to contest the Division's action pursuant to 68 Ill. Adm. Code 1110. The request shall be in writing and must be received by the Division not later than 20 days after the date the Division mailed or personally delivered the notice of its action to the applicant.
 - 3) After receipt of a request for a hearing and prior to any such hearing, the Division shall schedule an informal conference with the applicant in an attempt to resolve issues in controversy. The Division shall notify the applicant of the informal conference at least 20 days prior to the hearing. Failure by the applicant to attend the informal conference shall act as a withdrawal of the applicant's request for a hearing. The provisions of this subsection (e)(3) shall not apply if an informal conference was held prior to the Division serving notice upon the applicant as described in subsection (e)(1).

(Source: Added at 39 Ill. Reg. _____, effective _____)

SUBPART H: EDUCATION PROVIDER AND COURSE PROVISIONS

Section 1455.355 USPAP Course Titles

All USPAP course offerings shall contain the effective years in the course title.

(Source: Added at 39 Ill. Reg. _____, effective _____)

Section 1455.365 Practicum Course Requirements

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A practicum course must include the generally applicable methods of appraisal practice for the credential category. Content includes, but is not limited to: requiring the student to produce credible appraisals that utilize an actual subject property; performing market research containing sales analysis; and applying and reporting the applicable appraisal approaches in conformity with USPAP. Assignments must require problem solving skills for a variety of property types for the credential category.

- a) The student/instructor ratio for any practicum course shall be limited at the discretion of the Division.
- b) The client and intended user for all practicum assignments shall be the course provider.
- c) The intended use for all practicum assignments shall be "for experience credit".
- d) There must be an identifiable subject property and the student should personally inspect it.
- e) All data on comparable properties researched, analyzed and used in the assignment must be actual and identifiable market data.
- f) All data on comparable properties utilized should be verified with at least one market participant of the sale/rent (e.g., buyer, seller or broker) and the student must inspect the exterior of each comparable property utilized.
- g) The final assignment must be communicated in compliance with ~~either the~~ Appraisal Report option ~~Self-Contained or Summary Appraisal Report options~~ of Standard 2 of USPAP.
- h) ~~Restricted-Use~~ Reports will not be accepted for practicum experience.
- i) The final reports must be maintained by the student in accordance with the Record Keeping Section of the Ethics Rule of USPAP and with Section 10-20 of the Act.
- j) The practicum course shall result in an appraisal and appraisal report completed in accordance with USPAP.

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- k) Students may obtain experience hours equal to the classroom instruction and to the verifiable time spent on the assignment or assignments.
- l) An instructor conducting a residential experience practicum course shall hold either a Certified Residential or Certified General credential in good standing, in any jurisdiction.
- m) An instructor conducting a general experience practicum course shall hold a Certified General credential in good standing.
- n) Any approved practicum instructor is exempt from obtaining a Temporary Practice permit in conjunction with a practicum assignment.
- o) The instructor shall grade and correct all assignments and should assure USPAP compliance.
- p) The instructor shall meet with the students a minimum of 50% of the course hours during the course. The remaining 50% of the course hours are practicum related experiences.
- q) The course may be audited by the Division.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1455.370 Qualifying Course Curriculum; State Certified General Real Estate Appraiser; State Certified Residential Real Estate Appraiser; Associate Real Estate Trainee Appraiser

- a) Qualifying education course work to obtain a license as a State Certified General Real Estate Appraiser shall consist of 300 classroom hours of instruction, which ~~shall~~[may](#) include the 75 hour requirement for an Associate Real Estate Trainee Appraiser License, or the 200 hour requirement for a State Certified Residential Real Estate Appraiser License. The content for qualifying education courses shall not be repetitive and shall represent a progression of instruction in which the appraiser's knowledge is increased. The core curriculum for qualifying education courses shall be the core curriculum as approved and revised by [AQBthe Appraiser Qualifications Board of The Appraisal Foundation](#).
- b) Qualifying education course work to obtain a license as a State Certified

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Residential Real Estate Appraiser shall consist of 200 classroom hours of instruction, which ~~shall~~may include the 75 hour requirement for an Associate Real Estate Trainee Appraiser License. The content for qualifying education courses shall not be repetitive and shall represent a progression of instruction in which the appraiser's knowledge is increased. The core curriculum for qualifying education courses shall be the core curriculum as approved and as revised by ~~AQB~~the Appraiser Qualifications Board of The Appraisal Foundation.

- c) Qualifying education course work to obtain a license as an Associate Real Estate Trainee Appraiser shall consist of 75 classroom hours of instruction and the content of instruction ~~may~~shall include instruction in, but is not limited to, the following topics:
- 1) influences on real estate value;
 - 2) legal considerations in appraisal;
 - 3) types of value;
 - 4) economic principles;
 - 5) real estate markets and analysis;
 - 6) valuation process;
 - 7) property description;
 - 8) highest and best use analysis;
 - 9) appraisal statistical concepts;
 - 10) sales comparison approach;
 - 11) site value;
 - 12) cost approach;
 - 13) income approach;

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- 14) valuation of partial interests;
- 15) appraisal standards and ethics; and
- 16) other topics approved by the Division.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 1455.375 Conditional Education Course – Supervisor-Trainee Course

- a) Prior to the initial issuance of the Associate Real Estate Trainee Appraiser credential on January 1, 2015 or after, the applicant shall provide evidence to the Division that he or she has successfully completed:
 - 1) The 3-hour ILST-15 AQB Outline Supervisor-Trainee Course; or
 - 2) The 6-hour ILST-15 Supervisor-Trainee Course.
- b) If the applicant has only completed the 3-hour AQB version, he or she must complete the 3-hour Illinois specific course or the 6-hour ILST-15 Supervisor-Trainee Course within 365 days after completing the prior AQB Outline version.

(Source: Added at 39 Ill. Reg. _____, effective _____)

**Section 1455.380 Instructors for the Supervisor-Trainee Conditional Education Course
Examples of Acceptable Pre-License Education Courses (Repealed)**

- a) Instructors for the supervisor-trainee conditional education course shall be real estate appraisers who have held the certified residential or certified general credential in any Illinois jurisdiction for at least 3 years.
- b) Instructors shall not have received any published disciplinary action regarding their appraisal certificate from any jurisdiction within the previous 3 years.

(Source: Old Section 1455.380 repealed at 33 Ill. Reg. 7121, effective May 14, 2009; new Section 1455.380 added at 39 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
120.12	Repealed
120.14	Repealed
120.66	New Section
120.67	New Section
120.68	New Section
- 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: The proposed rulemaking creates Hospital Presumptive Eligibility (HPE) as required under the Affordable Care Act. Further, sets out who may qualify for enrollment through HPE and the requirements and performance standards for hospitals participating as HPE providers.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
120.61	Amendment	38 Ill. Reg. 18290; September 5, 2014
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue E., 3rd Floor
Springfield IL 62763-0002

217/782-1233
HFS.Rules@illinois.gov

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not anticipated by the Department when the most recent regulatory agendas were published.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120

MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section

120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

Section

120.10 Eligibility for Medical Assistance
120.11 Eligibility for Pregnant Women and Children
120.12 Healthy Start – Medicaid Presumptive Eligibility Program for Pregnant Women
([Repealed](#))
120.14 Presumptive Eligibility for Children ([Repealed](#))
120.20 MANG(AABD) Income Standard
120.30 MANG(C) Income Standard
120.31 MANG(P) Income Standard
120.32 FamilyCare Assist
120.34 FamilyCare Share and FamilyCare Premium Level 1 (Repealed)
120.40 Exceptions To Use Of MANG Income Standard (Repealed)
120.50 AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section

120.60 Community Cases
120.61 Long Term Care
120.62 Department of Mental Health and Developmental Disabilities (DMHDD)
Approved Home and Community Based Residential Settings Under 89 Ill. Adm.
Code 140.643 (Repealed)
120.63 Department of Mental Health and Developmental Disabilities (DMHDD)
Approved Home and Community Based Residential Settings (Repealed)
120.64 Determination of Eligibility for Cases Subject to Modified Adjusted Gross

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- Income (MAGI) Methodology
 120.65 Department of Mental Health and Developmental Disabilities (DMHDD)
 Licensed Community – Integrated Living Arrangements (Repealed)
[120.66 Healthy Start – Medicaid Presumptive Eligibility for Pregnant Women](#)
[120.67 Presumptive Eligibility for Children](#)
[120.68 Hospital Presumptive Eligibility \(HPE\) under the Affordable Care Act](#)

SUBPART D: MEDICARE PREMIUMS

- Section
 120.70 Supplementary Medical Insurance Benefits (SMIB) Buy-In Program
 120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
 120.73 Eligibility for Payment of Medicare Part B Premiums for Specified Low-Income
 Medicare Beneficiaries (SLIBs) and Qualified Individuals-1 (QI-1)
 120.74 Qualified Medicare Beneficiary (QMB) Income Standard
 120.75 Specified Low-Income Medicare Beneficiaries (SLIBs) and Qualified
 Individuals-1 (QI-1) Income Standards
 120.76 Hospital Insurance Benefits (HIB)

SUBPART E: RECIPIENT RESTRICTION PROGRAM

- Section
 120.80 Recipient Restriction Program

SUBPART F: MIGRANT MEDICAL PROGRAM

- Section
 120.90 Migrant Medical Program (Repealed)
 120.91 Income Standards (Repealed)

SUBPART G: AID TO THE MEDICALLY INDIGENT

- Section
 120.200 Elimination Of Aid To The Medically Indigent
 120.208 Client Cooperation (Repealed)
 120.210 Citizenship (Repealed)
 120.211 Residence (Repealed)
 120.212 Age (Repealed)
 120.215 Relationship (Repealed)

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120.216	Living Arrangement (Repealed)
120.217	Supplemental Payments (Repealed)
120.218	Institutional Status (Repealed)
120.224	Foster Care Program (Repealed)
120.225	Social Security Numbers (Repealed)
120.230	Unearned Income (Repealed)
120.235	Exempt Unearned Income (Repealed)
120.236	Education Benefits (Repealed)
120.240	Unearned Income In-Kind (Repealed)
120.245	Earmarked Income (Repealed)
120.250	Lump Sum Payments and Income Tax Refunds (Repealed)
120.255	Protected Income (Repealed)
120.260	Earned Income (Repealed)
120.261	Budgeting Earned Income (Repealed)
120.262	Exempt Earned Income (Repealed)
120.270	Recognized Employment Expenses (Repealed)
120.271	Income From Work/Study/Training Program (Repealed)
120.272	Earned Income From Self-Employment (Repealed)
120.273	Earned Income From Roomer and Boarder (Repealed)
120.275	Earned Income In-Kind (Repealed)
120.276	Payments from the Illinois Department of Children and Family Services (Repealed)
120.280	Assets (Repealed)
120.281	Exempt Assets (Repealed)
120.282	Asset Disregards (Repealed)
120.283	Deferral of Consideration of Assets (Repealed)
120.284	Spend-down of Assets (AMI) (Repealed)
120.285	Property Transfers (Repealed)
120.290	Persons Who May Be Included in the Assistance Unit (Repealed)
120.295	Payment Levels for AMI (Repealed)

SUBPART H: MEDICAL ASSISTANCE – NO GRANT (MANG) ELIGIBILITY FACTORS

Section	
120.308	Client Cooperation
120.309	Caretaker Relative
120.310	Citizenship
120.311	Residence
120.312	Age

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120.313	Blind
120.314	Disabled
120.315	Relationship
120.316	Living Arrangements
120.317	Supplemental Payments
120.318	Institutional Status
120.319	Assignment of Rights to Medical Support and Collection of Payment
120.320	Cooperation in Establishing Paternity and Obtaining Medical Support
120.321	Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.322	Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.323	Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause
120.324	Health Insurance Premium Payment (HIPP) Program
120.325	Health Insurance Premium Payment (HIPP) Pilot Program
120.326	Foster Care Program
120.327	Social Security Numbers
120.328	Compliance with Employment and Work Activity Requirements (Suspended; Repealed)
120.329	Compliance with Non-Economic Eligibility Requirements of Article IV (Suspended; Repealed)
120.330	Unearned Income
120.332	Budgeting Unearned Income
120.335	Exempt Unearned Income
120.336	Education Benefits
120.338	Incentive Allowance
120.340	Unearned Income In-Kind
120.342	Child Support and Spousal Maintenance Payments
120.345	Earmarked Income
120.346	Medicaid Qualifying Trusts
120.347	Treatment of Trusts and Annuities
120.350	Lump Sum Payments and Income Tax Refunds
120.355	Protected Income
120.360	Earned Income
120.361	Budgeting Earned Income
120.362	Exempt Earned Income
120.363	Earned Income Disregard – MANG(C)
120.364	Earned Income Exemption

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- 120.366 Exclusion From Earned Income Exemption
- 120.370 Recognized Employment Expenses
- 120.371 Income From Work/Study/Training Programs
- 120.372 Earned Income From Self-Employment
- 120.373 Earned Income From Roomer and Boarder
- 120.375 Earned Income In-Kind
- 120.376 Payments from the Illinois Department of Children and Family Services
- 120.379 Provisions for the Prevention of Spousal Impoverishment
- 120.380 Resources
- 120.381 Exempt Resources
- 120.382 Resource Disregard
- 120.383 Deferral of Consideration of Assets
- 120.384 Spenddown of Resources
- 120.385 Factors Affecting Eligibility for Long Term Care Services
- 120.386 Property Transfers Occurring On or Before August 10, 1993
- 120.387 Property Transfers Occurring On or After August 11, 1993 and Before January 1, 2007
- 120.388 Property Transfers Occurring On or After January 1, 2007
- 120.390 Persons Who May Be Included In the Assistance Unit
- 120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Born October 1, 1983, or Later
- 120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 120.393 Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project
- 120.395 Payment Levels for MANG (Repealed)
- 120.399 Redetermination of Eligibility
- 120.400 Twelve Month Eligibility for Persons under Age 19

SUBPART I: SPECIAL PROGRAMS

- Section
- 120.500 Health Benefits for Persons with Breast or Cervical Cancer
- 120.510 Health Benefits for Workers with Disabilities
- 120.520 SeniorCare (Repealed)
- 120.530 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21
- 120.540 Illinois Healthy Women Program

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120.550 Asylum Applicants and Torture Victims

120.TABLE A Value of a Life Estate and Remainder Interest

120.TABLE B Life Expectancy (Repealed)

AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13] and implementing the federal Deficit Reduction Act of 2005 (P.L. 109-171).

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory

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amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; preemptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988;

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emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill.

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Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill. Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409, effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. 6139, effective April 1, 2004; emergency amendment at 28 Ill. Reg. 6610, effective April 19, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 7152, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11149, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12921, effective September 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13621, effective September 28, 2004; amended at 28 Ill. Reg. 13760, effective October 1, 2004; amended at 28 Ill. Reg. 14541, effective November 1, 2004; amended at 29 Ill. Reg. 820, effective January 1, 2005; amended at 29 Ill. Reg. 10195, effective June 30, 2005; amended at 29 Ill. Reg. 14939, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 521, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10314, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 15029, effective September 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 2629, effective January 28, 2007; emergency amendment at 31 Ill. Reg. 7323, effective May 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11667, effective August 1, 2007; amended at 31 Ill. Reg. 12756, effective August 27, 2007; emergency amendment at 31 Ill. Reg. 15854, effective November 7, 2007, for a maximum of 150 days; emergency rule suspended at 31 Ill. Reg. 16060, effective November 13, 2007; emergency rule repealed, effective May 10, 2008; peremptory amendment at 32 Ill. Reg. 7212, effective April 21, 2008; peremptory amendment suspended at 32 Ill. Reg. 8450, effective May 20, 2008; peremptory amendment repealed under Section 5-125

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of the Illinois Administrative Procedure Act, effective November 16, 2008; amended at 32 Ill. Reg. 17428, effective November 1, 2008; preemptory amendment at 32 Ill. Reg. 18889, effective November 18, 2008; preemptory amendment suspended at 32 Ill. Reg. 18906, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 6551, effective April 28, 2009; preemptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 6712, effective April 28, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 1681, effective February 1, 2009; amended at 33 Ill. Reg. 2289, effective March 1, 2009; emergency amendment at 33 Ill. Reg. 5802, effective April 2, 2009, for a maximum of 150 days; emergency expired August 29, 2009; emergency amendment at 33 Ill. Reg. 10785, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 12703, effective September 7, 2009; amended at 33 Ill. Reg. 15707, effective November 2, 2009; amended at 33 Ill. Reg. 17070, effective December 2, 2009; amended at 34 Ill. Reg. 889, effective December 30, 2009; emergency rulemaking at 34 Ill. Reg. 13538, effective September 1, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. 379, effective December 27, 2010; amended at 35 Ill. Reg. 979, effective January 1, 2011; amended at 35 Ill. Reg. 18645, effective January 1, 2012; amended at 36 Ill. Reg. 4133, effective March 1, 2012; amended at 36 Ill. Reg. 9095, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 10253, effective July 1, 2012 through June 30, 2013; amended at 36 Ill. Reg. 17044, effective November 26, 2012; emergency amendment at 36 Ill. Reg. 17549, effective December 3, 2012 through June 30, 2013; amended at 37 Ill. Reg. 10208, effective June 27, 2013; emergency amendment at 37 Ill. Reg. 15976, effective October 1, 2013, for a maximum of 150 days; emergency amendment to emergency rule at 38 Ill. Reg. 1139, effective January 1, 2014, for a maximum of 150 days; emergency amendment to emergency rule at 38 Ill. Reg. 2925, effective January 10, 2014, for a maximum of 150 days; emergency amendments effective January 1 and January 10, 2014 repealed by emergency rule at 38 Ill. Reg. 7368, effective March 24, 2014, for the remainder of the 150 day effective periods of each of the emergency rules; amended at 38 Ill. Reg. 5967, effective February 26, 2014; emergency amendment at 38 Ill. Reg. 7650, effective March 24, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 15646, effective July 7, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 16214, effective July 17, 2014; amended at 38 Ill. Reg. 18432, effective August 19, 2014; amended at 38 Ill. Reg. 23595, effective December 2, 2014; amended at 39 Ill. Reg. _____, effective _____.

SUBPART B: ASSISTANCE STANDARDS

Section 120.12 Healthy Start – Medicaid Presumptive Eligibility for Pregnant Women (Repealed)

~~The purpose of the Healthy Start – Medicaid Presumptive Eligibility (MPE) Program is to encourage early and continuous prenatal care to low income pregnant women who otherwise~~

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~~may postpone or do without such care. Presumptively eligible pregnant women shall receive ambulatory prenatal care before completing an application for medical assistance.~~

- a) ~~Eligibility: To be eligible for the Healthy Start Medicaid Presumptive Eligibility, effective October 1, 2013, the woman must have family income not exceeding 200% of FPL as determined pursuant to Section 120.64.~~
- b) ~~Qualified providers shall make all determinations as to eligibility in the MPE Program (42 USC 1396).~~
- e) ~~The presumptive eligibility period shall be the period that:~~
 - 1) ~~begins with the date on which a qualified provider determines, on the basis of preliminary information, that the family income does not exceed 200% of FPL as determined pursuant to Section 120.64; and~~
 - 2) ~~ends with (and includes) the earlier of:~~
 - A) ~~the day on which a determination is made with respect to the eligibility of the woman for medical assistance under the State Plan; or~~
 - B) ~~in the case of a woman who does not file an application by the last day of the month following the month during which the provider makes the determination, the last day.~~
- d) ~~Duties of the State Agency, Qualified Providers, and Presumptively Eligible Pregnant Women~~
 - 1) ~~The Department shall provide qualified providers with:~~
 - A) ~~such forms or information on other allowable application methods as described in 89 Ill. Adm. Code 110.5 as are necessary for a pregnant woman to make application for medical assistance under the State Plan; and~~
 - B) ~~information on how to assist pregnant women in completing and filing the forms.~~

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- 2) ~~A qualified provider who determines that a pregnant woman is presumptively eligible for medical assistance under a State Plan shall:~~
- A) ~~notify the Department of the determination within 5 working days after the date on which the determination is made;~~
 - B) ~~inform the woman at the time the determination is made that she is required to make application for medical assistance under the State Plan by no later than the last day of the month following the month during which the determination is made; and~~
 - C) ~~assist the woman to apply for medical assistance.~~
- 3) ~~A pregnant woman who is determined by a qualified provider to be presumptively eligible for medical assistance under a State Plan shall make application for medical assistance under the State Plan by no later than the last day of the month following the month during which the determination is made.~~
- e) ~~Ambulatory prenatal care consists of all outpatient medical care covered by the State Plan.~~

(Source: Repealed at 39 Ill. Reg. _____, effective _____)

Section 120.14 Presumptive Eligibility for Children (Repealed)

- a) ~~A child younger than 19 years of age may be presumed eligible for medical assistance under this Part if all of the following apply:~~
- 1) ~~an application for medical benefits has been made on behalf of the child;~~
 - 2) ~~the child is a resident of Illinois as described in Section 120.311;~~
 - 3) ~~the child is not an inmate of a public institution as described in Section 120.318(a);~~
 - 4) ~~effective October 1, 2013, the child's family's monthly income, as stated on the application, is at or below 133% of FPL as determined pursuant to Section 120.64;~~

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- ~~5) the State employee who registers the application has no information that the child is not a U.S. citizen or a qualified non-citizen as described in Section 120.310 or 89 Ill. Adm. Code 118.500; and~~
- ~~6) the child has not been presumed eligible under this Part 120 or 89 Ill. Adm. Code 118 or 125 within the past 12 months.~~
- b) ~~Entities qualified to make a determination of presumptive eligibility include State employees involved in enrolling children in programs under this Part 120 or 89 Ill. Adm. Code 118 or 125.~~
- e) ~~The presumptive eligibility period begins on the date of application.~~
- d) ~~The presumptive eligibility period ends on the date the State's determination of the child's eligibility under this Part 120 or 89 Ill. Adm. Code 118 or 125 is updated in the data system.~~

(Source: Repealed at 39 Ill. Reg. _____, effective _____)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section 120.66 Healthy Start – Medicaid Presumptive Eligibility for Pregnant Women

- a) The purpose of Healthy Start – Medicaid Presumptive Eligibility (MPE) for pregnant women is to encourage early and continuous prenatal care of low income pregnant women who otherwise may postpone or do without that care. Qualified MPE Providers may make presumptive determinations for MPE.
- b) A pregnant woman, as defined in Section 5-2(5)(a) and (b) of the Public Aid Code [305 ILCS 5] may be found presumptively eligible by a qualified MPE Provider as long as she has not been previously determined presumptively eligible under this Section or Section 120.68 during the current pregnancy.
- c) The presumptive eligibility period shall be the period that:
- 1) begins with the date on which a qualified provider determines that the family income does not exceed 200 percent of the Federal Poverty Level (FPL) as determined pursuant to Section 120.64; and

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- 2) ends with and includes the earlier of:
- A) in the case of a woman who files an application pursuant to 89 Ill. Adm. Code 110.10 by the last day of the month following the month during which the qualified MPE Provider makes the determination that she is presumptively eligible, the day on which a determination is made by the State with respect to the eligibility of the woman for medical assistance under the Illinois State Medicaid Plan; or
 - B) in the case of a woman who does not file an application as described in subsection (2)(A) of this Section, the last day of the month following the month during which the qualified MPE Provider makes the determination that she is presumptively eligible.
- d) Covered Services – Services covered during the presumptive eligibility period under this Section shall include ambulatory care consisting of all outpatient medical care covered by the Illinois State Medicaid Plan.
- e) Qualified MPE Providers are those providers that comply with all the following:
- 1) Participate as a Medicaid provider under the Illinois State Medicaid Plan;
 - 2) Enter into and abide by the terms of the Healthy Start – Medicaid Presumptive Eligibility Provider Agreement with the Department;
 - 3) Furnish services of the type provided by outpatient hospitals, rural health clinics or freestanding, maternity clinics as described in section 1905(a)(2) or 1905(a)(9) of the Social Security Act (42 USC 1396d); and
 - 4) Meet one or more of the following requirements:
 - A) Receives funding as a community or migrant health center program (sections 330 and 330A of the Public Health Service Act (42 USC 201 et seq.);

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- B) Receives funding under Title V of the Social Security Act (42 USC 701-713);
 - C) Participates in Illinois' perinatal health services program (77 Ill. Adm. Code 640);
 - D) Receives a grant under the Supplemental Nutrition Program for Women, Infants and Children (WIC) (section 17 of the Child Nutrition Act of 1966 (42 USC 1771));
 - E) Receives a grant under the Commodity Supplemental Food Program (section 4(a) of the Agriculture and Consumer Protection Act of 1973 (PL 93-86)); or
 - F) Is an Indian Health Service provider or a health program facility operated by a tribe or tribal organization under the Indian Self-Determination Act (25 USC 450).
- f) Duties of the Department and qualified MPE Providers
- 1) The Department shall:
 - A) provide such forms as are necessary for a qualified MPE Provider to submit an MPE enrollment and such forms as are necessary for a pregnant woman to make application for medical assistance pursuant to 89 Ill. Adm. Code 110.10;
 - B) provide information on how to make MPE determinations and assist women in completing and filing applications for medical assistance; and
 - C) process MPE enrollments as submitted by qualified MPE Providers.
 - 2) A qualified MPE Provider who determines that a pregnant woman is presumptively eligible for medical assistance under this Section shall:
 - A) notify the Department of the determination within 5 business days after the date on which the determination is made;

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- B) inform the woman at the time the determination is made that:
- i) her coverage is temporary and will end on the last day of the month following the month in which the MPE determination has been made;
 - ii) services covered are limited to ambulatory care;
 - iii) she must complete and submit an application for medical assistance in order to be considered for full coverage; and
- C) assist the woman to apply for medical assistance prior to the end of her presumptive eligibility period.

(Source: Added at 39 Ill. Reg. _____, effective _____)

Section 120.67 Presumptive Eligibility for Children

- a) The purpose of Presumptive Eligibility for Children (CPE) is to enable timely provision of preventive and treatment services to children.
- b) Children younger than 19 years of age, as defined in Section 5-2(6)(a) of the Public Aid Code may be presumed eligible for medical assistance under this Section if all of the following apply:
- 1) an application has been made on behalf of the child and received by the State;
 - 2) unless the federal Centers for Medicare and Medicaid Services directs the Department otherwise, the child is not living in a jail, prison, half-way house, or juvenile detention facility, including being on work release, furlough or admitted for inpatient hospital treatment from such facilities;
 - 3) the State employee who registers the application has no information that the child is not a U.S. citizen or a qualified non-citizen as described in Section 120.310 or 89 Ill. Adm. Code 118.500; and

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- 4) the child has not been determined presumptively eligible within the past 12 months under this Section, Section 120.68 or 89 Ill. Adm. Code 118 or 125 within the past 12 months.
- c) The CPE period under this Section begins on the date of application and ends on the date the State's determination of the child's eligibility under this Part or 89 Ill. Adm. Code 118 or 125 is updated in the data system.
- d) Services covered during the CPE period under this Section shall include all services covered for children under the Illinois State Medicaid Plan.
- e) Entities qualified to make a determination of CPE under this Section include State employees involved in enrolling children in programs under this Part or 89 Ill. Adm. Code 118 or 125.

(Source: Added at 39 Ill. Reg. _____, effective _____)

Section 120.68 Hospital Presumptive Eligibility (HPE) under the Affordable Care Act

- a) The purpose of Hospital Presumptive Eligibility (HPE) is to fulfill the mandate of the Affordable Care Act (ACA) that requires states to permit qualified hospitals to make presumptive determinations of eligibility for certain Medicaid eligibility groups pursuant to 42 USC 1396a(a)(47)(B) and 42 CFR 435.1110.
- b) The following classes of persons may be found presumptively eligible by qualified hospitals:
- 1) Pregnant women as defined in Section 5-2(5)(a) and (b) of the Public Aid Code (Code);
 - 2) Children as defined in Section 5-2(6)(a) of the Code;
 - 3) Persons who need treatment for breast or cervical cancer as defined in Section 5-2(12)(a) and (b) of the Code;
 - 4) Parents or other caretaker relatives as defined in Section 5-2(15) of the Code (FamilyCare);

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- 5) Persons age 19 or older, but younger than age 26 who were formerly in foster care in Illinois as defined under Section 5-2(19) of the Code.
- c) Criminal Justice Exclusions – Unless the federal Centers for Medicare and Medicaid Services directs the Department otherwise, persons living in jails, prisons, half-way houses, or juvenile detention facilities, including such persons on work release, furlough or admitted for inpatient hospital treatment from such facilities, shall not be found presumptively eligible under this Section.
- d) Presumptive Eligibility Period – The presumptive eligibility period shall be the period that:
- 1) begins with the date on which a qualified HPE Provider determines that the individual meets the qualifications for one of the classes listed in subsection (b); and
 - 2) ends with (and includes) the earlier of:
 - A) the date on which a determination is made with respect to the eligibility of the person for medical assistance under the Illinois Medicaid State Plan;
 - B) in the case of a person who does not file an application by the last day of the month following the month during which the qualified HPE Provider makes the determination, that last day; or
 - C) the day on which a determination is made that the person:
 - i) was already actively enrolled under the Illinois Medicaid State Plan when found presumptively eligible by a qualified HPE Provider; or
 - ii) did not qualify to be presumptively enrolled in Medicaid under the Illinois Medicaid State Plan because he or she had previously been so enrolled within the past 12 months prior to the start of his or her presumptive eligibility or, if pregnant, during the current pregnancy.
- e) Department responsibilities under this Section shall be:

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- 1) making training and technical assistance available to the HPE Provider regarding the requirements, policies and procedures of HPE;
 - 2) assigning a unique HPE number to each individual successfully completing HPE training;
 - 3) maintaining an online HPE Provider portal through which the HPE Provider shall submit HPE enrollments and associated applications for ongoing health coverage;
 - 4) registering HPE enrollments for coverage and assigning a Recipient Identification Number (RIN) to each individual;
 - 5) transmitting a notice to the HPE Provider through the online HPE Provider portal that an HPE enrollment received from the HPE Provider has been registered. The notice shall be in a form suitable for providing to the HPE enrollee and shall include the RIN issued to the enrollee; and
 - 6) providing reports sufficient for measuring HPE Provider performance as compared to standards established in subsection (k).
- f) An HPE Provider shall provide notice to each HPE enrollee that the individual is registered and presumptively eligible pursuant to the terms and limitations provided under this Section.
- g) Covered Services – Services covered during the presumptive eligibility period under this Section shall be as follows:
- 1) For pregnant women eligible under subsection (b)(1), services covered shall be established in Section 120.66(e);
 - 2) For classes of persons presumptively eligible under subsections (b)(2) through (b)(6), services covered shall include all services covered for the class of eligible persons under which the person was enrolled for HPE.
- h) For purposes of this Section, the term "hospital" means:

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- 1) Any entity meeting the definition of "hospital" as established in 89 Ill. Adm. Code 148.25(b)(1); or
 - 2) A State operated mental health facility, as defined in Section 1-114.1 of the Mental Health and Developmental Disabilities Code [405 ILCS 5].
- i) Qualified HPE Providers are those hospitals that:
- 1) participate as a provider under the Illinois State Medicaid plan;
 - 2) notify the Department of their election to make presumptive eligibility determinations under 42 CFR. 435.1110;
 - 3) enter into and abide by the terms of the Illinois Hospital Presumptive Eligibility Provider Agreement established by the Department;
 - 4) assist individuals in completing and submitting an application for medical benefits as defined in 89 Ill. Adm. Code 110.10;
 - 5) agree to make presumptive eligibility determinations consistent with the Department's rules, policies and procedures;
 - 6) achieve the performance standards established in subsection (k); and
 - 7) have not been disqualified from HPE participation pursuant to subsection (l).
- j) HPE Provider Limitation. Only HPE Providers that participate in the provision of services under the Illinois Breast and Cervical Cancer Program administered by the Illinois Department of Public Health may make HPE determinations for persons under subsection (b)(3).
- k) HPE Performance Standards – To remain in good standing as a Qualified HPE Provider, a hospital must meet all of the following performance standards in each calendar quarter:
- 1) Achieve a percentage of HPE enrollments associated with an application for ongoing benefits during the presumptive eligibility period of at least 65 percent for calendar quarters in calendar year 2015, at least 80 percent for

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calendar quarters in calendar year 2016, and at least 90 percent for calendar quarters in calendar year 2017 and thereafter.

- 2) Achieve a percentage of HPE enrollments for patients who the provider should have known were not HPE eligible of less than 5 percent for calendar quarters in calendar year 2015, less than 4 percent for calendar quarters in calendar year 2016, and less than 3 percent for calendar quarters in calendar year 2017 and thereafter.
- 3) Achieve the established percentage for at least one of the following standards with regard to HPE enrolled persons found eligible for ongoing health benefits under the Illinois State Medicaid Plan in one of the classes of eligible persons listed in subsection (b) when review of an application for ongoing eligibility is completed by the State.
 - i) No more than 1 standard deviation below the mean approval rate for applications associated with HPE enrollments calculated for all HPE Providers as a group for the calendar quarter; or
 - ii) At least 50 percent of the HPE Provider's own HPE enrollments for calendar quarters in calendar year 2015, at least 70 percent for calendar quarters in calendar year 2016, and at least 90 percent for calendar quarters in calendar year 2017 and thereafter.
- 1) Disqualification for Failure to Meet Performance Standards – The Department shall disqualify hospitals from participation as HPE Providers as described in this subsection (1).
 - 1) HPE Providers will be provided with reports on performance on at least a quarterly basis.
 - 2) An HPE Provider whose performance fails to meet an applicable performance standard will be notified in writing by the Department.
 - 3) Beginning January 1, 2016, to remain in good standing, the HPE Provider must meet all performance standards in each of the two consecutive quarters following the quarter in which the Department provides notice of failure to achieve a required performance standard. The Department shall terminate the HPE Provider Agreement and issue a notice of

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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disqualification if the HPE Provider fails to achieve all performance standards in either of those quarters.

- 4) Any hospital disqualified as an HPE Provider may not reapply to participate as an HPE Provider for six months following the date of notice of disqualification. Any such hospital must submit a detailed plan of how it will assure full compliance with the performance standards and HPE Provider Agreement with a written request to rejoin HPE. The Department shall have sole discretion to determine whether a disqualified hospital may enter into a new HPE Provider Agreement.
- 5) Nothing in this subsection (1) shall preclude the Department from terminating an HPE Provider Agreement under the terms of that agreement should an HPE Provider otherwise fail to comply with the HPE agreement or the enrollment agreement to participate as a provider under the Illinois State Medicaid Plan.

(Source: Added at 39 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED RULE

- 1) Heading of the Part: Perinatal Mental Health Disorders Prevention and Treatment
- 2) Code Citation: 77 Ill. Adm. Code 2110
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
2110.10	New Section
2110.20	New Section
2110.30	New Section
2110.40	New Section
2110.50	New Section
2110.60	New Section
2110.70	New Section
2110.80	New Section
2110.90	New Section
2110.100	New Section
2110.110	New Section
- 4) Statutory Authority: Implementing and authorized by the Perinatal Mental Health Disorders Prevention and Treatment Act [405 ILCS 95/1]
- 5) A Complete Description of the Subjects and Issues involved: This Administrative Rule is necessary to be in compliance with PA 95-469 that establishes the Perinatal Mental Health Disorders Prevention and Treatment Act. The purpose of this Act is to provide information to women and their families about perinatal mental health disorders, develop procedures for assessing women for perinatal mental health disorders during prenatal and postnatal visits to licensed health care professionals and promote early detection of perinatal mental health disorders for care and treatment.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield IL 62762

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory agenda on which this rulemaking was summarized: January 2015

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULE

TITLE 77: PUBLIC HEALTH
CHAPTER X: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER h: MATERNAL AND CHILD HEALTHPART 2110
PERINATAL MENTAL HEALTH DISORDERS
PREVENTION AND TREATMENT

Section

2110.10	General Applicability
2110.20	Purpose
2110.30	Incorporation by Reference
2110.40	Definitions
2110.50	Prenatal Visits
2110.60	Hospital Maternity Care Services
2110.70	Postnatal Visits
2110.80	Visits to Pediatric Providers
2110.90	Questionnaire Tool
2110.100	Privacy of Questionnaire Results
2110.110	Follow-Up

AUTHORITY: Implementing and authorized by the Perinatal Mental Health Disorders Prevention and Treatment Act [405 ILCS 95].

SOURCE: Adopted at 39 Ill. Reg. ____, effective _____.

Section 2110.10 General Applicability

This Part implements the Perinatal Mental Health Disorders Prevention and Treatment Act [405 ILCS 95] that concerns perinatal mental health disorders, commonly referred to as "post-partum depression".

Section 2110.20 Purpose

The purpose of the Perinatal Mental Health Disorders Prevention and Treatment Act and this Part is to provide information to women and their families about perinatal mental health disorders in order to lower the likelihood that new mothers will continue to suffer from this illness in silence; to develop procedures for screening for risk of perinatal mental health disorders and assessing women for perinatal mental health disorders during prenatal and

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postnatal visits to licensed health care professionals; to promote early detection and early treatment of perinatal mental health disorders; and, when medically appropriate, to avoid medication.

Section 2110.30 Incorporation by Reference

Clinical Report Incorporating Recognition and Management of Perinatal and Postpartum Depression into Pediatric Practice, Marian F. Earls and The Committee on Psychosocial Aspects of Child and Family Health, Pediatrics, published online October 25, 2010, available at www.pediatrics.org.

Section 2110.40 Definitions

"DHS" means the Department of Human Services.

"HFS" means the Department of Healthcare and Family Services.

"Hospital" has the meaning given to that term in the Hospital Licensing Act [210 ILCS 85/3].

"Licensed health care professional" means a physician licensed to practice medicine in all its branches, an advanced practice nurse who has a collaborative agreement with a collaborating physician that authorizes care, or a physician's assistant who has been delegated authority to provide care.

"Perinatal mental health disorders", commonly referred to as "post-partum depression", means a wide range of emotional, psychological and physiological reactions to childbirth, including feelings of hopelessness, excessive guilt, sustained sadness, and thoughts of death or suicide, that challenge the stamina of a woman during pregnancy and after childbirth and impair her ability to care for her child.

"Postnatal care" means an office visit to a licensed health care professional occurring after birth, with reference to the infant or mother.

"Prenatal care" means an office visit to a licensed health care professional for pregnancy-related care occurring before birth.

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"Screening" means the use of a questionnaire as a tool administered by a licensed health care professional to detect perinatal mental health disorders, such as the Edinburg Postnatal Depression Scale, the Postpartum Depression Screening Scale, the Beck Depression Inventory, the Patient Health Questionnaire, or other validated assessment methods, including any validated screening tool approved by HFS to detect perinatal mental health disorders.

Section 2110.50 Prenatal Visits

A licensed health care professional providing prenatal care to a woman at a prenatal visit shall:

- a) Once during the pregnancy, provide education regarding the signs and symptoms of perinatal mental health disorders, including but not limited to offering materials to the patient, and if possible, to fathers, partners and other family members.
- b) Once during the pregnancy, request permission from the pregnant patient to offer education regarding perinatal mental health disorders to fathers, partners and other family members.
- c) Invite the pregnant patient, at least once during the pregnancy, to complete a perinatal mental health disorders questionnaire unless the patient states that she has already completed such a questionnaire during the current pregnancy. The questionnaire must be offered more frequently when, in the professional judgment of the licensed health care professional, a reasonable possibility exists that the woman suffers from perinatal mental health disorders.
- d) Repeat the questionnaire for perinatal mental health disorders when, in the professional judgment of the licensed health care professional, a reasonable possibility exists that the woman suffers from perinatal mental health disorders.
- e) Review the completed questionnaire in accordance with the formal opinions and recommendations of the American Congress of Obstetricians and Gynecologists. Information and materials may be found at www.acog.org, with respect to perinatal mental health disorders. The ACOG Depression Toolkit may be found at <http://mail.ny.acog.org/website/DepressionToolkit.pdf>.
- f) Document the offer of the questionnaire in the patient record.

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- g) Obtain the patient's consent to share the results of the questionnaire with the patient's primary licensed healthcare professional, if indicated by criteria commonly relied up on by providers in assessing a patient's mental health. If the patient is determined to present an acute danger to herself or someone else, consent is not required.
- h) Document action taken if the questionnaire indicates that the woman is experiencing symptoms of perinatal mental health disorders.

Section 2110.60 Hospital Maternity Care Services

- a) Hospitals that provide labor and delivery services shall:
 - 1) Provide complete information about perinatal mental health disorders, including its symptoms, methods of coping with the illness, and treatment resources to patients who have given birth, prior to discharge from the maternity unit following childbirth. Hospitals may use written information provided by DHS to satisfy this requirement.
 - 2) If possible, provide the written information to fathers, partners and other family members.
- b) Hospitals may use resources that are provided from state or nationally recognized health, mental health or child development organizations to satisfy the requirements of this Section.

Section 2110.70 Postnatal Visits

A licensed health care professional providing primary care, obstetric or gynecological services to a woman at a postnatal visit shall:

- a) Invite a post-partum patient to complete a questionnaire to screen for risk of perinatal mental health disorders at least once post-partum.
- b) Offer the questionnaire at least once post-partum, unless the woman states that she has already completed the questionnaire during this period. The questionnaire may be offered more frequently, based on the licensed health care professional's clinical judgment. In deciding on the timing or frequency of any additional screenings, the licensed healthcare professional may consider the

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recommendations of the American Academy of Pediatrics Clinical Report Incorporating Recognition and Management of Perinatal and Postpartum Depression into Pediatric Practice (AAP in Journal of Pediatrics in 2010 126:5; pgs. 1032-1039).

- c) Review the completed questionnaire in accordance with the formal opinions and recommendations of the American College of Obstetricians and Gynecologists, found at www.acog.org, with respect to perinatal mental health disorders. The ACOG Perinatal Depression Toolkit may be found at <http://mail.ny.acog.org/website/DepressionToolkit.pdf>.
- d) Document the offer of the questionnaire in the patient record.
- e) Obtain the patient's consent to share the results of the questionnaire with the patient's primary licensed healthcare professional, if indicated. If the patient is determined to present an acute danger to herself or someone else, consent is not required.
- f) Document actions taken if the questionnaire indicates that the woman is experiencing symptoms of perinatal mental health disorders.

Section 2110.80 Visits to Pediatric Providers

Licensed health care professionals providing pediatric care to an infant shall:

- a) Invite the infant's mother to complete a questionnaire at least once 6 weeks post-delivery to screen for risk of perinatal mental health disorder. This should occur prior to the infant's first birthday, unless the mother states that she has already completed the questionnaire during the post-partum period. The questionnaire may be offered earlier or more frequently, based on the licensed health care professional's clinical judgment. In deciding on the timing or frequency of any additional screenings, the licensed health care professional may consider the recommendations of the American Academy of Pediatrics Clinical Report Incorporating Recognition and Management of Perinatal and Postpartum Depression into Pediatric Practice found at <http://www.pediatrics.org>.
- b) Review the completed questionnaire in accordance with the formal opinions and recommendations of the American Academy of Pediatrics or the American

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College of Obstetricians and Gynecologists, found at www.acog.org., with respect to perinatal mental health disorders.

- c) Document the offer of the questionnaire to the mother in the infant's or the mother's record, if available.
- d) Obtain the mother's consent to share the results of the questionnaire with the mother's primary licensed healthcare professional, if indicated. If the mother is determined to present an acute danger to herself or someone else, consent is not required.
- e) Document actions taken if the questionnaire indicates that the woman is experiencing symptoms of perinatal mental health disorders.

Section 2110.90 Questionnaire Tool

The perinatal mental health disorders questionnaire utilized must be approved by HFS. Approved tools used for screening pregnant and post-partum women for perinatal mental health disorders can be found in the Provider Handbook at www2.illinois.gov/hfs/medicalprovider/maternalandchildhealthpromotion. HFS, in coordination with DHS, will notify providers of changes to the list of approved tools.

Section 2110.100 Privacy of Questionnaire Results

Documentation concerning issues of mental health are protected in accordance with the Confidentiality of Alcohol and Drug Abuse Patient Records Rules (42 CFR 2) and the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110] and shall be shared only with the written consent of the patient, except as provided in Section 636.80(d). If the licensed health care professional's patient is the infant, he/she shall request permission to share screening results with the woman's primary health care provider, except as provided in Section 636.80(d).

Section 2110.110 Follow-Up

- a) If screening results or clinical judgment indicate a need for follow-up, pre-natal and post-natal licensed health care professionals may, in accordance with their professional judgment, offer referral to an appropriate healthcare provider for further assessment and/or treatment.

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- b) If screening results or clinical judgment indicate a need for follow-up, pediatric care licensed health care professionals whose patient is the infant may, in accordance with their professional judgment, offer referral to an appropriate healthcare provider for further assessment and/or treatment.
- c) Licensed health care professionals treating patients who demonstrate risk of immediate harm to self or others shall notify emergency personnel or follow existing emergency protocols of the health care setting.

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- 1) Heading of the Part: Group Coordination of Benefits
- 2) Code Citation: 50 Ill. Adm. Code 2009
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2009.10	Amendment
2009.20	Amendment
2009.30	Amendment
2009.40	Amendment
2009.60	Amendment
2009.EXHIBIT A	Amendment
- 4) Statutory Authority: 215 ILCS 5/367(11)(a); 215 ILCS 125/5-7
- 5) A Complete Description of the Subjects and Issues Involved: Coordination of Benefits (COB) provisions in health insurance policies concern persons who are covered by more than one health insurance policy. In such instances, COB establishes a method by which two or more carriers can allocate their respective benefits so that the total benefits paid by the policies do not exceed the expenses incurred by the insured. The Illinois Insurance Code, which has for some time allowed COB provisions for group accident and health insurance, is being amended so that COB may also be included in both group and individual accident and health major medical insurance policies. Consistent with the amendatory legislation, the rulemaking will make the existing COB provisions in Part 2009 applicable to both group and individual accident and health major medical insurance policies. (215 ILCS 5/367(11)(a) applies to Group COB; 215 ILCS 125/5-7 applies to HMO COB.)
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:
- | | | |
|--|----|---|
| James Rundblom, Deputy General Counsel
Department of Insurance
320 West Washington, 4th Floor
Springfield IL 62767-0001 | or | Susan Anders, Rules Coordinator
Department of Insurance
320 West Washington, 4th Floor
Springfield IL 62767-0001 |
| 217/785-8559
217/524-9033 (fax) | | 217/558-0957 |
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: Legislation concerning coordination of benefits had been introduced in the General Assembly. The Department did not know whether the legislation would be passed or what its final form would be.

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

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TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER Z: ACCIDENT AND HEALTH INSURANCE

PART 2009

~~GROUP~~ COORDINATION OF BENEFITS

Section

2009.10	Purpose and Applicability
2009.20	Definitions
2009.30	Model COB Contract Provision
2009.40	Standards for Coordination of Benefits
2009.50	Procedure to be Followed by Secondary Plan
2009.60	Miscellaneous Provisions

2009.EXHIBIT A Model COB Provisions

AUTHORITY: Implementing and authorized by Sections 357.18, 357.19 and 367 of, and authorized by Section 401 of, the Illinois Insurance Code [215 ILCS 5/357.18, 357.19, 367 and 401].

SOURCE: Adopted at 12 Ill. Adm. Code 17346, effective November 8, 1988; amended at 15 Ill. Adm. Code 15061, effective October 7, 1991; amended at 39 Ill. Reg. _____, effective _____.

Section 2009.10 Purpose and Applicability

- a) The purpose of this regulation is to:
- 1) Permit, but not require, plans to include a coordination of benefits (COB) provision;
 - 2) Establish an order in which plans pay their claims;
 - 3) Provide the authority for the orderly transfer of information needed to pay claims promptly;
 - 4) Reduce duplication of benefits by permitting a reduction of the benefits paid by a plan when the plan, pursuant to rules established by this Part,

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does not have to pay its benefits first;

- 5) Reduce claims payment delays; and
 - 6) Make all contracts that contain a COB provision consistent with this Part.
- b) This Part shall apply to all ~~group~~ accident and health insurance policies or contracts, and group subscriber certificates or contracts issued thereunder, which are issued, delivered, amended or renewed in this State on or after November 8, 1988 (the effective date of this Part).
- c) Any group policy subject to this Part ~~that~~^{which} was issued before November 8, 1988~~the effective date of this Part~~ shall be brought into compliance with this Part by the later of:
- 1) The next anniversary date or renewal date of the group policy; or
 - 2) The expiration of any applicable collectively bargained contract pursuant to which it was written.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 2009.20 Definitions

The following words and terms, when used in this Part, shall have the following meanings unless the context clearly indicates otherwise:

a) ~~Allowable Expenses~~

1) "Allowable Expense" means the necessary, reasonable, and customary item of expense for health care when the item of expense is covered at least in part under any of the plans involved. Necessary, reasonable, and customary item of expense for health care shall be defined in the policy.

2) Notwithstanding ~~this~~^{the above} definition, items of expense under coverages such as dental care, vision care, prescription drug or hearing aid programs may be excluded from the definition of allowable expense~~Allowable Expense~~. A plan ~~that~~^{which} provides benefits only for any such items of expense may limit its definition of allowable

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~~expenses~~Allowable Expenses to like items of expense.

3) When a plan provides benefits in the form of service, the reasonable cash value, as determined by the insurer based on the value placed on ~~that such~~ service in the geographic area, ~~of each service~~ will be considered as both an allowable expense~~Allowable Expense~~ and a benefit paid.

4) The difference between the cost of a private hospital room and the cost of a semi-private hospital room is not considered an allowable expense~~Allowable Expense~~ under ~~this~~the above definition unless the patient's stay in a private hospital room is medically necessary, as determined by the physicians of record.

5) When COB is restricted in its use to specific coverage in a contract (for example, major medical or dental), "allowable expense"~~the definition of "Allowable Expense"~~ must include the corresponding expenses or services to which COB applies.

6) When benefits are reduced under a primary plan~~Primary Plan~~ because a covered person does not comply with the plan provisions, the amount of ~~the such~~ reduction shall not be considered an allowable expense~~Allowable Expense~~. Examples of ~~these such~~ provisions are those related to second surgical opinions, precertification of admissions or services, and preferred provider arrangements.

~~A)~~ Only benefit reductions based upon provisions similar in purpose to those described in this definition above and ~~which are~~ contained in the primary plan~~Primary Plan~~ may be excluded from allowable expenses~~Allowable Expenses~~.

~~B)~~ This provision shall not be used by a second plan~~Second Plan~~ to refuse to pay benefits because an HMO member has elected to have health care services provided by a non-HMO provider, and the HMO, pursuant to its contract, is not obligated to pay for providing those services.

b) Claim

"Claim" means a ~~A~~ request that benefits of a plan be provided or paid ~~is a "claim"~~. The benefits claimed may be in the form of:

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- 1) ~~services~~ Services (including supplies);
- 2) ~~payment~~ Payment for all or a portion of the expenses incurred;
- 3) ~~a~~ A combination of services and payments ~~subsections (1) and (2) above;~~
or
- 4) ~~an~~ An indemnification.

e) ~~Claim Determination Period~~

1) ~~"Claim Determination Period"~~ or "CDP" means the period of time, which must not be less than 12 consecutive months, over which allowable expenses ~~Allowable Expenses~~ are compared with total benefits payable in the absence of COB, to determine whether overinsurance exists and how much a plan will pay or provide.

2) The CDP ~~Claim Determination Period~~ is usually a calendar year, but a plan may use some other period of time that fits the coverage of the ~~group~~ contract. A person may be covered by a plan during a portion of a CDP ~~Claim Determination Period~~ if that person's coverage starts or ends during the CDP ~~Claim Determination Period~~.

3) As each claim is submitted, each plan is to determine its liability and pay or provide benefits based upon allowable expenses ~~Allowable Expenses~~ incurred to that point in the CDP, ~~but~~ Claim Determination Period. ~~But~~ that determination is subject to adjustment as later allowable expenses ~~Allowable Expenses~~ are incurred in the same CDP ~~Claim Determination Period~~.

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

4) "Coordination of Benefits" or "COB" means ~~This is~~ a provision establishing an order in which plans pay their claims.

e) "Hospital Indemnity Benefits" ~~means~~ ~~These are~~ benefits not related to expenses incurred. The term does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.

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~~f) Plan~~

1) "Plan" means a form of coverage with which coordination is allowed. The definition of plan in the ~~group~~ contract must state the types of coverage ~~that which~~ will be considered in applying the COB provision of that contract. The right to include a type of coverage is limited by ~~the rest of~~ this definition.

2) The definition shown in the Model COB ~~provision~~ ~~Provision, attached to this Part as (see Exhibit A);~~ is an example of what may be used. Any definition ~~of plan in the contract~~ that satisfies this ~~definition subsection~~ may be used. (The Department will determine compliance with this ~~definition under subsection pursuant to~~ its authority ~~in under~~ Section 143 of the ~~Illinois Insurance Code (Ill. Rev. Stat. 1989, ch. 73, par. 755).~~)

3) This Part uses the term "plan-". However, a ~~group~~ contract may, instead, use "program" or some other term.

4) Plan may include:

~~A) Individual and group~~ ~~Group~~ insurance and group subscriber contracts;

~~B) Uninsured arrangements of individual,~~ group or group-type coverage;

~~C) Individual and group~~ ~~Group~~ or group-type coverage through HMOs and other prepayment, group practice and individual practice plans;

~~D) Group-type contracts.~~ Group-type contracts are contracts ~~that which~~ are not available to the general public and can be obtained and maintained only because of membership in or connection with a particular organization or group. Group-type contracts answering this description may be included in the definition of plan, at the option of the insurer or the service provider and the contract client, whether or not uninsured arrangements are used and regardless of how the group-type coverage is designated. Individually underwritten and issued

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guaranteed renewable policies would not be considered "group-type" even though purchased through payroll deduction at a premium savings to the insured since the insured would have the right to maintain or renew the policy independently of continued employment with the employer;

~~E)~~The amount by which individual, group or group-type hospital indemnity benefits exceed \$100 per day;

~~F)~~The medical benefits coverage in individual or group automobile contracts, in group or individual automobile "no fault" contracts, and in traditional automobile "fault" type contracts, to the extent ~~those that such~~ contracts are primary plans~~Primary Plans~~; and

~~G)~~Medicare or other governmental benefits, except as provided in ~~this definition subsection (5)(G) below~~. That part of the definition of plan may be limited to the hospital, medical and surgical benefits of the governmental program.

~~5)~~"Plan" shall not include:

~~A)Individual or family insurance contracts;~~

~~B)Individual or family subscriber contracts;~~

~~C)Individual or family coverage through Health Maintenance Organizations (HMOs);~~

~~D)Individual or family coverage under other prepayment, group practice and individual practice plans;~~

~~E)Individual and group~~Group or group-type hospital indemnity benefits of \$100.~~00~~ per day or less;

~~F)~~School accident-type coverages. These contracts cover elementary and secondary school students~~grammar, high school~~ and college students for accidents only, including athletic injuries, either on a 24-hour basis or on a "to and from school" basis; and

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~~G)~~ A state plan under Medicaid, and ~~shall not include a~~

A law or plan when, by law, its benefits are in excess of those of any private insurance plan or other non-government plan.

~~g)~~ Primary Plan

~~"A Primary Plan" means is~~ a plan whose benefits for a person's health care coverage must be determined without taking the existence of any other plan into consideration. ~~There may be more than one primary plan.~~ A plan is a primary plan ~~Primary Plan~~ if either ~~of the following conditions is true:~~

~~1) the~~ The plan ~~either~~ has no order of benefit determination rules, or it has rules ~~that which~~ differ from those permitted by this subchapter. ~~There may be more than one Primary Plan;~~ or

~~2) all~~ All plans ~~that which~~ cover the person use ~~those the~~ order of benefit determination rules ~~required by this regulation,~~ and, under those rules, the plan determines its benefits first.

~~h)~~ Secondary Plan

~~"A Secondary Plan" means is~~ a plan ~~that which~~ is not a primary plan ~~Primary Plan~~. If a person is covered by more than one secondary plan ~~Secondary Plan~~, the order of benefit determination ~~rules~~ of this Part ~~decides~~ ~~decide~~ the order in which ~~that~~ ~~person's~~ ~~their~~ benefits are determined in relation to each other. The benefits of each secondary plan ~~Secondary Plan~~ may take into consideration the benefits of the primary plan ~~Primary Plan~~ or plans and the benefits of any other plan ~~that which~~, under ~~this Part~~ ~~the rules of this regulation~~, has its benefits determined before those of that secondary plan ~~Secondary Plan~~.

~~i)~~ "This Plan", ~~in~~ ~~In~~ a COB provision, ~~this term~~ refers to the part of the group contract providing the health care benefits to which the COB provision applies and ~~that which~~ may be reduced because of the benefits of other plans. Any other part of the group contract providing health care benefits is separate from "this plan" ~~This Plan~~". A group contract may apply one COB provision to certain of its benefits (such as dental benefits), coordinating only with like benefits, and may apply other separate COB provisions to coordinate other benefits.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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Section 2009.30 Model COB Contract Provision

- a) Exhibit A contains a model COB provision for use in ~~group~~ contracts. That use is subject to subsections (b) and (c) ~~below~~ and ~~the provisions of~~ Section 2009.40 ~~of this Part~~.
- b) A ~~group~~ contract's COB provision does not have to use the words and format shown at Exhibit A. Changes may be made to fit the language and style of the rest of the ~~group~~ contract or to reflect the ~~differences~~ difference among plans ~~that~~ which provide services, ~~which~~ pay benefits for expenses incurred, and ~~which~~ indemnify. No other substantive changes are allowed. (The Department will determine compliance with this subsection ~~(b)~~ pursuant to its authority under Section 143 of the ~~Illinois Insurance Code (Ill. Rev. Stat. 1989, ch. 73, par. 755).~~)
- c) Prohibited Coordination and Benefit Design
- 1) A ~~group~~ contract may not reduce benefits on the basis that:
- A) Another plan exists;
- B) A person is or could have been covered under another plan, except with respect to Part B of Medicare; or
- C) A person has elected an option under another plan providing a lower level of benefits than another option ~~that~~ which could have been elected.
- 2) No contract may contain a provision that its benefits are "excess" or "always secondary" to any plan as defined in ~~Section 2009.20~~ this regulation, as authorized ~~except in accord with the rules permitted by Section 2009.60~~ this regulation.
- d) With respect to excepted benefit policies and grandfathered health plans, "specified disease coverage" pays benefits for the diagnosis and treatment of a specifically named disease or diseases. Except for the uniform policy provision regarding other insurance with the same insurer, benefits for specified disease coverage shall be paid regardless of other coverage available through individual health insurance.

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(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 2009.40 Standards for Coordination of Benefits

a) General

The general order of benefits is as follows:

- 1) The ~~primary plan~~Primary Plan must pay or provide its benefits as if the ~~secondary plan~~Secondary Plan or ~~plans do~~Plans do not exist. A ~~plan~~Plan that does not include a coordination of benefits provision may not take the benefits of another ~~plan~~Plan into account when it determines its benefits. There is one exception: a contract holder's coverage that is designed to supplement a part of a basic package of benefits may provide that the supplementary coverage ~~is~~shall be excess to any other parts of the plan provided by the contract holder.
- 2) A ~~secondary plan~~Secondary Plan may take the benefits of another plan into account only when, under these standards, it is ~~secondary~~Secondary to that other plan.
- 3) The benefits of the plan ~~that~~which covers the person as an employee, member or subscriber (that is, other than as a dependent) are determined before those of the plan ~~that~~which covers the person as a dependent; except that, if the person is also a Medicare beneficiary, Medicare is:
 - A) Secondary to the plan covering the person as a dependent; and
 - B) Primary to the plan covering the person as other than a dependent, for example a retired employee.

b) Dependent Child/Parents not Separated or Divorced

The standards for the order of benefits for a dependent child when the parents are not separated or divorced are as follows:

- 1) The benefits of the plan of the parent whose birthday falls earlier in a year are determined before those of the plan of the parent whose birthday falls later in that year;
- 2) If both parents have the same birthday, the benefits of the plan ~~that~~which

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covered the parent longer are determined before those of the plan ~~that~~which covered the other parent for a shorter period of time;

- 3) The word "birthday" refers only to month and day in a calendar year, not the year in which the person was born;
 - 4) A ~~group~~-contract ~~that~~which includes COB and ~~that~~which is issued or renewed, or ~~that~~which has an anniversary date on or after January 7, 1989, 60 days after the effective date of this Part shall include the substance of ~~the provision in~~ subsections (b)(1), (2) and (3) ~~above~~.
 - 5) If the other plan does not ~~reflect~~contain the standards ~~of~~described in subsections (b)(1), (2) and (3) ~~above~~, but instead has a standard based upon the gender of the parent; and, if, as a result, the plans do not agree on the order of benefits, the standard based upon the gender of the parent will determine the order of benefits.
- c) Dependent Child/Separated or Divorced Parents
- 1) If two or more plans cover a person as a dependent child of divorced or separated parents, benefits for the child are determined in the following~~this~~ order:
 - A~~1~~) First, the plan of the parent with custody of the child;
 - B~~2~~) Then, the plan of the spouse of the parent with ~~the~~ custody of the child; and
 - C~~3~~) Finally, the plan of the parent not having custody of the child.
 - 2~~4~~) If the specific terms of a court decree state that one of the parents is responsible for the health care expenses of the child, and the entity obligated to pay or provide the benefits of the plan of that parent has been informed of those terms, the benefits of that plan are determined first. The plan of the other parent shall be the secondary plan~~Secondary Plan~~. This subsection does not apply with respect to any claim determination period~~Claim Determination Period or Period~~ or plan year during which any benefits are actually paid or provided before the entity has that actual knowledge.

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- d) **Dependent Child/Joint Custody-**
If the specific terms of a court decree state that the parents shall share joint custody, without stating that one of the parents is responsible for the health care expenses of the child, the plan covering the child shall follow the order of benefit determination ~~rules~~ outlined in subsection (b) ~~above~~.
- e) **Young Adult/Dependent**
For a dependent child who has coverage under either or both parents' plans and also has his or her own coverage as a dependent under a spouse's plan, subsection (h) applies. In the event the dependent child's coverage under the spouse's plan began on the same date as the dependent child's coverage under either or both parents' plans, the order of benefits shall be determined by applying the birthday rule of subsection (b) to the dependent child's parent or parents and the dependent's spouse.
- f) **Active/Inactive Employees**
The benefits of a plan ~~that~~which covers a person as an employee who is neither laid off nor retired (or as that employee's dependent) are determined before those of a plan ~~that~~which covers that person as a laid-off or retired employee (or as that employee's dependent). If the other plan does not have this standard; and if, as a result, the plans do not agree on the order of benefits, this subsection (f) shall not apply~~standard is ignored~~.
- g) **Continuation Coverage**
- 1) If a person whose coverage is provided under a right of continuation, pursuant to federal or ~~State~~state law, also is covered under another plan, the following shall be the order of benefit determination:
 - A) First, the benefits of a plan covering the person as an employee, member or subscriber (or as that person's dependent);
 - B) Second, the benefits under the continuation coverage.
 - 2) If the other plan does not contain the order of benefits determination described ~~in~~within this subsection ~~(g)(1)~~; and, if, as a result, the plans do not agree on the order of benefits, this subsection (g) shall not apply~~requirement shall be ignored~~.

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- hg) Longer/Shorter Length of Coverage
If none of the ~~other~~^{above} standards of this Section determines the order of benefits, the benefits of the plan ~~that~~^{which} covered an employee, member or subscriber longer are determined before those of the plan ~~that~~^{which} covered that person for the shorter term.
- 1) To determine the length of time a person has been covered under a plan, two plans shall be treated as one if the claimant was eligible under the second within 24 hours after the first ended.
 - 2) The start of a new plan does not include:
 - A) A change in the amount of scope of a plan's benefits;
 - B) A change in the entity ~~that~~^{which} pays, provides or administers the plan's benefits; or
 - C) A change from one type of plan to another (such as, from a single employer plan to that of a multiple employer plan).
 - 3) The claimant's length of time covered under a plan is measured from the claimant's first date of coverage under that plan. If that date is not readily available, the date the claimant first became a member of the group shall be used as the date from which to determine the length of time the claimant's coverage under the present plan has been in force.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 2009.60 Miscellaneous Provisions

- a) Reasonable Cash Values of Services
A ~~secondary plan that~~^{Secondary Plan which} provides benefits in the form of services may recover the reasonable cash value of providing the services from the ~~primary plan~~^{Primary Plan}, to the extent that benefits for the services are covered by the ~~primary plan~~^{Primary Plan} and have not already been paid or provided by the ~~primary plan~~^{Primary Plan}. Nothing in this ~~subsection~~^{provision} shall be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan ~~that~~^{which} provides benefits in the form of services.

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- b) Excess and Other Nonconforming Provisions
- 1) Some plans have order of benefit determination standards not consistent with this Part ~~thatwhich~~ declare that the plan's coverage is "excess" to all others; or "always secondary-". This occurs because certain plans may not be subject to insurance regulation, or because some group contracts have not yet been conformed with this Part pursuant to Section 2009.20.
 - 2) A plan with order of benefit determination standards ~~thatwhich~~ comply with this Part (~~complying plan~~ Complying Plan) may coordinate its benefits with a plan ~~thatwhich~~ is "excess" or "always secondary" or ~~thatwhich~~ uses order of benefit determination standards ~~thatwhich~~ are inconsistent with those contained in this Part (~~noncomplying plan~~ Noncomplying Plan) on the following basis:
 - A) If the ~~complying plan~~ Complying Plan is the ~~primary plan~~ Primary Plan, it shall pay or provide its benefits on a primary basis;
 - B) If the ~~complying plan~~ Complying Plan is the ~~secondary plan~~ Secondary Plan, it shall, nevertheless, pay or provide its benefits first, but the amount of the benefits payable shall be determined as if the ~~complying plan~~ Complying Plan were the ~~secondary plan~~ Secondary Plan. In such a situation, ~~thesuch~~ payment shall be the limit of the ~~complying plan's~~ Complying Plan's liability;
 - C) If the ~~noncomplying plan~~ Noncomplying Plan does not provide the information needed by the ~~complying plan~~ Complying Plan to determine its benefits within ~~(sixty)~~ 60 days after it is requested to do so, the ~~complying plan~~ Complying Plan shall assume that the benefits of the ~~noncomplying plan~~ Noncomplying Plan are identical to its own; and shall pay its benefits accordingly. However, the ~~complying plan~~ Complying Plan must adjust any payments it makes based on ~~thatsuch~~ assumption whenever information becomes available as to the actual benefits of the ~~noncomplying plan~~ Noncomplying Plan; and
 - D) If the ~~noncomplying plan~~ Noncomplying Plan reduces its benefits

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so that the employee, subscriber, or member receives less in benefits than he or she would have received had the complying plan~~Complying Plan~~ paid or provided its benefits as the secondary plan~~Secondary Plan~~ and the noncomplying plan~~Noncomplying Plan~~ paid or provided its benefits as the primary plan~~Primary Plan~~, and governing state law allows the right of subrogation set forth in subsection (d) below, ~~then~~ the complying plan~~Complying Plan~~ shall advance to or on behalf of the employee, subscriber or member an amount equal to ~~the~~such difference. However, in no event shall the complying plan~~Complying Plan~~ advance more than the complying plan~~Complying Plan~~ would have paid had it been the primary plan~~Primary Plan~~ less any amount it previously paid. In consideration of ~~the~~such advance, the complying plan~~Complying Plan~~ shall be subrogated to all rights of the employee, subscriber or member against the noncomplying plan~~Noncomplying Plan~~. ~~The~~Such advance by the complying plan~~Complying Plan~~ shall also be without prejudice to any claim it may have against the noncomplying plan~~Noncomplying Plan~~ in the absence of ~~such~~ subrogation.

- c) Allowable Expense. ~~Terms~~A term such as "usual and customary," "usual and prevailing," "minimum allowable fee", "eligible expense", or "reasonable and customary," may be substituted for the term "necessary, reasonable and customary." Terms such as "medical care" or "dental care" may be substituted for "health care" to describe the coverages to which the COB provisions apply.
- d) Subrogation. The COB concept clearly differs from that of traditional subrogation. Provisions for one may be included in health care benefits contracts without compelling the inclusion or exclusion of the other.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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Section 2009.EXHIBIT A Model COB ProvisionsCOORDINATION OF THE ~~GROUP~~-CONTRACT'S BENEFITS
WITH OTHER BENEFITS

I. APPLICABILITY

- A. This Coordination of Benefits ("COB") provision applies to This Plan when an ~~enrollee~~~~employee~~ or the ~~enrollee's~~~~employee's~~ covered dependent has health care coverage under more than one Plan. "Plan" and "This Plan" are defined ~~in Section II~~~~below~~.
- B. If this COB provision applies, the order of benefit determination rules should be looked at first. Those rules determine whether the benefits of This Plan are determined before ~~or~~~~af~~ after those of another plan. The benefits of This Plan:
- (1) Shall not be reduced when, under the order of benefit determination rules, This Plan determines its benefits before another plan; but
 - (2) May be reduced when, under the order of benefits determination rules, another plan determines its benefits first. The ~~above~~ reduction is described in Section IV "Effect on the Benefits of This Plan."

II. DEFINITIONS

- A. "Plan" is any of ~~the following that~~~~these which~~ provides benefits or services for, or because of, medical or dental care or treatment:
- (1) ~~Individual or group~~~~Group~~ insurance or group-type coverage, whether insured or uninsured. This includes prepayment, group practice or individual practice coverage. It also includes coverage other than school accident-type coverage.
 - (2) Coverage under a governmental plan, or coverage required or provided by law. This does not include a state plan under Medicaid (Title XIX, Grants to States for Medical Assistance

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Programs, of the United States Social Security Act (42 ~~USC~~U.S.C.A. 301 et seq.), as amended from time to time).

Each contract or other arrangement for coverage under (1) or (2) is a separate plan. Also, if an arrangement has two parts and COB rules apply only to one of the two, each of the parts is a separate plan.

- B. "This Plan" is the part of the ~~group~~ contract that provides benefits for health care expenses.
- C. "Primary Plan/Secondary Plan:" The order of benefit determination rules state whether This Plan is a Primary Plan or Secondary Plan as to another plan covering the person.

When This Plan is a Primary Plan, its benefits are determined before those of the other plan and without considering the other plan's benefits.

When This Plan is a Secondary Plan, its benefits are determined after those of the other plan and may be reduced because of the other plan's benefits.

When there are more than two plans covering the person, This Plan may be a Primary Plan as to one or more other plans, and may be a Secondary Plan as to a different plan or plans.

- D. "Allowable Expense" means a necessary, reasonable and customary item of expense for health care~~;~~ when the item of expense is covered at least in part by one or more plans covering the person for whom the claim is made.

The difference between the cost of a private hospital room and the cost of a semi-private hospital room is not considered an Allowable Expense under ~~this~~the above definition unless the patient's stay in a private hospital room is medically necessary either in terms of generally accepted medical practice~~;~~ or as specifically defined in the plan.

When a plan provides benefits in the form of services, the reasonable cash value of each service rendered will be considered both an Allowable

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Expense and a benefit paid.

- E. "Claim Determination Period" means a calendar year. However, it does not include any part of a year during which a person has no coverage under This Plan, or any part of a year before the date this COB provision or a similar provision takes effect.

III. ORDER OF BENEFIT DETERMINATION RULES

- A. General. When there is a basis for a claim under This Plan and another plan, This Plan is a Secondary Plan ~~thatwhich~~ has its benefits determined after those of the other plan, unless:
- (1) The other plan has rules coordinating its benefits with those of This Plan; and
 - (2) Both those rules and This Plan's rules (~~see Section III, in subsection (B) below~~, require that This Plan's benefits be determined before those of the other plan.
- B. Rules. This Plan determines its order of benefits using the first of the following rules ~~thatwhich~~ applies:
- (1) Non-Dependent/Dependent. The benefits of the plan ~~thatwhich~~ covers the person as an employee, member or subscriber (that is, other than as a dependent) are determined before those of the plan ~~thatwhich~~ covers the person as a dependent; except that, if the person is also a Medicare beneficiary, Medicare is:
 - (a) Secondary to the plan covering the person as a dependent; and
 - (b) Primary to the plan covering the person as other than a dependent, for example a retired employee.
 - (2) Dependent Child/Parents not Separated or Divorced. Except as stated in ~~Section III Subsection (B)(3) below~~, when This Plan and another plan cover the same child as a dependent of a different person (~~i.e., "parent"); called "parents:"~~

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- (a) The benefits of the plan of the parent whose birthday falls earlier in a year are determined before those of the plan of the parent whose birthday falls later in that year; but
- (b) If both parents have the same birthday, the benefits of the plan ~~that which~~ covered the ~~parent~~parents longer are determined before those of the plan ~~that which~~ covered the other parent for a shorter period of time.

However, if the other plan does not have the rule described in Section III(B) Subsection (2)(a) ~~immediately above~~, but instead has a rule based upon the gender of the parent, and, if, as a result, the plans do not agree on the order of benefits, the rule in the other plan will determine the order of benefits.

- (3) Dependent Child/Separated or Divorced. If two or more plans cover a person as a dependent child of divorced or separated parents, benefits for the child are determined in this order:
 - (a) First, the plan of the parent with custody of the child;
 - (b) Then, the plan of the spouse of the parent with ~~the~~ custody of the child; and
 - (c) Finally, the plan of the parent not having custody of the child.

However, if the specific terms of a court decree state that one of the parents is responsible for the health care expense of the child, and the entity obligated to pay or provide the benefits of the plan of that parent has actual knowledge of those terms, the benefits of that plan are determined first. The plan of the other parent shall be the secondary plan ~~Secondary Plan~~. This ~~paragraph~~ does not apply with respect to any Claim Determination Period or plan ~~Plan~~ year during which any benefits are actually paid or provided before the entity has that actual knowledge.

- (4) Dependent Child/Joint Custody. If the specific terms of a court

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decree state that the parents shall share joint custody, without stating that one of the parents is responsible for the health care expenses of the child, the plans covering the child shall follow the order of benefit determination rules outlined in [Section Paragraph III-subsection\(B\)\(2\)-above](#).

- (5) Active/Inactive Employee. The benefits of a plan ~~that~~[which](#) covers a person as an employee who is neither laid off nor retired (or as that employee's dependent) are determined before those of a plan ~~that~~[which](#) covers that person as a laid-off or retired employee (or as that employee's dependent). If the other plan does not have this rule; and if, as a result, the plans do not agree on the order of benefits, this [Section III\(B\)\(5\) shall not apply](#)~~Rule (4) is ignored~~.
- (6) Continuation ~~Coverage~~[coverage](#). If a person whose coverage is provided under a right of continuation pursuant to federal or ~~State~~[state](#) law also is covered under another plan, the following shall be the order of benefit determination:
- (a) First, the benefits of a plan covering the person as an employee, member or subscriber (or as that person's dependent);
- (b) Second, the benefits under the continuation coverage.

If the other plan does not contain the order of benefits determination described ~~in this Section III~~[within this subsection](#), and if, as a result, the plans do not agree on the order of benefits, this requirement shall be ignored.

- (7) Longer/Shorter Length of Coverage. If none of the ~~rules in this Section III~~[above rules](#) determines the order of benefits, the benefits of the plan ~~that~~[which](#) covered an employee, member or subscriber longer are determined before those of the Plan ~~that~~[which](#) covered that person for the shorter term.

IV. EFFECT ON THE BENEFITS OF THIS PLAN

- A. When This Section Applies. This Section IV applies when, in accordance

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with Section III "Order of Benefit Determination Rules,". This Plan is a Secondary Plan as to one or more other plans. In that event the benefits of This Plan may be reduced under this Section IVsection. ~~The Such~~ other plan or plans are referred to as "the other plans" in Section IV(B) ~~immediately below~~.

B. Reduction in This~~this~~ Plan's Benefits.

(1) The benefits of This Plan will be reduced when ~~the sum of~~:

(a)~~(1)~~ The benefits that would be payable for the Allowable Expense under This Plan in the absence of this COB provision; and

(b)~~(2)~~ The benefits that would be payable for the Allowable Expenses under the other plans, in the absence of provisions with a purpose like that of this COB provision, whether or not claim is made;

exceeds those Allowable Expenses in a Claim Determination Period. In that case, the benefits of This Plan will be reduced so that they and the benefits payable under the other plans do not total more than those Allowable Expenses.

(2) When the benefits of This Plan are reduced as described in Section IV(B)(1)~~above~~, each benefit is reduced in proportion. It is then charged against any applicable benefit limit of This Plan.

V. RIGHT TO RECEIVE AND RELEASE NEEDED INFORMATION

Certain facts are needed to apply these COB rules. [Insurer] has the right to decide which facts it needs. It may get needed facts from or give them to any other organization or person. [Insurer] need not tell, or get the consent of, any person to do this. Each person claiming benefits under This Plan must give [insurer] any facts it needs to pay the claim.

VI. FACILITY OF PAYMENT

A payment made under another plan may include an amount that~~which~~ should

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have been paid under This Plan. If it does, [insurer] may pay that amount to the organization ~~that~~^{which} made ~~the~~^{that} payment under the other plan. That amount will then be treated as though it were a benefit paid under This Plan. [Insurer] will not have to pay that amount again. The term "payment made" includes providing benefits in the form of services, in which case "payment made" means reasonable cash value of the benefits provided in the form of services.

VII. RIGHT OF RECOVERY

If the amount of the payments made by [insurer] is more than it should have paid under this COB provision, it may recover the excess from one or more of:

- A. The persons it has paid or for whom it has paid;
- B. Insurance companies; or
- C. Other organizations.

The "amount of the payments made" includes the reasonable cash value of any benefits provided in the form of services.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Standard Health Applications
- 2) Code Citation: 50 Ill. Adm. Code 2030
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
2030.10	Repeal
2030.20	Repeal
2030.30	Repeal
2030.40	Repeal
2030.APPENDIX A	Repeal
2030.APPENDIX B	Repeal
2030.APPENDIX C	Repeal
- 4) Statutory Authority: Implementing Section 359b and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/359b and 401]
- 5) A Complete Description of the Subjects and Issues Involved: The implementing statutory authority, 215 ILCS 5/359b establishing a committee to create a uniform small employer group-health status questionnaire and individual health statement, was repealed by PA 98-969. Therefore, the corresponding rule is being repealed.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Diana Villamil Zuver
Assistant General Counsel
Illinois Department of Insurance
122 S. Michigan Ave, 19th Fl
Chicago IL 60603

or

Susan Anders
Rules Coordinator
Illinois Department of Insurance
320 W. Washington St.
Springfield IL 62767

312/814-8135
312/814-2862 (fax)

217/558-0957

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

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NOTICE OF PROPOSED REPEALER

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER Z: ACCIDENT AND HEALTH INSURANCEPART 2030
STANDARD HEALTH APPLICATIONS (REPEALED)

Section

2030.10	Purpose
2030.20	Definitions
2030.30	Illinois Standard Health Applications
2030.40	Administrative Sections
2030.APPENDIX A	Illinois Standard Health Employee Application for Small Employers
2030.APPENDIX B	Illinois Standard Health Application for Individual & Family Health Insurance Coverage
2030.APPENDIX C	Certification of Compliance

AUTHORITY: Implementing Section 359b and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/359b and 401].

SOURCE: Adopted at 35 Ill. Reg. 2079, effective January 21, 2011; repealed at 39 Ill. Reg. _____, effective _____.

Section 2030.10 Purpose

The purpose of this Part is to implement Section 359b of the Illinois Insurance Code that, in part, provides for the creation of a standard health application to be used by all carriers offering health benefit plans in the small group market and individual health insurance coverage in the individual market. This Part establishes criteria and provides guidance to carriers for the use of the standard health applications. This Part also establishes criteria for use of the standard health applications electronically, as well as for their translation into other languages.

Section 2030.20 Definitions

The following definitions shall apply to this Part:

"Applicant" means, in connection with an application for a health benefit plan or health insurance coverage, any person requesting coverage, including, with

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respect to a small employer, the employer's individual employees and their dependents.

"Carrier" or "health insurance issuer" means any entity that provides health insurance in this State. For the purposes of this Part, carrier includes a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or any other entity providing a health benefit plan or health insurance coverage subject to State insurance regulation.

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

"Department" means the Illinois Department of Insurance.

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

"Health benefit plan" or "health plan" means any hospital or medical expense-incurred policy, hospital or medical service plan contract, or health maintenance organization subscriber contract. Health benefit plan shall not include individual, accident-only, credit, dental, vision, Medicare supplement, hospital indemnity, long term care, specific disease, stop loss or disability income insurance, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

"Health insurance coverage", "individual health insurance coverage" and "individual market" shall have the meanings given the terms in the Illinois Health Insurance Portability and Accountability Act (Illinois HIPAA) [215 ILCS 97].

"Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

Application of aggregation rule for small employers. All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 (26 USC 414(b)) shall be treated as one employer.

Employers not in existence in preceding year. In the case of an employer that was not in existence throughout the preceding calendar year, the

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determination of whether the employer is a small employer shall be based on the average number of employees that it is reasonably expected the employer will employ on business days in the current calendar year.

Predecessors. Any reference in this Part to a small employer shall include a reference to any predecessor of that employer.

"Small employer carrier" means a carrier that offers health benefit plans covering employees of one or more small employers in this State.

"Small group market" means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) through a group health benefit plan maintained by a small employer.

Section 2030.30 Illinois Standard Health Applications

- a) **Applicability.** All small employer carriers shall use a version of the Illinois Standard Health Employee Application for Small Employers (Appendix A), and shall not use any alternative application form, in connection with a small employer's application for a new health benefit plan. All carriers offering health insurance coverage in the individual market shall use a version of the Illinois Standard Health Application for Individual & Family Health Insurance Coverage (Appendix B), and shall not use any alternative application form, in connection with an application for new individual health insurance coverage. Carriers not subject to this Part may use the standard health applications on a voluntary basis, subject to the requirements of this Part.
- b) **Filing and Use**
 - 1) No version of the standard health application, including an unmodified version of Appendix A or Appendix B, may be used by a carrier until the application is filed with the Department in accordance with the filing procedures established by 50 Ill. Adm. Code 916. Carriers may use a standard health application upon filing with the Department if the filing is accompanied by a properly completed and executed officer's Certification of Compliance (Appendix C). An application shall not be considered as filed with the Department until the carrier receives notice from the

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Department indicating that the filing has been received and entered in the Department's filing system.

- 2) Online versions of the standard health applications must be filed with the Department in accordance with the filing procedures established by 50 Ill. Adm. Code 916. Filings shall include screen shots of every application page that an applicant could encounter when completing the online application, as well as a copy of a sample completed application as required by subsection (c)(1). Carriers may use online versions of the standard health application upon filing if the filing is accompanied by a properly completed and executed officer's Certification of Compliance (Appendix C). An application shall not be considered as filed with the Department until the carrier receives notice from the Department indicating that the filing has been received and entered in the Department's filing system.
- 3) Versions of the standard health applications that have been translated into another language must be filed with the Department in accordance with the filing procedures established by 50 Ill. Adm. Code 916. Carriers may use translated versions of the standard health applications upon filing if the filing is accompanied by:
 - A) a properly completed and executed officer's Certification of Compliance (Appendix C); and
 - B) documentation proving that the application is a certified translation and is contextually identical to Appendix A or Appendix B. An application shall not be considered as filed with the Department until the carrier receives notice from the Department indicating that the filing has been received and entered in the Department's filing system.
- c) **Form and Content.** A standard health application filed pursuant to subsection (b) shall contain verbatim the text of Appendix A or Appendix B. A standard health application shall not vary from the format of Appendix A or Appendix B, including font size, use of bold character and underlining, line spacing, and the order of questions or sections within the application, except as provided in this subsection (c) and subsection (e)(1).

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- 1) Online versions of the standard health applications may vary from the format of Appendix A or Appendix B to the extent the variation allows an applicant to more easily complete and submit the online application. An electronic copy of the completed online application shall be made available to applicants for printing or saving upon completion, and the electronic copy shall be substantially similar to the form and content of Appendix A or Appendix B.
 - 2) In order to allow applicants to apply for coverage from multiple carriers using a single application, a standard health application filed pursuant to subsection (b) shall not contain logos, addresses, or other carrier-specific information or identifiers, except that the carrier's NAIC number shall appear in the bottom right hand corner of each page.
 - 3) Instruction #4 on page 1 of Appendix B shall only be included in online versions of the standard health applications.
 - 4) A carrier's name may be preprinted in one of the six designated spaces for carrier names on page 1 of Appendix A or page 11 of Appendix B.
 - 5) The format of a standard health application filed pursuant to subsection (b) of this Section may vary from the format of Appendix A or Appendix B in other ways at the discretion of the Director.
- d) The Department will maintain a dedicated portion of its website to facilitate use of the standard health applications by both applicants and carriers. The website will also provide links to additional information about health insurance rights under State and federal law, as referenced throughout Appendix A and Appendix B, as well as an example of a properly completed question as referenced in Section F of Appendix B. PDF versions of the Illinois Standard Health Employee Application for Small Employers and the Illinois Standard Health Application for Individual & Family Health Insurance Coverage will be available for use or download from the Department's website. The PDF versions will allow applicants to complete and submit the standard health application to a carrier or carriers electronically, or to print the application out and complete by hand. All carriers subject to this Part shall allow for the electronic submission of the standard health applications pursuant to a reasonable process established by the carrier and clearly set forth on the carrier's website.

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- e) The Illinois Standard Health Employee Application for Small Employers (Appendix A) shall be used by small employer carriers for underwriting and enrolling a new small employer group and for adding new enrollees to an existing small employer group health benefit plan. A carrier is not required to use the standard application when adding new enrollees to an existing small employer group health benefit plan if the carrier does not request information about the health status or health history of the individual employees or dependents to be added.
- 1) A small employer carrier that uses a separate enrollment form for adding new enrollees to an existing small employer group health benefit plan may modify the "To Be Completed by Employer" box of Appendix A as necessary.
 - 2) Any such separate enrollment form for adding new enrollees to an existing small employer group health benefit plan must be filed with the Department in accordance with the filing procedures established by 50 Ill. Adm. Code 916.
- f) Reciprocity. All carriers subject to this Part shall implement policies and procedures necessary to use the standard health applications. Applicants for a health benefit plan in the small group market may complete any version of the Illinois Standard Health Employee Application for Small Employers (Appendix A) filed by any carrier pursuant to subsection (b), or the version available on the Department's website (as described in subsection (d)), and no small employer carrier may refuse to accept or may discriminate in the processing of that standard health application. Applicants for health insurance coverage in the individual market may complete any version of the Illinois Standard Health Application for Individual & Family Health Insurance Coverage (Appendix B) filed by any carrier pursuant to subsection (b), or the version available on the Department's website (as described in subsection (d)), and no carrier offering individual health insurance coverage may refuse to accept or may discriminate in the processing of that standard health application.
- g) The information contained within a completed standard health application shall be considered current by the carrier for a minimum of 60 days from the date of the earliest signature. For the period of time that the information contained within a standard health application is considered current, carriers may not require an applicant to complete a new standard health application. However, carriers may

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require an applicant to certify that the information contained in the completed standard health application is current. A carrier shall accept and utilize information provided by an applicant subsequent to the date the applicant signed the completed application if the applicant is providing the carrier with additional or modified information.

Section 2030.40 Administrative Sections

- a) Carriers subject to this Part may require applicants to complete, in addition to the standard health application, a separate administrative section as necessary to address plan selection, billing, and other carrier-specific needs related to the application and enrollment process. All such administrative sections shall be filed with the Department in accordance with the filing procedures established by 50 Ill. Adm. Code 916, and shall be subject to the following requirements:
 - 1) Administrative sections shall not contain questions that inquire about the health status or health history of any applicant.
 - 2) Administrative sections may be attached to the front or back of a standard health application, but shall constitute a separate and distinct section that may be detached from the standard health application. Administrative sections shall contain carrier-specific logos and addresses to distinguish those sections from the standard health applications.
 - 3) Administrative sections shall comply with all applicable provisions of the Illinois Insurance Code and related laws and regulations.
 - 4) An administrative section need not be filed with the Department under this Section if the entire administrative section has been previously approved by the Department under a unique form filing number (and such approval remains in effect).
- b) Carriers may use administrative sections upon filing with the Department if the filing is accompanied by a properly completed and executed officer's Certification of Compliance (Appendix C).

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Section 2030.APPENDIX A Illinois Standard Health Employee Application for Small Employers



Illinois Standard Health Employee Application for Small Employers

INSURER USE ONLY
Policy/Group No. _____
Section No. _____
Effective Date _____
New Hire Waiting Period _____

For assistance in completing this application, please contact your employer or insurance agent. For information about your health insurance rights under state and federal law, and other resources, please contact the Illinois Department of Insurance's Office of Consumer Health Insurance toll free at (877) 527-9431.

This standard application is intended to simplify your health insurance application process. You will only need to complete this one application, even when your employer has requested quotes from multiple insurance companies.

The information you provide in this application will be sent to the following insurance companies:

(To be completed by employer)

Insurer: 2079 January 21, 2011 _____ Insurer: _____ Insurer: _____
Insurer: _____ Insurer: _____ Insurer: _____

TO BE COMPLETED BY EMPLOYER	
Employer Name: _____	Phone #: _____
Address: _____	
Reason for Enrollment (Mark all that apply)	
New Enrollment: <input type="checkbox"/> New Group <input type="checkbox"/> Open Enrollment <input type="checkbox"/> New Hire (Date: _____) <input type="checkbox"/> Late Enrollee	
Special Enrollment: <input type="checkbox"/> Adoption <input type="checkbox"/> Court Order <input type="checkbox"/> Dependent Addition <input type="checkbox"/> Divorce <input type="checkbox"/> Domestic Partner <input type="checkbox"/> Loss of Coverage <input type="checkbox"/> Marriage <input type="checkbox"/> Newborn <input type="checkbox"/> Other Date of Event: ____/____/____	
Employment Status: <input type="checkbox"/> Active <input type="checkbox"/> Retiree (Retirement Date: ____/____/____) <input type="checkbox"/> Illinois Continuation <input type="checkbox"/> COBRA <input type="checkbox"/> Employee <input type="checkbox"/> Dependent Qualifying Event: _____ Start Date ____/____/____ Projected End Date ____/____/____	

A. Employee Information

Name (Last)	DEPARTMENT OF INSURANCE	(First)	(MI)
Job Title:	Hire Date:	Hrs/Week:	
Marital Status: <input type="checkbox"/> Married <input checked="" type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed <input type="checkbox"/> Domestic Partner			
Home Address:			Apt #:
City:	State:	Zip:	
Home (or Cell) Phone: ()		Business Phone: ()	
Email Address (optional):			

B. Coverage Requested

Medical		
Employee: <input type="checkbox"/> Yes <input type="checkbox"/> No	Spouse/Domestic Partner: <input type="checkbox"/> Yes <input type="checkbox"/> No	Child(ren): <input type="checkbox"/> Yes <input type="checkbox"/> No
Plan Choice:	Plan Choice:	Plan Choice:
If you are waiving (declining) coverage for yourself or any member of your family, you <u>must</u> complete Section C below.		

ILLINOIS STANDARD HEALTH APPLICATION – SMALL EMPLOYER

Employer Name _____ Employee Name _____

C. Waiver of Coverage

Please complete this section only if **you are waiving (declining) coverage** for yourself or one or more of your family members.

I acknowledge that I have been given the opportunity to apply for group coverage available to me and my dependents through my employer.

I understand and agree:

- ◆ If I am declining coverage for myself, my spouse/domestic partner, or my dependent child(ren) because of other coverage, I may in the future be able to enroll myself, my spouse/domestic partner, or my dependent child(ren) provided that I request enrollment within 31 days after the other coverage ends.
- ◆ If I have a new spouse/domestic partner or child as a result of marriage, birth, adoption, or placement for adoption, I may be able to enroll myself and my new spouse/domestic partner or child provided that I request enrollment within 31 days after the marriage, birth, adoption, or placement for adoption.
- ◆ If I decide to request coverage in the future, for a reason other than the termination of other coverage or the addition of a new spouse/domestic partner or child, I may be considered a late enrollee, if applicable, or I may have to wait until the plan's next open enrollment period. I also understand that as a late enrollee, coverage for preexisting conditions may be excluded for up to a period of 18 months. This period may be offset by the time I, my spouse/domestic partner, or my dependent child(ren) was covered under a qualified health plan.

I certify that I was not pressured, forced, or unfairly induced by my employer, the agent, or the insurer(s) into waiving or declining the group coverage.

I **DO NOT** want, and hereby waive, coverage for (**initial** next to all that apply):

Medical for	[] Myself	[] My Spouse/Domestic Partner	[] My Dependent Child(ren)
Dental ® for	[] Myself	[] My Spouse/Domestic Partner	[] My Dependent Child(ren)
Vision ® for	[] Myself	[] My Spouse/Domestic Partner	[] My Dependent Child(ren)
Basic Life ® for	[] Myself	[] My Spouse/Domestic Partner	[] My Dependent Child(ren)

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Dependent Life ® for	[]	Myself	[]	My Spouse/Domestic Partner	[]	My Dependent Child(ren)
Voluntary Life ® for	[]	Myself	[]	My Spouse/Domestic Partner	[]	My Dependent Child(ren)
Short-Term Disability ® for	[]	Myself	[]	My Spouse/Domestic Partner	[]	My Dependent Child(ren)
Long-Term Disability ® for	[]	Myself	[]	My Spouse/Domestic Partner	[]	My Dependent Child(ren)

If offered.

I am **declining** group coverage for the following reason(s): (**check** all that apply)

Spouse/Domestic Partner's Employer Plan Individual Coverage (Non-Group Plan)

COBRA/State Continuation Medicare or other Government Program

Other (please explain): _____

If you are declining ALL coverage for ALL persons, please skip to the Acknowledgement & Signature section on page 10 of this application.

ILLINOIS STANDARD HEALTH APPLICATION – SMALL EMPLOYER

Employer Name _____ Employee Name _____

D. Individuals Requesting Coverage

List yourself and all eligible family members to be included under coverage.

- ◆ Please check with your employer or insurance agent about who may qualify as an eligible family member under the policy.
- ◆ Illinois' Young Adult Dependent Coverage law allows parents to cover children up to the age of 26, and up to age 30 for military veteran dependents, regardless of whether the child may be considered a dependent for tax or other purposes. For more information, please visit the Illinois Department of Insurance website at www.insurance.illinois.gov.

Note: For purposes of this application, an "eligible military veteran" is a veteran who served in the active or reserve components of the U.S. Armed Forces, including the National Guard, and who received a release or discharge other than a dishonorable discharge.

If additional space is required, please attach a separate sheet and be sure to sign and date that sheet.

Employee Name (Last) _____ (First) _____ (MI) _____

Social Security Number: _____ Date of Birth: / /

Weight: lbs. Height: ft. in. Gender: Male Female

HMO only (if/when applicable): Primary Care Physician: _____ Physician ID: _____

Spouse/Domestic Partner Name (Last) _____ (First) _____ (MI) _____

Social Security Number: _____ Date of Birth: / /

Weight: lbs. Height: ft. in. Gender: Male Female

HMO only (if/when applicable): Primary Care Physician: _____ Physician ID: _____

Dependent Name (Last) _____ (First) _____ (MI) _____

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Social Security Number:		Date of Birth: / /	
Weight: lbs.	Height: ft. in.	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	
Eligible Military Veteran: <input type="checkbox"/> Yes <input type="checkbox"/> No			
HMO only (if/when applicable): Primary Care Physician:		Physician ID:	
Dependent Name (Last) _____ (First) _____ (MI) _____			
Social Security Number:		Date of Birth: / /	
Weight: lbs.	Height: ft. in.	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	
Eligible Military Veteran: <input type="checkbox"/> Yes <input type="checkbox"/> No			
HMO only (if/when applicable): Primary Care Physician:		Physician ID:	
Dependent Name (Last) _____ (First) _____ (MI) _____			
Social Security Number:		Date of Birth: / /	
Weight: lbs.	Height: ft. in.	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	
Eligible Military Veteran: <input type="checkbox"/> Yes <input type="checkbox"/> No			
HMO only (if/when applicable): Primary Care Physician:		Physician ID:	
Dependent Name (Last) _____ (First) _____ (MI) _____			
Social Security Number:		Date of Birth: / /	
Weight: lbs.	Height: ft. in.	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	
Eligible Military Veteran: <input type="checkbox"/> Yes <input type="checkbox"/> No			
HMO only (if/when applicable): Primary Care Physician:		Physician ID:	

ILLINOIS STANDARD HEALTH APPLICATION – SMALL EMPLOYER

Employer Name _____ Employee Name _____

E. Current/Prior Coverage Information

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Please indicate for EACH person listed on this application any health coverage, including Medicare or Medicaid, in effect within **24 months** prior to the proposed effective date of this coverage. Each person applying for coverage must be listed below. If no health care coverage was in effect within the **past 24 months**, please indicate **NONE**. If coverage is provided for a dependent from a previous marriage or relationship, please attach a copy of the court documentation showing who is responsible for the dependent(s)' health care coverage so that the insurer can determine whose coverage is primary.

Note: If you have had health care coverage within the last 63 days, your Pre-Existing Condition (PEC) waiting period limitation may be partially or completely waived. To determine if this applies to you, you must provide proof of prior coverage, such as a Certificate of Creditable Coverage from your previous insurer. Submission of prior coverage information does not automatically waive any PEC limitation. You will be subject to an automatic PEC Waiting Period of up to 12 months until the insurer receives evidence of prior coverage.

If additional space is required, please attach a separate sheet and be sure to sign and date that sheet.

Employee Name (Last) _____ (First) _____ (MI) _____

▶ **Current/Most Recent Coverage:** Group Medical Dental Individual Medical None

Dates of Coverage: From: _____/_____/_____ To: _____/_____/_____

Policyholder Name: _____ Insurer Name: _____

▶ Will the individual continue this coverage? Yes No

▶ **Prior Coverage (if any):** Group Medical Dental Individual Medical None

Dates of Coverage: From: _____/_____/_____ To: _____/_____/_____

Policyholder Name: _____ Insurer Name: _____

Spouse/Domestic Partner Name (Last) _____ (First) _____ (MI) _____

▶ **Current/Most Recent Coverage:** Group Medical Dental Individual Medical None

Dates of Coverage: From: _____/_____/_____ To: _____/_____/_____

Policyholder Name: _____ Insurer Name: _____

▶ Will the individual continue this coverage? Yes No

▶ **Prior Coverage (if any):** Group Medical Dental Individual Medical None

Dates of Coverage: From: _____/_____/_____ To: _____/_____/_____

Policyholder Name: _____ Insurer Name: _____

Dependent Name (Last) _____ (First) _____ (MI) _____

▶ **Current/Most Recent Coverage:** Group Medical Dental Individual Medical None

Dates of Coverage: From: _____/_____/_____ To: _____/_____/_____

Policyholder Name: _____ Insurer Name: _____

▶ Will the individual continue this coverage? Yes No

▶ **Prior Coverage (if any):** Group Medical Dental Individual Medical None

Dates of Coverage: From: _____/_____/_____ To: _____/_____/_____

Policyholder Name: _____ Insurer Name: _____

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Dependent Name (Last) _____ (First) _____ (MI) _____

▶ **Current/Most Recent Coverage:** Group Medical Dental Individual Medical None
 Dates of Coverage: From: _____/_____/_____ To: _____/_____/_____
 Policyholder Name: _____ Insurer Name: _____

▶ Will the individual continue this coverage? Yes No

▶ **Prior Coverage (if any):** Group Medical Dental Individual Medical None
 Dates of Coverage: From: _____/_____/_____ To: _____/_____/_____
 Policyholder Name: _____ Insurer Name: _____

Dependent Name (Last) _____ (First) _____ (MI) _____

▶ **Current/Most Recent Coverage:** Group Medical Dental Individual Medical None
 Dates of Coverage: From: _____/_____/_____ To: _____/_____/_____
 Policyholder Name: _____ Insurer Name: _____

▶ Will the individual continue this coverage? Yes No

▶ **Prior Coverage (if any):** Group Medical Dental Individual Medical None
 Dates of Coverage: From: _____/_____/_____ To: _____/_____/_____
 Policyholder Name: _____ Insurer Name: _____

Dependent Name (Last) _____ (First) _____ (MI) _____

▶ **Current/Most Recent Coverage:** Group Medical Dental Individual Medical None
 Dates of Coverage: From: _____/_____/_____ To: _____/_____/_____
 Policyholder Name: _____ Insurer Name: _____

▶ Will the individual continue this coverage? Yes No

▶ **Prior Coverage (if any):** Group Medical Dental Individual Medical None
 Dates of Coverage: From: _____/_____/_____ To: _____/_____/_____
 Policyholder Name: _____ Insurer Name: _____

Medicare: If you or any family members listed on this application have Medicare coverage, please complete the following information.

Enrolling Individual Name (Last) _____ (First) _____ (MI) _____

Medicare <input type="checkbox"/> Part A <input type="checkbox"/> Part B <input type="checkbox"/> Part D Effective Date: _____/_____/_____ Reason for Medicare Entitlement: <input type="checkbox"/> Age <input type="checkbox"/> Disability <input type="checkbox"/> ERSD <input type="checkbox"/> Dual Enrollment	Medicare Number (please include alpha prefix): _____
--	--

Enrolling Individual Name (Last) _____ (First) _____ (MI) _____

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Medicare <input type="checkbox"/> Part A <input type="checkbox"/> Part B <input type="checkbox"/> Part D Effective Date: _____/_____/_____ Reason for Medicare Entitlement: <input type="checkbox"/> Age <input type="checkbox"/> Disability <input type="checkbox"/> ERSD <input type="checkbox"/> Dual Enrollment	Medicare Number (please include alpha prefix):
--	--

ILLINOIS STANDARD HEALTH APPLICATION – SMALL EMPLOYER

Employer Name _____ Employee Name _____

F. Health Statement**Instructions:**

1. The information you provide in this application is confidential. You should discuss with your employer if you prefer to submit the completed health statement directly to the insurance company or insurance broker.
2. The health information you provide below will be used by the insurance company to determine the price to charge your group for the coverage applied for and whether a Pre-Existing Condition Waiting Period(s) will apply to your coverage. Coverage for pre-existing conditions cannot be limited or excluded for dependents under the age of 19.
3. Each medical question below applies to all persons requesting coverage.
4. Answer the questions below with either Yes or No. If you answer Yes to any question, you must provide additional information in Section G below.
5. Do not leave any question unmarked.
6. Neither your employer nor your insurance agent can waive these requirements or may authorize you to provide anything less than a complete and accurate response to each of the questions.
7. After you submit this application, the insurance company may call you to obtain additional confidential information needed to evaluate and aid the processing of your application.

- 1** For the following conditions, **within the past 5 years**, have you or any dependents for whom you are requesting coverage:
- Been tested for or diagnosed with;
 - Had medical treatment recommended;
 - Received medical treatment, including prescription medications; or
 - Been hospitalized for any illness, injury, or health condition related to any of the categories listed below?

A. Cardiovascular disease or heart attack, stroke, high blood pressure, or any other disease or disorder of the heart, arteries, blood, or blood vessels? Yes No

B. Cancer or cancerous tumor? Yes No

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C. Asthma, emphysema, tuberculosis, or any other disorder of the lungs or respiratory system?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
D. Diabetes? If yes, check all that apply: <input type="checkbox"/> Non-Insulin Dependent <input type="checkbox"/> Insulin Dependent <input type="checkbox"/> Insulin Pump	<input type="checkbox"/> Yes	<input type="checkbox"/> No
E. Hepatitis, or any disorder of the liver, stomach, colon, or intestines?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
F. Growth disorder or a disorder of the pancreas?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
G. Chronic kidney stones, or other disorders of the kidney, prostate, or bladder?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
H. Reproductive organ disorders or infertility?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
I. Arthritis, or any other disorder of the joints, muscles, back, or bones?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
J. Mental or emotional disorder?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
K. Seizures/epilepsy, paralysis, or any other disorder of the brain or nervous system?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
L. HIV positive, AIDS, diseases associated with AIDS, lupus, or other disorder of the immune system?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
M. Alcohol, drug, or substance use or dependency?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
N. Organ or bone marrow transplant?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2 Are you, your spouse/domestic partner, or any dependent for whom you are requesting coverage currently pregnant? Due Date: ____/____/____ (MM/DD/YYYY) If yes, are multiples (twins, triplets, etc.) expected? Are there any known complications, or is a cesarean section planned?	<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No
3 Within the past 12 months , have you or your spouse/domestic partner used any tobacco products? Employee: Spouse/Domestic Partner:	<input type="checkbox"/> Yes <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> No
4 Within the past 12 months , has any applicant been prescribed medication (other than for the common cold or flu) that is not indicated elsewhere in this application ?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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<p>5 Within the past 5 years, has any person applying for coverage been tested for or diagnosed with, had medical treatment recommended, received medical treatment, including prescription medications, or been hospitalized for any illness, injury or health condition not indicated above?</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
--	------------------------------	-----------------------------

ILLINOIS STANDARD HEALTH APPLICATION – SMALL EMPLOYER

Employer Name _____ Employee Name _____

G. Additional Information

If you answered “Yes” to any of the questions above, you must complete this section.

If additional space is required, please attach a separate sheet and be sure to sign and date that sheet.

Question Number: _____ Name of Individual: _____

Condition/Diagnosis: _____ Date Diagnosed (MM/YYYY): _____

Treatment Received: _____

Treatment ongoing? Yes No Last Treatment Date: _____

Surgery, additional tests or treatment recommended? _____

Medication Prescribed (if any): _____

_____ Currently taking medication? Yes No

Question Number: _____ Name of Individual: _____

Condition/Diagnosis: _____ Date Diagnosed (MM/YYYY): _____

Treatment Received: _____

Treatment ongoing? Yes No Last Treatment Date: _____

Surgery, additional tests or treatment recommended? _____

Medication Prescribed (if any): _____

_____ Currently taking medication? Yes No

ILLINOIS STANDARD HEALTH APPLICATION – SMALL EMPLOYER

Employer Name _____ Employee Name _____

Question Number: _____ Name of Individual: _____

Condition/Diagnosis: _____ Date Diagnosed (MM/YYYY): _____

Treatment Received: _____

Treatment ongoing? Yes No Last Treatment Date: _____

Surgery, additional tests or treatment recommended? _____

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NOTICE OF PROPOSED REPEALER

Medication Prescribed (if any): _____
_____ Currently taking medication? Yes No

Question Number: _____ Name of Individual: _____

Condition/Diagnosis: _____ Date Diagnosed (MM/YYYY): _____
Treatment Received: _____

Treatment ongoing? Yes No Last Treatment Date: _____
Surgery, additional tests or treatment recommended? _____
Medication Prescribed (if any): _____
_____ Currently taking medication? Yes No

Question Number: _____ Name of Individual: _____

Condition/Diagnosis: _____ Date Diagnosed (MM/YYYY): _____
Treatment Received: _____

Treatment ongoing? Yes No Last Treatment Date: _____
Surgery, additional tests or treatment recommended? _____
Medication Prescribed (if any): _____
_____ Currently taking medication? Yes No

Question Number: _____ Name of Individual: _____

Condition/Diagnosis: _____ Date Diagnosed (MM/YYYY): _____
Treatment Received: _____

Treatment ongoing? Yes No Last Treatment Date: _____
Surgery, additional tests or treatment recommended? _____
Medication Prescribed (if any): _____
_____ Currently taking medication? Yes No

Question Number: _____ Name of Individual: _____

Condition/Diagnosis: _____ Date Diagnosed (MM/YYYY): _____
Treatment Received: _____

Treatment ongoing? Yes No Last Treatment Date: _____
Surgery, additional tests or treatment recommended? _____

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

Medication Prescribed (if any): _____
 _____ Currently taking medication? Yes No

ILLINOIS STANDARD HEALTH APPLICATION – SMALL EMPLOYER

Employer Name _____ Employee Name _____

H. Additional Coverage Options

You should complete this section only if your employer offers any of the additional coverage options below.

Employee

▶ **Dental:** PPO HMO
 Dental HMO Office ID # (if applicable): _____
 Vision **Basic Life** **Dependent Life** **Voluntary Life:** Amount (if applicable): \$ _____
 Short-Term Disability **Long-Term Disability**
 ▶ **Employee Class** (employer will provide you with this information if needed): _____
 ▶ **Salary** (if requesting life or disability coverage): \$ _____
 Hourly Weekly Monthly Semi-monthly Annually

Spouse/Domestic Partner

▶ **Dental:** PPO HMO
 Dental HMO Office ID # (if applicable): _____
 Vision **Basic Life** **Dependent Life** **Voluntary Life:** Amount (if applicable): \$ _____
 Short-Term Disability **Long-Term Disability**

Child(ren)

▶ **Dental:** PPO HMO
 Dental HMO Office ID # (if applicable): _____
 Vision **Basic Life** **Dependent Life** **Voluntary Life:** Amount (if applicable): \$ _____
 Short-Term Disability **Long-Term Disability**

Beneficiary Information (if requesting life insurance)

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Primary Beneficiary Name (Last, First, MI) _____

Relationship _____ Benefit % _____

Secondary Beneficiary Name (Last, First, MI) _____

Relationship _____ Benefit % _____

ILLINOIS STANDARD HEALTH APPLICATION – SMALL EMPLOYER

Employer Name _____ Employee Name _____

I. Acknowledgement & Signature

I understand, agree, and represent that:

- ◆ I have read this document or it has been read to me.
- ◆ The answers provided within this entire application for coverage are, to the best of my knowledge and belief, true and complete.
- ◆ Neither my employer nor the agent has the authority to waive a complete answer to any question, determine coverage or insurability, alter any contract, or waive any of the insurance carrier's other rights and requirements.
- ◆ I understand that if I intentionally omit or provide false information on or in relation to this application, then this policy may be cancelled retroactively, in which case any claim I submit may not be paid by the insurer. I understand that if I intentionally omit or provide false information on or in relation to this application that I may face legal liability, including legal action based on fraud.
- ◆ If this application for coverage is accepted, coverage will be effective on the date specified by the insurance carrier on the certificate of coverage/certificate of insurance.

I hereby enroll for benefits as indicated in Section B and Section H of this application, for which I am presently eligible or for which I may become eligible under my employer's group contract(s). If any deductions are required for this coverage, I authorize such deductions from my earnings. I reserve the right to revoke this deduction authorization at any time upon written notice.

I understand that the information I have provided in this application will be used by the insurance carrier and its affiliates to make decisions regarding eligibility, enrollment, underwriting, and premium risk rating.

I understand that the medical information provided also includes my spouse/domestic partner and/or dependents' information.

I understand that I may be asked for authorization to disclose my medical, claim, or benefit records at a later time.

I understand that I should retain a duplicate copy of this application for my own records.

A photographic copy of this acknowledgment shall be as valid as the original.

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I authorize the insurance carrier to electronically transmit the information contained herein.

If this application was taken over the phone or on the computer, I acknowledge that I, myself, have not actually signed this application but instead hereby authorize the insurance carrier to print "Electronically Acknowledged" on the signature line of the application and I agree that such printing shall be treated as a valid signature for all purposes of this form. I acknowledge that the insurance carrier has verified my identity for this purpose in accordance with any applicable law or regulation.

By signing below, I acknowledge that I have read and understand this document and I am signing of my own free will.

Employee Signature _____ **Date** _____

- For assistance in completing this application, please contact your employer or insurance agent. For information about your health care rights under state and federal law, and other resources, please contact the Illinois Department of Insurance's Office of Consumer Health Insurance toll free at (877) 527-9431.

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Section 2030.APPENDIX B Illinois Standard Health Application for Individual & Family Health Insurance Coverage



Illinois Standard Health Application for Individual & Family Health Insurance Coverage

For assistance in completing this application, please contact your insurance agent or the insurance company directly. For information about your health insurance rights under state and federal law, and other resources, please contact the Illinois Department of Insurance's Office of Consumer Health Insurance toll free at (877) 527-9431.

INSTRUCTIONS:

- 1. Any information you provide in this application is confidential.
2. The answers you provide in this application must be true and complete, to the best of your knowledge and belief. Do not leave any question unmarked.
3. An intentional misrepresentation may result in your policy being modified or terminated, or in claims being reduced or denied.
4. [For online version only] You should have the following information available, for each person requesting coverage:
- Social Security Number, date of birth, and height/weight;
- Information about any current or prior insurance coverage in effect within the last 12 months; and
- Personal health information. If you do not have enough information to respond to a question, you should obtain any required information from your current or former health care provider(s).
5. For purposes of this application, the term "dependent" refers to any child up to age 26 (or age 30 for military veterans) for whom you are requesting coverage, regardless of whether the child may be considered a dependent for tax or other purposes. For information about Illinois' Young Adult Dependent Coverage law, which allows parents to cover children up to age 26, and up to age 30 for military veterans, please visit the Illinois Department of Insurance website at www.insurance.illinois.gov.

A. Primary Applicant Information
Name (Last) (First) (MI)
Residential Street Address: Apt #:
City: State: Zip:
Mailing Address (if different): Apt #:
City: State: Zip:

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Primary Phone Number: ()	Best time to call: <input type="checkbox"/> Morning <input type="checkbox"/> Afternoon <input type="checkbox"/> Evening
Secondary Phone Number: ()	Best time to call: <input type="checkbox"/> Morning <input type="checkbox"/> Afternoon <input type="checkbox"/> Evening
Email Address (optional):	
Please check one of the following boxes: <input type="checkbox"/> New Application <input type="checkbox"/> Dependent Addition <input type="checkbox"/> Plan Change <input type="checkbox"/> Reinstatement	
Requested Effective Date: 2079January 21, 2011_____ (Coverage not in force until the insurance carrier approves your application and determines the effective date.)	

B. Employment Information

Occupation:	Job Title:
Spouse/Domestic Partner's Occupation:	Job Title:
Currently employed? (optional) Self: <input type="checkbox"/> Yes <input type="checkbox"/> No Spouse/Domestic Partner: <input type="checkbox"/> Yes <input type="checkbox"/> No	

ILLINOIS STANDARD HEALTH APPLICATION FOR INDIVIDUAL & FAMILY HEALTH INSURANCE COVERAGE

PRIMARY APPLICANT NAME _____ DATE _____

C. Persons Requesting Coverage

List all family members you wish to include under the policy. Insurance companies may have different rules about who may qualify as an eligible dependent. For more information regarding the available coverage, please check with your insurance agent or insurance carrier.

Note: For purposes of this application, an "eligible military veteran" is a veteran who served in the active or reserve components of the U.S. Armed Forces, including the National Guard, and who received a release or discharge other than a dishonorable discharge.

If additional space is required, please attach a separate sheet and be sure to sign and date that sheet.

Self Name (Last) _____ (First) _____ (MI) _____

Social Security Number (for internal use only): _____ Date of Birth: / /

State of Birth (country if born outside the U.S.): _____ Gender: Male Female

Percentage of time annually spent outside of Illinois for residence, work, or school:

Spouse/Domestic Partner Name (Last) _____ (First) _____ (MI) _____

Social Security Number (for internal use only): _____ Date of Birth: / /

State of Birth (country if born outside the U.S.): _____ Gender: Male Female

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Percentage of time annually spent outside of Illinois for residence, work, or school:	
Dependent Name (Last) _____ (First) _____ (MI) _____	
Relationship to Applicant:	Date of Birth: / /
Social Security Number (for internal use only):	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female
Eligible Military Veteran: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Percentage of time annually spent outside of Illinois for residence, work, or school:	
Dependent Name (Last) _____ (First) _____ (MI) _____	
Relationship to Applicant:	Date of Birth: / /
Social Security Number (for internal use only):	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female
Eligible Military Veteran: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Percentage of time annually spent outside of Illinois for residence, work, or school:	
Dependent Name (Last) _____ (First) _____ (MI) _____	
Relationship to Applicant:	Date of Birth: / /
Social Security Number (for internal use only):	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female
Eligible Military Veteran: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Percentage of time annually spent outside of Illinois for residence, work, or school:	
Dependent Name (Last) _____ (First) _____ (MI) _____	
Relationship to Applicant:	Date of Birth: / /
Social Security Number (for internal use only):	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female
Eligible Military Veteran: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Percentage of time annually spent outside of Illinois for residence, work, or school:	

ILLINOIS STANDARD HEALTH APPLICATION FOR INDIVIDUAL & FAMILY HEALTH INSURANCE COVERAGE

PRIMARY APPLICANT NAME _____ DATE _____

D. Current/Prior Coverage Information

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For EACH person listed on this application, please indicate any public health insurance coverage (for example, Medicare, HFS Medical Card, All Kids, Family Care, or other federal and state programs) or private health insurance in effect within the last 12 months. Each person applying for insurance must be listed below. If health insurance coverage was not in effect within the last 12 months, please indicate NONE.

Self Name (Last) _____ (First) _____ (MI) _____

- ▶ **Current/Most Recent Coverage:**
 None Medicare Other Public Private (Insurer: _____)
- ▶ **Dates of Coverage:** From: ____/____/____ To: ____/____/____
- ▶ Is the issuance of this coverage **replacing** your existing coverage? * Yes No

- ▶ **Prior Coverage (if any):**
 None Medicare Other Public Private (Insurer: _____)
- ▶ **Dates of Coverage:** From: ____/____/____ To: ____/____/____

Spouse/Domestic Partner Name (Last) _____ (First) _____ (MI) _____

- ▶ **Current/Most Recent Coverage:**
 None Medicare Other Public Private (Insurer: _____)
- ▶ **Dates of Coverage:** From: ____/____/____ To: ____/____/____
- ▶ Is the issuance of this coverage **replacing** your existing coverage? * Yes No

- ▶ **Prior Coverage (if any):**
 None Medicare Other Public Private (Insurer: _____)
- ▶ **Dates of Coverage:** From: ____/____/____ To: ____/____/____

Dependent Name (Last) _____ (First) _____ (MI) _____

- ▶ **Current/Most Recent Coverage:**
 None Medicare Other Public Private (Insurer: _____)
- ▶ **Dates of Coverage:** From: ____/____/____ To: ____/____/____
- ▶ Is the issuance of this coverage **replacing** your existing coverage? * Yes No

- ▶ **Prior Coverage (if any):**
 None Medicare Other Public Private (Insurer: _____)
- ▶ **Dates of Coverage:** From: ____/____/____ To: ____/____/____

Dependent Name (Last) _____ (First) _____ (MI) _____

- ▶ **Current/Most Recent Coverage:**
 None Medicare Other Public Private (Insurer: _____)
- ▶ **Dates of Coverage:** From: ____/____/____ To: ____/____/____

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▶ Is the issuance of this coverage **replacing** your existing coverage? [⊗] Yes No

▶ **Prior Coverage (if any):**
 None Medicare Other Public Private (Insurer: _____)
 ▶ **Dates of Coverage:** From: ____/____/____ To: ____/____/____

Dependent Name (Last) _____ (First) _____ (MI) _____

▶ **Current/Most Recent Coverage:**
 None Medicare Other Public Private (Insurer: _____)
 ▶ **Dates of Coverage:** From: ____/____/____ To: ____/____/____
 ▶ Is the issuance of this coverage **replacing** your existing coverage? [⊗] Yes No

▶ **Prior Coverage (if any):**
 None Medicare Other Public Private (Insurer: _____)
 ▶ **Dates of Coverage:** From: ____/____/____ To: ____/____/____

Dependent Name (Last) _____ (First) _____ (MI) _____

▶ **Current/Most Recent Coverage:**
 None Medicare Other Public Private (Insurer: _____)
 ▶ **Dates of Coverage:** From: ____/____/____ To: ____/____/____
 ▶ Is the issuance of this coverage **replacing** your existing coverage? [⊗] Yes No

▶ **Prior Coverage (if any):**
 None Medicare Other Public Private (Insurer: _____)
 ▶ **Dates of Coverage:** From: ____/____/____ To: ____/____/____

⊗ If answering "YES" please carefully read the following notice.

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT & HEALTH INSURANCE

According to information you have furnished, you intend to lapse or otherwise terminate existing accident and health insurance and replace it with a policy to be issued by the insurance carrier. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

1. Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.
2. You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.
3. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the

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application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the insurance carrier to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, re-read it carefully to be certain that all information has been properly recorded.

4. It is recommended that you do not terminate your present contract until you are certain that your application for the new contract has been approved by the insurance carrier.

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ILLINOIS STANDARD HEALTH APPLICATION FOR INDIVIDUAL & FAMILY HEALTH INSURANCE COVERAGE

PRIMARY APPLICANT NAME _____ DATE _____

DEPENDENT NAME (If submitted separately) _____

E. Health Statement

The federal **Genetic Information Nondiscrimination Act** prohibits health insurers from asking for and using "**genetic information**" when deciding whether to offer coverage and how much to charge for coverage. For more information on the Genetic Information Nondiscrimination Act, please visit the Illinois Department of Insurance website at www.insurance.illinois.gov.

Instructions:

1. Each medical question below applies to each person requesting coverage.
2. Answer the questions below by checking Yes or No. If you answer Yes to any question, you must provide additional information in Section F below.
3. Do not leave any question unmarked.

Limited Privacy Available: Persons age 18 or older may submit a signed and dated separate health statement. The information provided in such separate health statement(s) will likely be disclosed to the primary applicant.

1 For any of the following conditions, **within the past FIVE (5) years**, has anyone applying for coverage:

- Been diagnosed with;
- Had treatment or testing recommended;
- Received treatment, including prescription medications; or
- Been hospitalized for any illness, injury, or health condition listed below?

If answering "YES," check all that apply.

A. Heart/Circulatory Conditions/Disorders: Yes No

- ▶ **Heart:** Heart attack Chest pain Heart murmur Irregular heartbeat
 High/elevated blood pressure* High/elevated cholesterol*
- ⊗ If applicable, please provide last known blood pressure or cholesterol reading in Section F.
- ▶ **Circulatory:** Anemia Bleeding/clotting disorder Varicose/spider veins Phlebitis

B. Lymphatic Conditions/Disorders: Yes No

- Lymphadenopathy Enlarged lymph nodes Disease of the spleen

C. Cancer/Tumors/Growths: Yes No

- Cancer Tumors Cysts Polyps Lumps Other abnormal growths

D. Respiratory Conditions/Disorders: Yes No

- Asthma Bronchitis Emphysema Sleep apnea Pneumonia Tuberculosis
- Chronic obstructive pulmonary disease (COPD)

E. Intestinal/Digestive Conditions/Disorders: Yes No

- Acid reflux Ulcers Hernia (*indicate type*) Colitis Hemorrhoids Rectal bleeding Gallstones
- Irritable bowel syndrome Chronic diarrhea Hepatitis (*indicate type*) Elevated liver function test
- Jaundice Cirrhosis Gallbladder infection or inflammation Pancreatitis Crohn's disease

F. Urinary Conditions/Disorders: Yes No

- Kidney infection Kidney stones Bladder infection Cystitis Urinary reflux
- Urinary tract infection

G. Metabolic/Endocrine Conditions/Disorders: Yes No

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Diabetes Thyroid disorder High/low blood sugar Adrenal, pituitary, or other glandular disorder
 Chronic fatigue syndrome Obesity/weight loss surgery

H. Brain/Nervous System Conditions/Disorders: Yes No

Seizures Migraine headaches/Chronic severe headaches Head injury Paralysis Epilepsy
 Tremor Stroke or TIA Multiple sclerosis Parkinson's Restless leg syndrome
 Lou Gehrig's disease (ALS)

I. Immune System Conditions/Disorders: Yes No

HIV positive AIDS Diseases associated with AIDS

J. Musculoskeletal Conditions/Disorders: Yes No

Arthritis Gout Lupus Herniated disc Temporomandibular joint disorder (TMJ)
 Carpal tunnel syndrome Disease/disorder of the back or spine Other bone or joint disorder

K. Mental/Behavioral/Emotional Conditions/Disorders: Yes No

Depression Anxiety disorder Attention deficit disorder Chemical imbalance
 Bi-polar disorder Obsessive compulsive disorder Eating disorder

L. Allergies: Yes No

Allergies in any form Hay fever Hives Anaphylaxis

M. Eye Conditions/Disorders: Yes No

Glaucoma Cataracts Strabismus (crossed eyes) Detached retina

N. Ear Conditions/Disorders: Yes No

Hearing disorder Ear infection Loss of hearing

O. Nasal Conditions/Disorders: Yes No

Deviated septum Adenoiditis Sinusitis

P. Throat Conditions/Disorders: Yes No

Tonsillitis Strep throat

Q. Skin Conditions/Disorders: Yes No

Acne Psoriasis Eczema Keratosis Pre-cancerous lesions Herpes Melanoma

R. Congenital Abnormalities/Developmental Disorders: Yes No

▶ Congenital Abnormality: Cleft palate/lip Club foot Heart/lung/kidney defect or malformation
 ▶ Developmental Disorder: Pervasive development disorder Down's syndrome
 Autism spectrum disorder Learning disability

S. Reproductive System Conditions/Disorders: Yes No

▶ **Female:** Infertility Abnormal menstrual bleeding Abnormal PAP smear Endometriosis
 Ovarian cyst Sexually transmitted disease Human papillomavirus (HPV)
 Pregnancy complications Uterine fibroid Breast infection or inflammation
 ▶ Is any female applicant currently pregnant, an expectant parent, or in the process of adopting?
 Yes **No**
 ▶ **Male:** Infertility Erectile dysfunction Sexually transmitted disease Prostate disorder
 Gynecomastia
 ▶ Is any male applicant an expectant parent or in the process of adopting? **Yes** **No**

T. Other Conditions: Yes No

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Within the **past 5 years**, has anyone applying for coverage been diagnosed with, had treatment or testing recommended, received treatment, including prescription medications, or been hospitalized for **any illness, injury, or health condition not indicated elsewhere in this application?**
Note: You must include any illness, injury, or health condition related to one of the categories above, even if your specific illness, injury, or condition is not listed above.

ILLINOIS STANDARD HEALTH APPLICATION FOR INDIVIDUAL & FAMILY HEALTH INSURANCE COVERAGE

PRIMARY APPLICANT NAME _____ DATE _____

DEPENDENT NAME (If submitted separately) _____

Within the past <u>FIVE (5) YEARS:</u>			
2	Has anyone applying for coverage received treatment or had treatment recommended for drug or alcohol abuse, or been convicted of a drug or alcohol related offense (including a DUI)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3	Other than indicated elsewhere on this application , has anyone applying for coverage had an implant (e.g., breast, chin, or penile implant), internal fixation (e.g., pins, plates, rods, screws), prosthesis, pacemaker, heart valve replacement, shunt, or monitoring device?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4	Has anyone applying for coverage had testing performed and are currently waiting for results , or been advised to have treatment, testing, counseling, therapy, or surgery which has not yet been performed?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Within the past <u>TWELVE (12) MONTHS:</u>			
5	Has anyone applying for coverage experienced unexpected weight gain or loss of more than 20 pounds?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
6	Has anyone applying for coverage used any tobacco product (such as cigarettes, snuff, chewing tobacco, or any nicotine substitution product)? ▶ If yes, indicate who: <input type="checkbox"/> Primary Applicant <input type="checkbox"/> Spouse/Domestic Partner <input type="checkbox"/> Dependent Children	<input type="checkbox"/> Yes	<input type="checkbox"/> No
7	Has anyone applying for coverage participated in any dangerous or extreme sport activities, including, but not limited to: organized automobile/motorcycle/powerboat racing, skydiving, bungee jumping, ultralight flying, scuba diving, hang gliding, or outdoor rock/mountain climbing?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, indicate:			
	Who & Which Activity	When/How Often	Do you plan continued participation?
	_____		<input type="checkbox"/> Yes <input type="checkbox"/> No
	_____		<input type="checkbox"/> Yes <input type="checkbox"/> No
	_____		<input type="checkbox"/> Yes <input type="checkbox"/> No

8 **Other than indicated elsewhere on this application**, has any person applying for coverage **EVER** been treated, hospitalized, or had surgery for:

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◆ bypass?	<input type="checkbox"/> Yes <input type="checkbox"/> No
◆ angioplasty?	<input type="checkbox"/> Yes <input type="checkbox"/> No
◆ stent?	<input type="checkbox"/> Yes <input type="checkbox"/> No
◆ aneurysm?	<input type="checkbox"/> Yes <input type="checkbox"/> No
◆ valve replacement?	<input type="checkbox"/> Yes <input type="checkbox"/> No
◆ cancer?	<input type="checkbox"/> Yes <input type="checkbox"/> No
◆ stroke?	<input type="checkbox"/> Yes <input type="checkbox"/> No
◆ congenital abnormality?	<input type="checkbox"/> Yes <input type="checkbox"/> No
◆ organ or bone marrow transplant?	<input type="checkbox"/> Yes <input type="checkbox"/> No

ILLINOIS STANDARD HEALTH APPLICATION FOR INDIVIDUAL & FAMILY HEALTH INSURANCE COVERAGE

PRIMARY APPLICANT NAME _____ DATE _____

DEPENDENT NAME (If submitted separately) _____

9 For EACH person applying for coverage, complete the following information regarding his/her last physical exam (including checkups):

Self Name: _____ Exam Date (MM/YY): ____/____ Routine preventive care/wellness visit? Y N
 Spouse/Domestic
 Partner's Name: _____ Exam Date (MM/YY): ____/____ Routine preventive care/wellness visit? Y N
 Dependent's Name: _____ Exam Date (MM/YY): ____/____ Routine preventive care/wellness visit? Y N
 Dependent's Name: _____ Exam Date (MM/YY): ____/____ Routine preventive care/wellness visit? Y N
 Dependent's Name: _____ Exam Date (MM/YY): ____/____ Routine preventive care/wellness visit? Y N
 Dependent's Name: _____ Exam Date (MM/YY): ____/____ Routine preventive care/wellness visit? Y N

10 For EACH person applying for coverage, provide the following current information regarding his/her height and weight:

Self Name: _____ Height (Feet/Inches): ____/____ Weight (in pounds): _____
 Spouse/Domestic
 Partner's Name: _____ Height (Feet/Inches): ____/____ Weight (in pounds): _____
 Dependent's Name: _____ Height (Feet/Inches): ____/____ Weight (in pounds): _____
 Dependent's Name: _____ Height (Feet/Inches): ____/____ Weight (in pounds): _____
 Dependent's Name: _____ Height (Feet/Inches): ____/____ Weight (in pounds): _____
 Dependent's Name: _____ Height (Feet/Inches): ____/____ Weight (in pounds): _____

F. Additional Information

If you answered "YES" to any of the questions in Section E, you must provide additional information below. For an example of how to fill out this section, please visit the Illinois Department of Insurance website at www.insurance.illinois.gov.
Attach a separate sheet for additional information if necessary.

Question Number: _____ Name of Individual: _____

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Condition/Diagnosis: _____
 Treatment Received: _____

 Treatment ongoing? Yes No First & Last Treatment Date: _____
 Additional tests or treatment recommended? _____
 Medication Prescribed (if any): _____
 _____ Currently taking medication? Yes No
 Physician Name _____
 Phone # (_____) _____ City & State _____

ILLINOIS STANDARD HEALTH APPLICATION FOR INDIVIDUAL & FAMILY HEALTH INSURANCE COVERAGE

PRIMARY APPLICANT NAME _____ DATE _____

DEPENDENT NAME (If submitted separately) _____

Question Number: _____ **Name of Individual:** _____

Condition/Diagnosis: _____
 Treatment Received: _____

 Treatment ongoing? Yes No First & Last Treatment Date: _____
 Additional tests or treatment recommended? _____
 Medication Prescribed (if any): _____
 _____ Currently taking medication? Yes No
 Physician Name _____
 Phone # (_____) _____ City & State _____

Question Number: _____ **Name of Individual:** _____

Condition/Diagnosis: _____
 Treatment Received: _____

 Treatment ongoing? Yes No First & Last Treatment Date: _____
 Additional tests or treatment recommended? _____
 Medication Prescribed (if any): _____

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_____ Currently taking medication? Yes No

Physician Name _____

Phone # (_____) _____ City & State _____

Question Number: _____ Name of Individual: _____

Condition/Diagnosis: _____

Treatment Received: _____

Treatment ongoing? Yes No First & Last Treatment Date: _____

Additional tests or treatment recommended? _____

Medication Prescribed (if any): _____

_____ Currently taking medication? Yes No

Physician Name _____

Phone # (_____) _____ City & State _____

Question Number: _____ Name of Individual: _____

Condition/Diagnosis: _____

Treatment Received: _____

Treatment ongoing? Yes No First & Last Treatment Date: _____

Additional tests or treatment recommended? _____

Medication Prescribed (if any): _____

_____ Currently taking medication? Yes No

Physician Name _____

Phone # (_____) _____ City & State _____

ILLINOIS STANDARD HEALTH APPLICATION FOR INDIVIDUAL & FAMILY HEALTH INSURANCE COVERAGE

PRIMARY APPLICANT NAME _____ DATE _____

DEPENDENT NAME (If submitted separately) _____

G. Prescription Information within the Last Twelve (12) Months

Within the past 12 months, has anyone applying for coverage been prescribed medication (other than for the common cold or flu) that is **not indicated elsewhere in this application**? Yes No

Attach a separate sheet for additional information if necessary.

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Name of Individual: _____

Name of Medication _____

Reason for Taking: _____

First & Last Treatment Date: _____ Currently taking medication? Yes No

Physician Name: _____

Phone # (_____) _____ City & State _____

Name of Individual: _____

Name of Medication _____

Reason for Taking: _____

First & Last Treatment Date: _____ Currently taking medication? Yes No

Physician Name: _____

Phone # (_____) _____ City & State _____

Name of Individual: _____

Name of Medication _____

Reason for Taking: _____

First & Last Treatment Date: _____ Currently taking medication? Yes No

Physician Name: _____

Phone # (_____) _____ City & State _____

Name of Individual: _____

Name of Medication _____

Reason for Taking: _____

First & Last Treatment Date: _____ Currently taking medication? Yes No

Physician Name: _____

Phone # (_____) _____ City & State _____

Name of Individual: _____

Name of Medication _____

Reason for Taking: _____

First & Last Treatment Date: _____ Currently taking medication? Yes No

Physician Name: _____

Phone # (_____) _____ City & State _____

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PRIMARY APPLICANT NAME _____ DATE _____

AFFIRMATION

Signature – Adult applicants must sign this form below. Parent or guardian signature is required for applicants under the age of 18. **By signing this form, you certify the following:**

1. I have read this entire application or it has been read to me.
2. No independent producer, agent, or employee of the insurer can change any part of this application or waive the requirement that I answer all questions completely and accurately.
3. I understand that if I intentionally omit or provide false information on or in relation to this application, then this policy may be cancelled retroactively, in which case any claim I submit may not be paid by the insurer. I understand that if I intentionally omit or provide false information on or in relation to this application that I may face legal liability, including legal action based on fraud.
4. **All of the answers provided within this application are, to the best of my knowledge and belief, true and complete.** For more information, please visit the Illinois Department of Insurance's website at www.insurance.illinois.gov.

STATEMENT OF UNDERSTANDING

I understand and agree that:

- ◆ The information I have provided in this application will be used by the insurer to determine whether to extend coverage and the premium amount for such coverage.
- ◆ No coverage shall be in force until approved by the insurer. If approved, coverage will be in force as of the effective date determined by the insurer.
- ◆ This application will become part of the contract between the insurer and me.
- ◆ Except for a dependent up to the age of 19, coverage for preexisting medical conditions may be excluded or be subject to a waiting period of up to 24 months.
- ◆ I am entitled to a copy of this application and the Authorization to Use and Disclose Protected Health Information that is a part of this application upon request. I agree that a photographic copy shall be as valid as the original. A legible facsimile signature shall have the same force and effect as the original.
- ◆ I authorize the insurer to transmit the information contained herein electronically.

AUTHORIZATION TO USE AND DISCLOSE PROTECTED HEALTH INFORMATION**I. Protected Health Information**

By signing this form, I authorize certain organizations and persons to use or disclose my protected health information. Protected health information includes, but is not limited to, hospital records, physician records, claim or benefit records, lab results, mental health records, as well as information regarding the use of drug, alcohol, HIV/AIDS, sexually transmitted disease, and reproductive health services. Protected health information may be written, oral, or electronic. This form does not permit the use or disclosure of psychotherapy notes.

II. Purpose of this Authorization Form

By signing this form, I authorize the use and disclosure of protected health information for the purposes of pre-enrollment underwriting or risk-rating of health insurance coverage, to determine eligibility for

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enrollment or benefits under a health plan, or to allow the insurer to conduct utilization review and quality improvement activities ("Purpose").

III. Entities Authorized to Use and Disclose My Protected Health Information

Insurers: I hereby authorize the following insurers, their reinsurers, and their legal representatives ("Insurers") to receive, use, and disclose my protected health information for the Purpose listed above:

(Please list below the names of all the insurers to whom you are submitting this application.)

Insurer: _____ Insurer: _____ Insurer: _____
Insurer: _____ Insurer: _____ Insurer: _____

I authorize the Insurers to disclose my protected health information: between themselves, to reinsuring companies, and to insurance intermediaries or other persons or organizations performing business or legal services in connection with the Purpose above.

I further authorize any licensed physician, medical practitioner, health care provider, hospital, clinic, or other medical or medically related facility, insurance or reinsuring company, or other organization, institution, or person that has any record or knowledge of my health to disclose such information to the extent permitted by law to Insurers for the Purpose above.

I understand that protected health information described in this form may be used by, or disclosed to or by, organizations and persons who are not subject to federal or state privacy laws.

IV. Term of Authorization

I agree this Authorization shall be valid for two-and-one-half (2½) years from the latest signature date below.

V. Right to Revoke

I understand I may revoke this authorization at any time by giving advance written notice to Insurers. Revocation of this authorization form will not affect actions Insurers and others took in reliance on this form prior to the written notice of revocation.

If this application was taken over the phone or on the computer, I acknowledge that I, myself, have not actually signed this application but instead hereby authorize the insurance carrier to print "Electronically Acknowledged" on the signature line of the application and I agree that such printing shall be treated as a valid signature for all purposes of this form. I acknowledge that the insurance carrier has verified my identity for this purpose in accordance with any applicable law or regulation.

I HAVE READ AND CONSIDERED THE CONTENTS OF THIS FORM. BY SIGNING THIS FORM, I HEREBY AUTHORIZE THE USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION AS DESCRIBED IN THIS FORM.

Date _____
Primary Applicant (or Authorized Legal Representative) Signature

Date _____
Spouse / Domestic Partner Signature (ONLY if to be insured)

Date _____
Dependent Signature (ONLY if 18 or over and ONLY if to be insured)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

_____ Date _____ Dependent Signature (ONLY if 18 or over and ONLY if to be insured)
_____ Date _____ Dependent Signature (ONLY if 18 or over and ONLY if to be insured)
_____ Date _____ Dependent Signature (ONLY if 18 or over and ONLY if to be insured)

For assistance in completing this application, please contact your insurance agent or the insurance company directly. For information about your health insurance rights under state and federal law, and other resources, please contact the Illinois Department of Insurance's Office of Consumer Health Insurance, toll free at (877) 527-9431.

ILLINOIS STANDARD HEALTH APPLICATION FOR INDIVIDUAL & FAMILY HEALTH INSURANCE COVERAGE

PRIMARY APPLICANT NAME _____ DATE _____

TO BE COMPLETED BY AGENT**I. Agent/Producer Information**

I certify that:

1. All answers provided in this application were completed by or provided by the applicant.
2. I have reviewed this enrollment form to ensure that all required items have been completed.
3. I am not aware of any information not disclosed on this enrollment form relating to the health, habits, or reputation of any person listed on this enrollment form, which might have a bearing on the risk.

1. Producer/Writing Agent

Name:	ID#/Code:
Company:	Phone: ()
Email:	
Producer Signature: Date Signed: (A faxed signature shall be valid as an original signature.)	

2. Agent/Managing Agent

Name:	ID#/Code:
Company:	Phone: ()
Email:	
Agent Signature: Date Signed: (A faxed signature shall be valid as an original signature.)	

DEPARTMENT OF INSURANCE

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Section 2030.APPENDIX C Certification of Compliance

State of Illinois

Illinois Standard Health Application Certification of Compliance

Company: _____ Company FEIN: _____

Form Number(s): _____ Form Title(s): _____

I, _____, am a duly authorized officer of the above insurer, and do hereby certify that I am knowledgeable as to the current laws and regulations applicable to the policy form(s) identified above that are the subject of this filing (hereafter "the policy forms"), including Section 359b of the Illinois Insurance Code and Part 2030 of Title 50 of the Illinois Administrative Code governing the use of standard applications, and that the policy forms are in compliance with such laws and regulations. I further certify that this submission is complete and contains all materials required by applicable laws and regulations.

I understand that the Illinois Department of Insurance will rely on this certification in approving the policy forms listed above, and should it subsequently be determined that the policy forms listed above do not comply with the applicable laws and regulations or that this certification is materially false or incorrect, corrective and disciplinary action, including retroactive disapproval, as authorized by law, may be taken by the Department against the company and the officer that completed this certification.

Signature of Corporate Officer: _____

Signature of Company Compliance Officer: _____

Name (typed or printed): _____

Title: _____ Direct Telephone Number: _____

Date: _____

(This certification does not change an insurer's responsibility to comply with the Insurance Code. Failure to comply with all applicable provisions of the Code will cause an insurer to be subject to penalties ranging from suspension of authority to utilize the expedited process, discontinuation of authority to use of the form(s), examination, monetary penalties, or limitation or revocation of their certificate of authority. Insurers should be

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

aware that the assignment of such penalties will be liberal to ensure continued compliance with all Code requirements.)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Accident and Health Expense Reporting
- 2) Code Citation: 50 Ill. Adm. Code 2043
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2043.10	Repeal
2043.20	Repeal
2043.30	Repeal
2043.40	Repeal
2043.APPENDIX A	Repeal
- 4) Statutory Authority: Implementing Section 359c and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/359c and 401]
- 5) A Complete Description of the Subjects and Issues Involved: The implementing statutory authority, 215 ILCS 5/359c requiring that carriers of individual or group major medical policies of accident or health insurance provide statements of aggregate administrative expenses, was repealed by PA 98-969. Therefore, the corresponding rule is being repealed.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

Diana Villamil Zuver
Assistant General Counsel
Illinois Department of Insurance
122 S. Michigan Ave, 19th Fl
Chicago IL 60603

or

Susan Anders
Rules Coordinator
Illinois Department of Insurance
320 W. Washington St.
Springfield IL 62767

312/814-8135
fax: 312/814-2862

217/558-0957

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER Z: ACCIDENT AND HEALTH INSURANCEPART 2043
ACCIDENT AND HEALTH EXPENSE REPORTING (REPEALED)

Section

2043.10	Purpose
2043.20	Definitions
2043.30	Accident and Health Expense Reports
2043.40	Copies of Medical Loss Ratio Reports

2043.APPENDIX A A&H Expense Report – Data Table and Instructions

AUTHORITY: Implementing Section 359c and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/359c and 401].

SOURCE: Adopted at 36 Ill. Reg. 18734, effective December 17, 2012; repealed at 39 Ill. Reg. _____, effective _____.

Section 2043.10 Purpose

The purpose of this Part is to establish guidance for carriers to report to the Department information regarding administrative expenses for accident and health insurance business, as required by Section 359c of the Illinois Insurance Code.

Section 2043.20 Definitions

The following definitions shall apply to this Part:

"Carrier" means any entity that provides health insurance in this State. For the purposes of this Part, carrier includes a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

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

DEPARTMENT OF INSURANCE

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"Department" means the Illinois Department of Insurance.

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

"Major Medical" means insurance issued pursuant to Section 4, Class 1(b) or Class 2(a) of the Code, providing coverage for hospital, surgical, medical and associated expenses. The term does not include: hospital indemnity; accidental death and dismemberment; credit accident and health; short-term accident and health; accident-only, long-term care, Medicare Supplement, student blanket, dental-only, vision-only, prescription drug benefits, disability income, specified disease, or similar supplementary benefits; coverage issued as a supplement to liability insurance; workers' compensation or similar insurance; automobile medical payment insurance; short term limited duration insurance; or coverage under the Federal Employees Health Benefits Program.

Section 2043.30 Accident and Health Expense Reports

- a) All carriers providing a group or individual policy of major medical insurance shall prepare and provide to the Department a semiannual report in accordance with Appendix A of this Part.
- b) The semiannual reports shall be filed on or before April 1 for the preceding 6-month period ending December 31 and on or before October 1 for the preceding 6-month period ending June 30.
- c) All reports shall be completed and filed in an electronic format prescribed by the Director.
- d) The Department shall make all reports publicly available on the Department's website or such other media as appropriate in a form useful for consumers.

Section 2043.40 Copies of Medical Loss Ratio Reports

All carriers shall provide to the Department a copy of the reports required under section 2718 of the Public Health Service Act (42 USC 300gg), as added by section 1001 of the federal Patient Protection and Affordable Care Act (P.L. 111-148).

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Section 2043.APPENDIX A A&H Expense Report – Data Table and Instructions

A&H EXPENSE REPORT

NAIC Company Code _____

<u>PART I – CALCULATION OF EARNED PREMIUM</u>					
From: _____ Through: _____	ALL A&H	MAJOR MEDICAL BUSINESS			
		INDIVIDUALLY UNDERWRITTEN	GROUP 2-25	GROUP 26-50	GROUP 51+
1) DIRECT					
2) REINSURANCE ASSUMED					
3) REINSURANCE CEDED					
4) NET OF REINSURANCE					

<u>PART II – CALCULATION OF INCURRED CLAIMS</u>					
From: _____ Through: _____	ALL A&H	MAJOR MEDICAL BUSINESS			
		INDIVIDUALLY UNDERWRITTEN	GROUP 2-25	GROUP 26-50	GROUP 51+
1) CLAIMS PAID DURING PERIOD					
1.1 DIRECT					
1.2 REINSURANCE ASSUMED					
1.3 REINSURANCE CEDED					
1.4 NET					

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2) LIABILITY – END CURRENT PERIOD							
2.1 DIRECT							
2.2 REINSURANCE ASSUMED							
2.3 REINSURANCE CEDED							
2.4 NET							
3) AMOUNTS RECOVERABLE – REINSURANCE END OF CURRENT PERIOD							
4) LIABILITY – END OF PRIOR PERIOD							
4.1 DIRECT							
4.2 REINSURANCE ASSUMED							
4.3 REINSURANCE CEDED							
4.4 NET							
5) AMOUNTS RECOVERABLE – REINSURANCE END OF PRIOR PERIOD							
6) INCURRED CLAIMS							
6.1 DIRECT							
6.2 REINSURANCE ASSUMED							
6.3 REINSURANCE CEDED							

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6.4 NET					
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<u>PART III – COSTS RELATED TO CLAIMS</u>					
From: _____ Through: _____	ALL A&H	MAJOR MEDICAL BUSINESS			
		INDIVIDUALLY UNDERWRITTEN	GROUP 2-25	GROUP 26-50	GROUP 51+
1) CASE MANAGEMENT PROGRAMS					
2) WELLNESS / HEALTH EDUCATION					
3) FRAUD PREVENTION					
4) MAINTAINING PROVIDER NETWORKS					
5) PERSONAL ELECTRONIC HEALTH RECORD TECHNOLOGY					
6) UTILIZATION REVIEW & MANAGEMENT					

<u>PART IV – MARKETING AND GENERAL ADMINISTRATIVE COSTS</u>	
From: _____	MAJOR MEDICAL BUSINESS

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Through: _____	ALL A&H	INDIVIDUALLY UNDERWRITTEN	GROUP 2-25	GROUP 26-50	GROUP 51+
1) COMMISSIONS					
2) MARKETING – NON- COMMISSION					
3) ALL OTHER ADMIN. EXPENSES					

<u>PART V – STATE FEES AND FEDERAL AND STATE TAXES</u>					
From: _____	ALL A&H	MAJOR MEDICAL BUSINESS			
Through: _____		INDIVIDUALLY UNDERWRITTEN	GROUP 2-25	GROUP 26-50	GROUP 51+
1) CHIP ASSESSMENT					
2) GUARANTY FUND ASSESSMENT					
3) REGULATORY COMPLIANCE FEES					
3.1 FORM AND RATE FILINGS					
3.2 LICENSURE					
3.3 MARKET CONDUCT EXAMS					
3.4 FINANCIAL REPORTS					
4) PREMIUM TAX					

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5) STATE CORPORATE INCOME TAX						
6) FEDERAL CORPORATE INCOME TAX						

<u>PART VI – INCURRED BUT NOT REPORTED CLAIMS</u>						
From: _____ Through: _____	ALL A&H	MAJOR MEDICAL BUSINESS				
		INDIVIDUALLY UNDERWRITTEN	GROUP 2-25	GROUP 26-50	GROUP 51+	
1) INCURRED FROM _____ THROUGH _____ BUT NOT REPORTED						

Column Definitions for A&H Expense Report

Accident and Health Insurance (A&H): All contracts issued pursuant to Section 4, Class 1(b) or Class 2(a) of the Illinois Insurance Code and reported in the Accident and Health Experience Exhibit.

Major Medical Business: An insurance contract that provides coverage to or reimburses the covered person for hospital, surgical, medical and associated expenses.

Major Medical Business does not include: hospital indemnity; accidental death and dismemberment; credit accident and health; short-term accident and health; accident-only, long-term care, Medicare Supplement, student blanket, dental-only, vision-only, prescription drug benefits, disability income, specified disease, or similar supplementary benefits; coverage issued as a supplement to liability insurance; workers' compensation or

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similar insurance; automobile medical payment insurance; short-term limited duration insurance; or coverage under the Federal Employees Health Benefits Program.

Individually Underwritten: Coverage that is individually underwritten and individually rated, whether that coverage is provided under a policy, contract or evidence of coverage.

Group: Coverage issued in this State through single employer groups, excluding: multiple employer associations and trusts, non-employer based association trusts, and discretionary trusts. Specifically excluded are blanket and franchise accident and sickness insurance and insurance for any group that includes members other than employees, such as an association that has both employees of participating members and also individuals as members.

Group Size: Determined by number of employees, as defined in the Illinois Health Insurance Portability and Accountability Act [215 ILCS 97].

Instructions for Lines:**Part I:**

Line (4) Net of Reinsurance amounts: $\text{Line 4} = \text{Line 1} + \text{Line 2} - \text{Line 3}$

Part II:

Lines 1.4, 2.4, 4.4, 6.4 Net amounts: $\text{Line X.4} = \text{Line X.1} + \text{Line X.2} - \text{Line X.3}$

Line (3) Current Period: The six month period of time prior to current reporting date

Line (5) Prior Period: The six month period of time prior to previous reporting date

Part III:

Definitions of Lines 1, 2, 3, 4 and 6 are consistent with SSAP 55 and SSAP 85.

Part VI:

Line (1): IBNR (incurred but not reported) calculation applies only to the 12 months prior to the current reporting date.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Legal Reserve Life Blank
- 2) Code Citation: 50 Ill. Adm. Code 2101
- 3) Section Number: 2101.10 Proposed Action:
Repeal
- 4) Statutory Authority: Implementing Section 223 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/223 and 401]
- 5) A Complete Description of the Subjects and Issues Involved: This rule relates to Articles XVI and XXI of the Illinois Insurance Code which were repealed by PAs 98-969 and 86-753, respectively. Accordingly, this rule is being repealed.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this

Diana Villamil Zuver
Assistant General Counsel
Illinois Department of Insurance
122 S. Michigan Ave, 19th Fl
Chicago IL 60603

or

Susan Anders
Rules Coordinator
Illinois Department of Insurance
320 W. Washington St.
Springfield IL 62767

312/814-8135

217/558-0957

DEPARTMENT OF INSURANCE

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fax: 312/814-2862

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER aa: ASSESSMENT ACCIDENT
AND ASSESSMENT AND HEALTH COMPANIESPART 2101
LEGAL RESERVE LIFE BLANK (REPEALED)

Section
2101.10 Legal Reserve Life Blank Prescribed

AUTHORITY: Implementing Section 223 and authorized by Section 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, pars. 835 and 1013).

SOURCE: Filed and effective July 11, 1958; codified at 7 Ill. Reg. 3010; repealed at 39 Ill. Reg. _____, effective _____.

Section 2101.10 Legal Reserve Life Blank Prescribed

Assessment companies operating under Article XVI and Article XXI of the Illinois Insurance Code will report their transactions on the legal reserve life annual statement blank.

- a) The signature of the actuary on page 1 of the annual statement will be taken to mean that he personally was responsible for the calculation of the actuarial liabilities.
- b) Companies having non-tabular business will show the amount representing the balance of the non-tabular fund at line 27, page 3. Line 29, page 3, must include only the surplus in the tabular fund. Tabular and non-tabular business will be separated and shown in separate columns on page 5 and all supporting exhibits.
 - 1) Transactions involving guarantee fund certificates are to be shown in the surplus account, lines 34 to 51, on page 4.
 - 2) Coupons guaranteed under the terms of life insurance contracts are contract payments and are to be shown on line 9, page 4, and should not be included in dividends to policyholders, line 29, page 4.
- c) All policy, membership and other fees formerly shown on line 5, page 2, of the

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

assessment blank should be shown in gross on page 7, Exhibit 1. The amount paid to or retained by agents is to be included on lines 23 to 25 on page 7.

- d) All properties are to be shown individually in Schedule A. Permission to summarize will not apply to assessment companies.
 - 1) Schedule B. Instead of the five-page schedule in the life blank, assessment companies will continue to file a one-page schedule showing all mortgages owned and their classification.
 - 2) Schedule G. All payments over \$3000 will be shown as formerly. Part 1 will be ignored and the amounts shown in Part 2.
 - 3) Special interrogatories will be supplied on a separate page which will be inserted along with Schedule B.

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NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Producer Licensing
- 2) Code Citation: 50 Ill. Adm. Code 3121
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
3121.10	New Section
3121.20	New Section
3121.30	New Section
3121.40	New Section
3121.50	New Section
- 4) Statutory Authority: Implementing Section 500-10 through 500-155 and authorized by Section 401 of the Illinois Insurance Code
- 5) A Complete Description of the Subjects and Issues Involved: The purpose of this proposed new Part is for guidance and oversight. Part 3121 establishes specific requirements for individual insurance producers and business entity producers, which include the following: defining the term "resident"; requiring the Designated Responsible Licensed Producer (DRLP) of a business entity to be an owner, partner, officer or director of the business entity; setting the expiration date of a business entity license to be reciprocal with the NAIC resident business rules; defining the expiration date of a first time individual insurance license to birth month; allowing the Department five business days to receive and distribute reported pre-licensing and continuing education before an applicant can apply or renew a license; requiring individual and business entities to provide an email address on their Insurance Producer and Business Entity Producer applications; and requiring that the individual or business entity notify the Director within 30 days of an email address change.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking:
- | | |
|---|---|
| 122 S. Michigan Ave., 19th Floor
Chicago IL 60601-3251 | 320 West Washington, 4th Floor
Springfield IL 62767-0001 |
| fax: 312/814-2862 | fax: 217/524-9033 |
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Insurance Producers and Business Entity Producers
- B) Reporting, bookkeeping or other procedures required for compliance:
Department of Insurance's review of Insurance Producer and Business Entity Applications and Renewal Applications
- C) Types of professional skills necessary for compliance: Insurance Producers and Business Entity Producers
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER ii: INSURANCE PRODUCERS, LIMITED INSURANCE
REPRESENTATIVES AND REGISTERED FIRMS

PART 3121

PRODUCER LICENSING

Section

3121.10	Purpose
3121.20	Definitions
3121.30	Insurance Producer
3121.40	Business Entity Producer
3121.50	Severability

AUTHORITY: Implementing Sections 500-10 through 500-155 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/500-10 through 500-155 and 401].

SOURCE: Adopted at 39 Ill. Reg. _____, effective _____.

Section 3121.10 Purpose

The purpose of this Part is to establish requirements for individual insurance producers and business entity producers that the Director deems necessary to carry out the provisions of Sections 500-10 through 500-155 of the Illinois Insurance Code. Specifically, this Part establishes the following:

- a) defines the term "resident";
- b) requires the Designated Responsible Licensed Producer (DRLP) of a business entity to be an owner, partner, officer or director of the business entity;
- c) sets the expiration date of a business entity license to be reciprocal with the NAIC resident business rules;
- d) defines the expiration date of a first time individual insurance license as that person's birth month;

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- e) allows the Department five business days to receive and distribute reported pre-licensing and continuing education before an applicant can apply or renew a license;
- f) requires individual and business entities to provide an email address on their Insurance Producer and Business Entity Producer applications; and
- g) requires that the individual or business entity notify the Director within 30 days after an email address change.

Section 3121.20 Definitions

For the purposes of this Part, the following definitions shall apply:

"Business Entity Producer" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

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

"Department" means the Department of Insurance.

"Designated Responsible Licensed Producer" or "DRLP" means the individual responsible for the business entity's compliance with the insurance laws, rules and regulations of this State.

"Director" means the Director of the Department of Insurance of the State of Illinois or anyone to whom the Director's responsibilities and authority are lawfully delegated.

"Insurance Producer" means a person required to be licensed under the laws of this State to sell, solicit or negotiate insurance.

"Resident" means an individual who resides in the State of Illinois for at least 51% of the year and whose entire net income is taxable.

Section 3121.30 Insurance Producer

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- a) A first time applicant for an insurance producer license will receive a pro-rated fee for the initial insurance license so that the applicant's expiration date can be set for the applicant's birth month; this date shall be no less than 18 months and no more than 29 months.
- b) All individual applicants must allow five business days for the Department to receive and distribute reported pre-licensing and continuing education documentation before an applicant can apply or renew a license with the Department.
- c) Applicants must provide an email address on their insurance producer applications and notify the Director by any means acceptable to the Director of a change of email address within 30 days after the change.

Section 3121.40 Business Entity Producer

- a) A business entity producer license shall expire on May 31 biennially.
- b) The business entity's DRLP must have an active resident or non-resident license in Illinois and must be an owner, partner, officer or director of the business entity who is responsible for the business entity's compliance with the insurance laws and rules of this State.

Section 3121.50 Severability

If any Section or portion of a Section of this Part, or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of the Part, or the applicability to other persons or circumstances, shall not be affected.

CONCEALED CARRY LICENSING REVIEW BOARD

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Concealed Carry Licensing Review
- 2) Code Citation: 20 Ill. Adm. Code 2900
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2900.100	New Section
2900.110	New Section
2900.120	New Section
2900.130	New Section
2900.140	New Section
2900.150	New Section
2900.160	New Section
2900.170	New Section
- 4) Statutory Authority: Implements the Firearm Concealed Carry Act [430 ILCS 66) and authorized by Section 20 of that Act
- 5) Effective Date of Rules: January 6, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in *Illinois Register*: 38 Ill. Reg. 19364; October 3, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested.
- 13) Will this rulemaking replace an emergency rule currently in effect? Yes
- 14) Are there any rulemakings pending on this Part? No

CONCEALED CARRY LICENSING REVIEW BOARD

NOTICE OF ADOPTED RULES

- 15) Summary and Purpose of Rules: The purpose of this Part is to provide procedures and requirements of the Concealed Carry Licensing Review Board (CCLRB) to include meetings of the CCLRB, conflicts of interest, department liaison, consideration of objections, hearings, decisions, and reporting.
- 16) Information and questions regarding these adopted rules shall be directed to:

Ms. Claudia E. Castro
Legal Counsel, Concealed Carry Licensing Review Board
Illinois State Police
801 South 7th Street, Suite 1200-A
Springfield IL 62703

708/227-1510

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

CONCEALED CARRY LICENSING REVIEW BOARD

NOTICE OF ADOPTED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER X: CONCEALED CARRY LICENSING REVIEW BOARDPART 2900
CONCEALED CARRY LICENSING REVIEW

Section	
2900.100	Definitions
2900.110	Meetings of the CCLRB
2900.120	Conflicts of Interest
2900.130	Department Liaison to CCLRB
2900.140	Consideration of Objections
2900.150	Hearings of the CCLRB
2900.160	Decisions of the CCLRB
2900.170	CCLRB Reporting

AUTHORITY: Implements the Firearm Concealed Carry Act [430 ILCS 66] and authorized by Section 20 of that Act.

SOURCE: Adopted by emergency rulemaking at 38 Ill. Reg. 19571, effective September 18, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 1518, effective January 6, 2015.

Section 2900.100 Definitions

The following definitions apply to this Subpart.

"Act" means the Firearms Concealed Carry Act [430 ILCS 66].

"CCLRB" or "Concealed Carry Licensing Review Board" means the Board created under Section 20 of the Act to review objections filed by the Department or another law enforcement agency to the licensure of an FCCL applicant and to make a determination of whether licensure of that applicant would pose a danger to the applicant or others, or constitute a threat to the public safety. The Board is comprised of 7 members appointed by the Governor.

"CCLRB Staff" means personnel of the Department assigned to provide staff support to the CCLRB.

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"Chairperson" means the person assigned by the Governor to serve as the Chairperson of the Board and any Acting Chairperson appointed by the Chairperson, or, if the Chairperson is unable to select this substitute, by the majority vote of the remaining commissioners, to serve in the absence of the Chairperson for individual periods of up to 30 days.

"Commissioner" means any person appointed by the Governor to serve as a member of the CCLRB.

"Department" means the Illinois Department of State Police.

"Executive Director" means the individual appointed to supervise the CCLRB staff.

"License" means Firearms Concealed Carry License issued pursuant to the Act.

Section 2900.110 Meetings of the CCLRB

- a) Meetings shall be called at the request of the Chairperson, as often as reasonably necessary to satisfy the CCLRB's obligations under the Act. Whenever practicable, the Chairperson shall give commissioners a minimum of 5 calendar days' advance notice prior to the date of a meeting.
- b) The Chairperson shall preside over all meetings.
- c) A quorum of the CCLRB shall be 4 members. If a quorum is in attendance at a meeting, other Commissioners may attend telephonically or electronically (including via video conference).
- d) An electronic database shall be maintained for the purpose of providing Commissioners with information on objections they are reviewing and through which Commissioners can cast votes on issues placed before them.
 - 1) Votes shall be cast by the Commissioners during a meeting, within the time period the Chairman declares open for the purpose of voting on a particular issue.
 - 2) In the event of a tie vote brought about due to absence or abstention of a Commissioner, the CCLRB will request of the applicant, pursuant to

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Section 20(f) of the Act, another 30 days to consider the objection, and may also request any additional information necessary to resolve the tie vote.

- e) Section 20(e) of the Act says that the Board may only consider information submitted by the Department, a law enforcement agency or the applicant. Other individuals shall not attempt to provide information concerning an applicant to the CCLRB. If any commissioner receives any information regarding an applicant from a source other than the Department, that information shall be promptly forwarded to the Chairperson and shall not be considered.

Section 2900.120 Conflicts of Interest

- a) No commissioner, including the Chairperson, shall participate in any CCLRB business, including, but not limited to, voting, when that commissioner has a conflict of interest.
- b) For the purposes of this Section, whether a commissioner has a conflict of interest shall be determined by the following guidelines:
 - 1) A commissioner has a conflict of interest in a matter if the commissioner's interest, through business, investment, personal relationship or family, reasonably creates the appearance of impropriety in the performance of his or her duties on the CCLRB.
 - 2) Examples of conflicts of interest include, but are not limited to, the following:
 - A) using public office for direct or indirect private gain;
 - B) giving preferential treatment to any organization or person;
 - C) losing independence or impartiality of action;
 - D) making a government decision outside official channels; or
 - E) otherwise adversely affecting the confidence of the public in the integrity of the CCLRB.

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- c) Disclosure
Prior to the CCLRB taking any action on a matter in which a commissioner has or may have a conflict of interest, the interested commissioner shall disclose that interest to the other commissioners.
- d) Determination of Conflict of Interest
A commissioner may use any of the following procedures to determine whether his or her own interest or the interest of another commissioner constitutes a conflict of interest:
- 1) The commissioner may request the advice of the CCLRB's Executive Director, who shall promptly render a recommendation to the CCLRB; or
 - 2) The commissioner may ask the CCLRB to determine whether the interest constitutes a conflict of interest.
 - A) The CCLRB shall ask the commissioner with the potential conflict of interest to leave the meeting during any discussion or deliberation regarding whether a conflict of interest exists.
 - B) A majority of the non-interested commissioners present at a meeting at which a quorum is present shall determine whether a conflict of interest exists.
 - C) The interested commissioner shall be counted for purposes of determining whether a quorum is present, but shall not participate in the deliberations or vote regarding whether a conflict of interest exists.
- e) Prior to any determination of a conflict of interest and, even if, after a determination, a conflict of interest is found not to exist, the reporting commissioner may indicate his or her decision to abstain from any CCLRB action regarding the matter as to which the potential conflict of interest exists and, when appropriate, to absent himself or herself from any CCLRB discussion and determination of the pending matter.
- f) Procedure When a Conflict of Interest is Determined
Upon the CCLRB's determination that a conflict of interest exists, the commissioner with the conflict of interest shall not participate in the CCLRB's

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discussion and determination of the matter. In addition, when appropriate, the commissioner with the conflict of interest shall absent himself or herself from any deliberations and determinations.

Section 2900.130 Department Liaison to CCLRB

- a) Pursuant to Section 20 of the Act, the CCLRB, independently from the Department, shall serve to review objections by law enforcement agencies. The Department shall not in any way influence the vote of the CCLRB.
- b) The Department shall designate an employee to provide logistical and administrative assistance only regarding the electronic computer database established for recording votes regarding objections, as may be required or requested by the Executive Director.

Section 2900.140 Consideration of Objections

- a) The CCLRB will review all objections presented by local law enforcement agencies or the Department. In its review of objections, the CCLRB shall consider only the following information:
 - 1) any material properly submitted by the objecting local law enforcement agency or the Department pursuant to Section 15 of the Act;
 - 2) any material properly submitted by the applicant; and
 - 3) any additional information requested by the CCLRB pursuant to subsection (b).
- b) The CCLRB may request additional information from the objecting law enforcement agency, the Department or the applicant.
 - 1) If the applicant has not previously submitted electronic fingerprints to the Department and there is a question of whether the objection pertains to the applicant that the submission of electronic fingerprints may resolve, the applicant shall be required to submit those fingerprints within 30 days after receipt of a notice from the CCLRB that the fingerprints will be required.

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- 2) If the applicant or law enforcement does not provide the fingerprints or other information requested by the CCLRB within the timeframe allotted by statute, the CCLRB will enter a final disposition based solely on consideration of the information already properly submitted.
- c) The CCLRB, by a vote of at least 4 commissioners, may request testimony at a hearing from a representative of the objecting law enforcement agency, from a representative of the Department, or from the applicant or the applicant's counsel; however, hearings shall be limited to circumstances that cannot be resolved to the CCLRB's satisfaction through written communication with the parties.
- d) If the CCLRB votes to hold a hearing on the objection, the CCLRB shall notify the applicant and the objecting party in writing of the need for, as well as the date, time and location of, the hearing.
- e) CCLRB will review an objection to determine whether the objection appears sustainable on its face or in light of any information the CCLRB has obtained pursuant to subsection (b) or (c). Within 10 calendar days after determining that an objection appears sustainable, the CCLRB shall send the applicant notice of the objection, including the basis of the objection and the agency submitting the objection. This determination of a sustainable objection is not a final administrative decision of the Board and shall not be reported as such to the Department.
 - 1) The applicant shall have 15 days after receipt of the notice to submit any additional material in response to the objection that the applicant wants the CCLRB to consider.
 - 2) The CCLRB will consider any additional information received during the 15 day period. Once the 15 day period has elapsed, the CCLRB will not consider any additional information received.
 - 3) Unless it is determined that a hearing is necessary pursuant to subsection (c), the objection shall be considered, along with any additional information received, at the next meeting held at the call of the Chairperson. If a hearing is held, then the objection shall be considered following the hearing.

Section 2900.150 Hearings of the CCLRB

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- a) Hearings of the CCLRB may be conducted when a quorum of the commissioners is present in person, by video, telephonically or by other electronic means. The hearing shall be recorded.
- b) The CCLRB shall determine the date, time and location of any hearing. The CCLRB shall make reasonable efforts to hold the hearing at a date, time and location convenient to all parties.
- c) The Chairperson shall preside over the hearing.
- d) Any testimony requested by the CCLRB shall be under oath or affirmation.
- e) Applicants and law enforcement agencies requested to participate in hearings of the CCLRB may be represented by counsel and present evidence relating to the local law enforcement or Department objection. Hearings shall be closed to the public.
- f) The procedures for admissibility of evidence shall be as described in Section 10-40 of the Illinois Administrative Procedure Act [5 ILCS 100/10-40] and as ordered by the Chairperson.
- g) Deliberations of the CCLRB, upon conclusion of a hearing held pursuant to this Section, shall be held in executive session without the applicant or other participants in the hearing present and shall not be subject to either the Open Meetings Act [5 ILCS 120] or the Freedom of Information Act [5 ILCS 140].
- h) No later than 35 days from the date of any final administrative decision by the CCLRB concerning eligibility for a license, the applicant may make a written request to the CCLRB for a transcript of the recording made at the hearing.
 - 1) The cost of transcription shall be the responsibility of the applicant.
 - 2) Fees shall not exceed the actual cost for the preparation of the transcript.
 - 3) The record need not be transcribed unless the CCLRB receives a written request and fee from the applicant in accordance with this Section.

Section 2900.160 Decisions of the CCLRB

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- a) The CCLRB shall make a record, electronically or by other reliable means, of the final votes cast by each individual commissioner during meetings held at the call of the Chairperson.
- b) Upon a vote to overrule an objection, the CCLRB shall send the Department notice of its decision that the applicant does not pose a danger to himself or herself or others and is not a threat to public safety via an electronic transmission using the electronic computer database established for recording votes to objections.
- c) If, upon consideration of an objection and any information obtained pursuant to Section 2900.140, the CCLRB determines by a preponderance of the evidence that the applicant poses a danger to himself or herself or to others, or is a threat to public safety, and is therefore ineligible for a license, the CCLRB shall notify the applicant. The CCLRB will also notify the Department of its determination using the electronic computer database. The CCLRB shall make a record of the basis for its finding that the applicant is ineligible for a license.
- d) Upon electronic transmission to the Department of a final decision by the CCLRB that an applicant is ineligible for a license under Section 20 of the Act, the CCLRB decision shall be final and subject to judicial review pursuant to 20 Ill. Adm. Code 1231.170.

Section 2900.170 CCLRB Reporting

Pursuant to Section 20(i) of the Act, the CCLRB shall report monthly to the Governor and to the General Assembly the following information:

- a) the number of objections it has received;
- b) the number of objections it has affirmed; and
- c) the number of times a decision to deny an applicant a license was because the applicant poses a danger to himself or herself, the applicant poses a danger to others, or the applicant poses a threat to public safety.

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- 1) Heading of the Part: Licensing of Public Adjusters
- 2) Code Citation: 50 Ill. Adm. Code 3118
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
3118.10	Amendment
3118.20	Amendment
3118.25	Amendment
3118.35	New Section
3118.45	New Section
3118.50	Amendment
3118.60	Repeal
3118.65	New Section
3118.80	Amendment
3118.85	Amendment
3118.90	Amendment
3118.95	New Section
3118.115	New Section
- 4) Statutory Authority: Implementing Articles XXXI³/₄ and XLV and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. XXXI³/₄ and XLV and 401]
- 5) Effective Date of Rulemaking: January 9, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 13149; June 27, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

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Section 3118.25: changed definition of "Public Insurance Adjuster" to add ""Public Adjuster" or" before "Public".

Section 3118.45: first line, changed "applying for" to "the Department's issuance of", delete "requesting" and changed "an extension" to "a renewal"; third line, deleted "before a license will be issued as provided by Section 1520 of the Code".

Section 3118.65(a): second line, changed "an extension" to "a renewal".

Section 3118.90(b): first, third and fifth lines, deleted "insurance".

Section 3118.95: third line, after the period added "(See examples of public adjuster forms and disclosures on the Department's website at <http://insurance.illinois.gov/Producer/PublicAdjusterKit.asp>.)".

- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Public Act 96-1332 enacted a new statute that should eventually result in the repeal of Article XXXI $\frac{3}{4}$ of the Illinois Insurance Code concerning Public Insurance Adjusters and Registered Firms. The rule requires amendment to address the provisions in the new Article XLV regarding fingerprinting procedures, contract language to be filed with and approved by the Department, notices and disclosures, continuing education, and other requirements.
- 16) Information and questions regarding this adopted rule shall be directed to:

David Murphy, Assistant Deputy Director
Continuing Education Unit
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/782-5415

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

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TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF [INSURANCE](#)
~~FINANCIAL AND PROFESSIONAL REGULATION~~SUBCHAPTER ii: INSURANCE PRODUCERS, LIMITED INSURANCE
REPRESENTATIVES AND [BUSINESS ENTITIES](#)~~REGISTERED FIRMS~~

PART 3118

LICENSING OF PUBLIC ADJUSTERS

Section

3118.10	Authority
3118.20	Purpose and Scope
3118.25	Definitions
3118.30	Engaged in the Business of Adjusting Insurance Claims (Repealed)
3118.35	License Required
3118.40	Valuable Consideration (Repealed)
3118.45	Application for License
3118.50	Records Material
3118.60	Grandfather License Provisions (Repealed)
3118.65	Resident License
3118.70	Nonresident Public Adjusters (Repealed)
3118.80	Contract Between Public Adjuster and Insured Filing of Contract Forms
3118.85	Client Disclosure
3118.90	Filing for Rate Schedule of Charges for Services
3118.95	Required Disclosure
3118.100	Maintenance of Records (Repealed)
3118.110	Performance Standards Applicable to All Public Adjusters (Repealed)
3118.115	Performance Standards Applicable to All Public Adjusters
3118.120	Hearings
3118.130	Severability

AUTHORITY: Implementing Articles XXXI³/₄ and XLV and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. XXXI³/₄ and XLV and 401].

SOURCE: Adopted and codified at 6 Ill. Reg. 14622, effective November 16, 1982; amended at 14 Ill. Reg. 17978, effective October 18, 1990; amended at 30 Ill. Reg. 19367, effective November 29, 2006; recodified from the Department of Financial and Professional Regulation to

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the Department of Insurance at 38 Ill. Reg. 24069; amended at 39 Ill. Reg. 1528, effective January 9, 2015.

Section 3118.10 Authority

This Part is promulgated by the Director of the ~~Illinois Department~~Division of Insurance under Section 401 of the Illinois Insurance Code that empowers the Director *to make reasonable rules and regulations as may be necessary for making effective* the insurance laws of this State. This Part is promulgated pursuant to ~~Articles~~Article XXXI³/₄ ~~and XLV~~entitled Public Insurance Adjuster and Registered Firms.

(Source: Amended at 39 Ill. Reg. 1528, effective January 9, 2015)

Section 3118.20 Purpose and Scope

The purpose of this Part is to regulate the activities of public adjusters. This Part applies to all public adjusters licensed in accordance with ~~Articles~~Article XXXI³/₄ ~~and XLV~~of the Code.

(Source: Amended at 39 Ill. Reg. 1528, effective January 9, 2015)

Section 3118.25 Definitions

"Adjusting Insurance Claims" means ~~representing an insured with an insurer for compensation, and while representing that insured, either~~ negotiating values, damages, or depreciation or applying the loss circumstances to insurance policy provisions.

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

"Department" means the Illinois Department of ~~Insurance~~Financial and Professional Regulation.

"Director" means the Director of the Illinois Department ~~of Financial and Professional Regulation~~Division of Insurance.

~~Division means the Department of Financial and Professional Regulation~~
~~Division of Insurance.~~

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"Fingerprints" means an impression of the lines on the finger taken for the purpose of identification. The impression may be electronic or in ink converted to electronic format.

"Person" means an individual or a business entity and includes an individual, aggregation of individuals, corporation, association and partnership embraces both natural persons and business entities of whatever type.

"Public Adjuster" or "Public Insurance Adjuster" means any person who, for compensation or any other thing of value, on behalf of the insured:

acts or aids, solely in relation to first party claims arising under insurance contracts that insure the real or personal property of the insured, in adjusting a claim for loss or damage covered by an insurance contract;

advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a public adjuster of first party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or

directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy for the insured a person engaged in the business of adjusting insurance claims.

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

(Source: Amended at 39 Ill. Reg. 1528, effective January 9, 2015)

Section 3118.35 License Required

All contracts entered into by anyone violating Section 1515 of the Code are void.

(Source: Added at 39 Ill. Reg. 1528, effective January 9, 2015)

Section 3118.45 Application for License

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Prior to the Department's issuance of a public adjuster's license or a renewal of the existing license, the applicant or adjuster (resident and non-resident) must have his or her fingerprints on file with the Department.

(Source: Added at 39 Ill. Reg. 1528, effective January 9, 2015)

Section 3118.50 Records Material

As used in ~~Articles~~Article XXXI³/₄ and XLV of the Code, records material means all books, papers and documentary materials regardless of physical form or characteristics made, produced, executed or received by any public adjuster pursuant to a law or in connection with the transaction of its business and preserved or appropriate for preservation by such adjuster or its successors as evidence of the organization, function, policies, decisions, procedures, obligations and business of the adjuster or because of the informational data contained therein.

(Source: Amended at 39 Ill. Reg. 1528, effective January 9, 2015)

Section 3118.60 Grandfather License Provisions (Repealed)

- a) ~~For the purpose of implementing Article XXXI³/₄ of the Code, any persons engaged in business as a public adjuster before December 16, 1983 will be issued a license pursuant to Section 512.54(e) of the Code. Being engaged in the business as a public adjuster shall mean any person who has adjusted or has participated in the adjustment of a minimum of 12 insurance claims for insureds in the State of Illinois between the period from September 3, 1981 through June 30, 1982.~~
- b) ~~Any persons whose application to qualify under the grandfather provision is received after January 1, 1983 shall be subject to a written examination and interrogatories as provided in Section 512.54(e) of the Code.~~
- e) ~~Any person who has successfully passed the examination referred to in subsection (b), before being issued a license in Illinois, and prior to any renewal of that license, will be subjected to a criminal background check to determine whether the applicant is competent, trustworthy and of good business reputation. In the event that the criminal background reveals that an applicant has been convicted of a felony of any type, or has engaged in any of the acts enumerated in Section 512.61 of the Code [215 ILCS 5/512.61(a)], the Director may deny the application for a license, or initiate proceedings to suspend or revoke a renewal~~

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~~license in accordance with Sections 402, 403 and 512.61 of the Code [215 ILCS 5/402, 403 and 512.61] and 50 Ill. Adm. Code 2402.~~

(Source: Repealed at 39 Ill. Reg. 1528, effective January 9, 2015)

Section 3118.65 Resident License

- a) Each public adjuster shall complete 24 hours of continuing education prior to requesting a renewal of the public adjuster license. Three of the 24 hours of continuing education must consist of classroom ethics instruction. The public adjuster should complete the continuing education no later than 30 days prior to the license extension date to allow time for the continuing education provider to submit proof of completion to the Department.
- b) Courses completed prior to the original issue date of the license shall not be used to meet the continuing education requirements.
- c) The public adjuster may accumulate a maximum of 36 credit hours on file with the Department. Ethics hours shall not be accumulated to meet the next compliance period. Ethics must be completed in the continuing education compliance period for the renewal.

(Source: Added at 39 Ill. Reg. 1528, effective January 9, 2015)

Section 3118.80 Contract Between Public Adjuster and Insured Filing of Contract Forms

- a) Each public adjuster shall file with and secure the approval of the Director of each ~~form of~~ contract before it is used in the State of Illinois.
- b) Each contract form filing submitted for approval ~~must be accompanied by a forms submission letter, in duplicate, that~~ must include:
 - 1) the ~~names and license numbers~~name of the public ~~adjusters~~adjuster making the filing.
 - 2) ~~the title, form number, and edition~~ identification of the forms.
 - 2) notification as to whether the filing is new or supersedes a ~~current~~present filing. Identification of all changes in all superseding filings, as well as

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identification of all superseded forms, is required.

34) the effective date of use.

c) All contracts must contain the following and be formatted in no less than 10 point font~~Each control form filing submitted for approval must:~~

- 1) Legible full name of the person signing the contract, as specified in the Department records;
- 2) Form number and edition of the form must appear in the lower left hand corner of the contract form to be approved;
- 3) Effective date of use;
- 4) Permanent home state, business address and phone number;
- 5) License number or space for indicating same if more than one public adjuster will be using the contract;
- 6) The title "Public Adjuster Contract" printed at the head of the contract form with the name of the public adjuster or the public adjuster business entity and the location and telephone number of the public adjuster's principal place of business. Unless located in a rural area that does not use a street address, P.O. Box addresses are not permitted unless the street address is also included;
- 7) A place to list the insured's full name, street address, insurance company name, and policy number, if known or upon notification;
- 8) A description of the loss and its location, if applicable;
- 9) A description of services to be provided to the insured;
- 10) A place for the signatures of the public adjuster and the insured;
- 11) A place for the date and time the contract was signed by the public adjuster and date and time the contract was signed by the insured;

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- 12) Attestation language stating that the public adjuster is fully bonded pursuant to State law;
- 13) Disclosure of full salary, fee, commission, compensation or other considerations the public adjuster is to receive for services;
- 14) Notice that, at the option of the insured, any such contract shall be voidable for 5 business days after execution and that the written contract shall constitute the entire agreement between the public adjuster and the insured;
- 15) Notice that, at the option of the insured, any such contract that is executed within 5 business days after conclusion of the loss-producing occurrence shall be voidable for 10 days after execution. The insured may void the contract by notifying the public insurance adjuster in writing by:
- A) registered or certified mail, return receipt requested, to the address shown on the contract; or
- B) personally serving the notice on the public insurance adjuster. [215 ILCS 5/512.58(a)];
- 16) Notice as required by the Fire Damage Representation Agreement Act [815 ILCS 625];
- 17) Notice that, if not later than 5 business days after the date of the loss is reported to the insurer, the insurer either pays or commits in writing to pay the policy limit, the public adjuster shall not receive a commission but only reasonable compensation for services provided.
- 1) ~~be submitted in duplicate.~~
- 2) ~~have printed at the head of the contract form the name of the public adjuster and the location and telephone number of the public adjuster's principal place of business. Unless located in a rural area that does not use a street address, Post Office Box (P.O. Box) addresses are not permitted unless the street address is also included.~~
- 3) ~~be identified by a descriptive title, form number and edition identification~~

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~~number. The form number must appear in the lower left hand corner of the contract form to be approved.~~

- 4) ~~in addition to the requirements of the Fire Damage Representation Agreement Act [815 ILCS 625], each contract form must include the following:

"Pursuant to Article XXXI³/₄ of the Code, a contract which is executed within 5 days after the conclusion of the loss producing occurrence shall be voidable at the option of the insured for 10 days after execution of the contract. The written contract shall constitute the entire agreement between the public adjuster and the insured."~~
 - 5) ~~have highlighted all changes from currently filed forms. Any changes not highlighted will not be deemed filed.~~
 - 6) ~~be made out in "John Doe" fashion, exactly as it is to be presented to an insured, except for any variable material.~~
 - 7) ~~be submitted in final printed form. Typed or printer's proof copies may be submitted for review, but must be refiled in final printed form.~~
 - 8) ~~be printed in not less than ten point type.~~
- d) ~~Where contract forms submitted by a partnership, association or corporation will be used by other public adjusters engaged or employed by the partnership, association or corporation, the forms submission letter must, in addition to meeting the other requirements of this Section, include the following information concerning the public adjusters who will use the forms:~~
- 1) ~~name;~~
 - 2) ~~license identification number.~~
- e) ~~Contract forms shall not include:~~
- 1) ~~hold harmless agreements that provide indemnification to the public adjuster by the insured resulting from the public adjuster's negligence.~~

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- 2) ~~power of attorney by which the public adjuster can act in the place and instead of the insured as attorney in fact.~~

(Source: Amended at 39 Ill. Reg. 1528, effective January 9, 2015)

Section 3118.85 Client Disclosure

If the client of the public adjuster chooses either a board up company, contractor or any other vendor in which the public adjuster, or its employees, agents or assigns, has or receives any ownership, beneficial or equitable interest in that ownership, then the nature of that ownership or interest must be disclosed to the public adjuster's client in writing prior to execution of any contract between the public adjuster's client and any entity in which the public adjuster has ownership or beneficial or equitable interest. The disclosure must contain, at a minimum, the following wording in 1014 point font, ~~upper case, red lettering~~:

"In addition to the amount you will pay your public adjuster for loss settlement, [public adjuster name] will receive an additional payment from [contractor or vendor name] because of your agreement to work with that company. [Public adjuster name] has an arrangement with [contractor or vendor name] whereby [contractor vendor name] agrees to pay [public adjuster name] if you agree to have [contractor or vendor] complete work for you. You are not required to use any person recommended to you by the public adjuster and may choose any contractor or vendor you so choose."

(Source: Amended at 39 Ill. Reg. 1528, effective January 9, 2015)

Section 3118.90 ~~Filing for Rate Schedule of Charges for Services~~

~~All public adjusters shall file with the Director prior to July 1, 1982 a Rate Schedule of Charges for Services. Any changes subsequent to July 1, 1982 shall also be filed with the Director prior to their use.~~

- a) ~~All filing required under the above must be accompanied by duplicate copies of a rate submission letter that includes:~~
 - 1) ~~the name of the public adjuster making the filing.~~
 - 2) ~~notification of whether the filing is new or supersedes a present filing.~~
 - 3) ~~the effective date of use.~~

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- b) ~~Rate Schedule of Charges for Services submitted by partnerships, associations or corporations that will be used by other public adjusters engaged or employed by those partnerships, associations or corporations must, in addition to meeting the other requirements of this Section, be accompanied by a list of these public adjusters, including their name and license identification number.~~
- ae) A public adjuster client shall not be required by the licensed public adjuster, or its agent, to pay higher fees to the public adjuster if the client does not elect to work with the contractor or vendor preferred or primarily recommended by the public adjuster. A licensed public adjuster, or its agent, shall present to the public adjuster client not fewer than two good faith, competitive bids for any contractor, vendor or service provider recommended to the client by the public adjuster.
- b) If the public adjuster refers the insured to a contractor, the public adjuster warrants that all work will be performed in a workmanlike manner and conform to all statutes, ordinances and codes. Should the work not be completed in a workmanlike manner, the public adjuster shall be responsible for any and all costs and expense required to complete or repair the work in a workmanlike manner.
- c) A public adjuster commission, charges or fee shall not include the deductible amount and shall only be based on net claim payment made by the insurer.

(Source: Amended at 39 Ill. Reg. 1528, effective January 9, 2015)

Section 3118.95 Required Disclosure

The public adjuster must provide written disclosures regarding financial interests and claim process, in addition to a consumer rights notice, prior to the insured signing the contract. Sample notices containing recommended language may be found on the Department website. (See examples of public adjuster forms and disclosures on the Department's website at <http://insurance.illinois.gov/Producer/PublicAdjusterKit.asp>.)

(Source: Added at 39 Ill. Reg. 1528, effective January 9, 2015)

Section 3118.115 Performance Standards Applicable to All Public Adjusters

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A public adjuster shall not allow any unlicensed individual or entity in which the public adjuster has any interest, or that will compensate the adjuster, to solicit a loss in violation of Section 1590(b) of the Code.

(Source: Added at 39 Ill. Reg. 1528, effective January 9, 2015)

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

<u>Section Numbers:</u>	<u>Adopted Action:</u>
720.102	Amendment
720.110	Amendment
720.111	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 22.4, and 27
- 5) Effective Date of Rule: January 12, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) The adopted amendments, including any material incorporated by reference, is available at the Board's opinion and order adopted December 18, 2014 in docket R15-1, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: October 31, 2014; 38 Ill. Reg. 20376
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No. Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the Proposal and the Final Version: A table that appears in the Board's opinion and order of December 18, 2014 in docket R15-1 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated October 16, 2014, in docket R15-1. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

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The differences are limited to minor, non-substantive revisions suggested by JCAR or found necessary by the Board. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the October 31, 2014 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of December 18, 2014 in docket R15-1, as indicated in item 11 above. See the December 18, 2014 opinion and order in docket R15-1 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The following briefly describes the subjects and issues involved in the docket R15-1 rulemaking of which the amendments to Part 720 are a single segment. Also affected are 35 Ill. Adm. Code 721, 722, 723, 724, and 725, each of which is covered by a separate notice in this issue of the *Illinois Register*. A comprehensive description is contained in the Board's opinion and order of December 18, 2014, adopting amendments in docket R15-1, which opinion and order is available from the address below.

This proceeding updates the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) that appeared in the Federal Register during a single update period. The docket and time period that is involved in this proceeding is the following:

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R15-1 Federal RCRA Subtitle C hazardous waste amendments that occurred during the period January 1, 2014 through June 30, 2014.

The R15-1 docket amends rules in Parts 720 721 722 723 724 725. The amendments to the various Parts are inter-related. The following table briefly summarizes the federal actions in the update period:

January 3, 2014 (79 Fed. Reg. 350)	USEPA adopted a conditional exclusion from regulation as hazardous waste for carbon dioxide streams recovered from fossil-fuel fired emission units. The carbon dioxide stream must be injected into a Class VI carbon sequestration well. (The Board included this action in the prior docket, RCRA Subtitle C Update, USEPA Amendments (July 1, 2013 through December 31, 2013 and January 3, 2014, R14-13 (Apr. 17, 2014). No further Board action was necessary.)
February 7, 2014 (79 Fed. Reg. 7518)	USEPA adopted a rule that provides for the voluntary use of an electronic hazardous waste manifest system in lieu of paper manifests. (The Board needed to amend the Illinois hazardous waste regulations to include the federal electronic manifest system requirements.)
June 20, 2014 (79 Fed. Reg. 35290)	USEPA corrected 40 CFR 261.3(a)(2)(v) in the July 1, 2013 version of the <i>Code of Federal Regulations</i> by reinstating the text of subsections (a)(2)(v)(A) and (a)(2)(v)(B). (No Board action was necessary because the text formerly omitted from the federal rule currently exists in the Illinois regulations as 35 Ill. Adm. Code 721.103(a)(2)(E)(i) and (a)(2)(E)(ii).)

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June 26, 2014
(79 Fed. Reg. 36220)

USEPA amended the cathode ray tube (CRT) rule, a conditional exemption from the definition of solid waste for CRTs that are reused or recycled. The amendments will require activity notifications and annual reports by CRT exporters. USEPA stated that the amendments will allow USEPA to better track exports of CRTs for reuse and recycling to ensure their safe management. Provisions relating to domestic management of CRTs are not affected by the amendments. (The Board needed to incorporate the USEPA revisions into the Illinois CRT rule, which conditionally excludes used and waste CRTs from regulation as hazardous waste.)

Specifically, the amendments to Part 720 implement segments of the federal amendments of February 7, 2014 and June 20, 2014. The amendments incorporate segments of the Electronic Manifest Rule and the export-related amendments to the used CRT rule. The Board has included a limited number of corrections, clarifying amendments, and updated incorporations by reference to *Code of Federal Regulations* that are not directly derived from the instant federal amendments.

Tables appear in the Board's opinion and order of December 18, 2014 in docket R15-1 that list the revisions to the text of the corresponding federal rule, the amendments that are not based on current federal amendments, and the revisions to the text since the Board's March 20, 2014 proposal for public comment. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the December 18, 2014 opinion and order in docket R15-1.

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

- 16) Information and questions regarding these adopted rules shall be directed to: Please reference consolidated docket R15-1 and direct inquiries to the following person:

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

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

Request copies of the Board's opinion and order of December 18, 2014 at 312/814-3620.
Alternatively, you may obtain a copy of the Board's opinion and order from the Internet
at <http://www.ipcb.state.il.us>.

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 720

HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section

720.101	Purpose, Scope, and Applicability
720.102	Availability of Information; Confidentiality of Information
720.103	Use of Number and Gender
720.104	Electronic Reporting

SUBPART B: DEFINITIONS AND REFERENCES

Section

720.110	Definitions
720.111	References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section

720.120	Rulemaking
720.121	Alternative Equivalent Testing Methods
720.122	Waste Delisting
720.123	Petitions for Regulation as Universal Waste
720.130	Procedures for Solid Waste Determinations and Non-Waste Determinations
720.131	Solid Waste Determinations
720.132	Boiler Determinations
720.133	Procedures for Determinations
720.134	Non-Waste Determinations
720.140	Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis
720.141	Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities
720.142	Notification Requirement for Hazardous Secondary Materials

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720.143 Legitimate Recycling of Hazardous Secondary Materials

720.APPENDIX A Overview of Federal RCRA Subtitle C (Hazardous Waste) Regulations (Repealed)

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14015, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 256, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7590, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17496, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1704, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9094, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1063, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9443, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1266, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9168, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6550, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3712, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12713, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5974, effective April 13, 2005;

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amended in R05-2 at 29 Ill. Reg. 6290, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2930, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 730, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11726, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 922, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18535, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17672, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8740, effective June 4, 2012; amended in R13-5 at 37 Ill. Reg. 3180, effective March 4, 2013; amended in R13-15 at 37 Ill. Reg. 17726, effective October 24, 2013; amended in R-14-1/R14-2/R14-3 at 38 Ill. Reg. 7189, effective March 13, 2014; amended in R14-13 at 38 Ill. Reg. 12378, effective May 27, 2014; amended in R15-1 at 39 Ill. Reg. 1542, effective January 12, 2015.

SUBPART A: GENERAL PROVISIONS

Section 720.102 Availability of Information; Confidentiality of Information

- a) Availability and confidentiality of information is governed by Illinois law, including Sections 7 and 7.1 of the Environmental Protection Act [415 ILCS 5/7 and 7.1] and 35 Ill. Adm. Code 130.
- b) Except as provided under subsection (c) of this Section, anyAny person who submits information to the Board or the Agency in accordance with this Part or 35 Ill. Adm. Code 721 through 728 may assert a claim of business confidentiality covering part or all of that information by following the procedures set forth in 35 Ill. Adm. Code 130. Information covered by such a claim will be disclosed by the Board or the Agency only to the extent, and by means of the procedures, set forth in 35 Ill. Adm. Code 130. Information required under 35 Ill. Adm. Code 722.153(a) and 722.183 that is submitted in a notification of intent to export a hazardous waste will be provided to the U.S. Department of State and the appropriate authorities in the transit and receiving or importing countries regardless of any claims of confidentiality or trade secret.
- c) Public disclosure of hazardous waste manifest documents.
 - 1) No claim of business confidentiality may be asserted by any person with respect to information entered on a hazardous waste manifest (USEPA Form 8700-22), a Hazardous Waste Manifest Continuation Sheet (USEPA Form 8700-22A), or an e-Manifest format that may be prepared and used in accordance with 35 Ill. Adm. Code 722.120(a)(3).

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- 2) USEPA has stated that it will make any e-Manifest that is prepared and used in accordance with 35 Ill. Adm. Code 722.120(a)(3), or any paper manifest that is submitted to the e-Manifest System under 35 Ill. Adm. Code 724.171(a)(6) or 725.171(a)(6) available to the public under this Section when the electronic or paper manifest is a complete and final document. E-Manifests and paper manifests submitted to the e-Manifest System are complete and final documents, and they become publicly available information, after 90 days have passed since the delivery to the designated facility of the hazardous waste shipment identified in the manifest.

(Source: Amended at 39 Ill. Reg. 1542, effective January 12, 2015)

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.110 Definitions

When used in 35 Ill. Adm. Code 720 through 728, 733, 738, and 739 only, the following terms have the meanings given below:

"Aboveground tank" means a device meeting the definition of tank that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

"Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Agency receives certification of final closure.

"Active portion" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after May 19, 1980, and which is not a closed portion. (See also "closed portion" and "inactive portion.")

"Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

"Agency" means the Illinois Environmental Protection Agency.

"Ancillary equipment" means any device, including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute,

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meter, or control the flow of hazardous waste from its point of generation to storage or treatment tanks, between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

"Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

"Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent, or person of equivalent responsibility.

"Battery" means a device that consists of one or more electrically connected electrochemical cells that is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Board" means the Illinois Pollution Control Board.

"Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

Boiler by physical characteristics:

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and the unit's combustion chamber and primary energy recovery sections must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery sections (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery sections are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are

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not of integral design: process heaters (units that transfer energy directly to a process stream) and fluidized bed combustion units; and

While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit may be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps.); or

Boiler by designation. The unit is one that the Board has determined, on a case-by-case basis, to be a boiler, after considering the standards in Section 720.132.

"Carbon dioxide stream" means carbon dioxide that has been captured from an emission source (e.g., a power plant), plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process.

"Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

"Cathode ray tube" or "CRT" means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A "used, intact CRT" means a CRT whose vacuum has not been released. A "used, broken CRT" means glass removed from its housing or casing whose vacuum has been released.

"Certification" means a statement of professional opinion based upon knowledge and belief.

"Closed portion" means that portion of a facility that an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion.")

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"Component" means either the tank or ancillary equipment of a tank system.

"Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste pursuant to the provisions of Subpart DD of 35 Ill. Adm. Code 724 and Subpart DD of 35 Ill. Adm. Code 725.

"Contingency plan" means a document setting out an organized, planned and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents that could threaten human health or the environment.

"Corrosion expert" means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"CRT collector" means a person who receives used, intact CRTs for recycling, repair, resale, or donation.

"CRT exporter" means any person in the United States that initiates a transaction to send used CRTs outside the United States or its territories for recycling or reuse, or any intermediary in the United States arranging for such export.

"CRT glass manufacturer" means an operation or part of an operation that uses a furnace to manufacture CRT glass.

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"CRT processing" means conducting all of the following activities:

Receiving broken or intact CRTs;

Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and

Sorting or otherwise managing glass removed from CRT monitors.

"Designated facility" means either of the following entities:

A hazardous waste treatment, storage, or disposal facility that has been designated on the manifest by the generator, pursuant to 35 Ill. Adm. Code 722.120, of which any of the following is true:

The facility has received a RCRA permit (or interim status) pursuant to 35 Ill. Adm. Code 702, 703, and 705;

The facility has received a RCRA permit from USEPA pursuant to 40 CFR 124 and 270;

The facility has received a RCRA permit from a state authorized by USEPA pursuant to 40 CFR 271; or

The facility is regulated pursuant to 35 Ill. Adm. Code 721.106(c)(2) or Subpart F of 35 Ill. Adm. Code 266; or

A generator site designated by the hazardous waste generator on the manifest to receive back its own waste as a return shipment from a designated hazardous waste treatment, storage, or disposal facility that has rejected the waste in accordance with 35 Ill. Adm. Code 724.172(f) or 725.172(f).

If a waste is destined to a facility in a state other than Illinois that has been authorized by USEPA pursuant to 40 CFR 271, but which has not yet obtained authorization to regulate that waste as hazardous, then the designated facility must be a facility allowed by the receiving state to accept such waste.

"Destination facility" means a facility that treats, disposes of, or recycles a

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particular category of universal waste, except those management activities described in 35 Ill. Adm. Code 733.113(a) and (c) and 733.133(a) and (c). A facility at which a particular category of universal waste is only accumulated is not a destination facility for the purposes of managing that category of universal waste.

"Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids, or other materials.

"Dioxins and furans" means tetra-, penta-, hexa-, hepta-, and octa-chlorinated dibenzo dioxins and furans.

"Director" means the Director of the Illinois Environmental Protection Agency.

"Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit (CAMU) into which remediation wastes are placed.

"Drip pad" means an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation and surface water runoff to an associated collection system at wood preserving plants.

["Electronic manifest" or "e-Manifest" means the electronic format of the hazardous waste manifest that is obtained from USEPA's national e-Manifest System and transmitted electronically to the e-Manifest System, and which is the legal equivalent of USEPA Forms 8700-22 \(Manifest\) and 8700-22A \(Continuation Sheet\).](#)

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"Electronic Manifest System" or "e-Manifest System" means USEPA's national information technology system through which the e-Manifest may be obtained, completed, transmitted, and distributed to users of the e-Manifest System and to regulatory agencies.

"Elementary neutralization unit" means a device of which the following is true:

It is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in 35 Ill. Adm. Code 721.122 or which are listed in Subpart D of 35 Ill. Adm. Code 721 only for this reason; and

It meets the definition of tank, tank system, container, transport vehicle, or vessel in this Section.

"EPA hazardous waste number" or "USEPA hazardous waste number" means the number assigned by USEPA to each hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721 and to each characteristic identified in Subpart C of 35 Ill. Adm. Code 721.

"EPA identification number" or "USEPA identification number" means the number assigned by USEPA pursuant to 35 Ill. Adm. Code 722 through 725 to each generator; transporter; and treatment, storage, or disposal facility.

"EPA region" or "USEPA region" means the states and territories found in any one of the following ten regions:

Region I: Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.

Region II: New York, New Jersey, Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

Region III: Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and the District of Columbia.

Region IV: Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida.

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Region V: Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio.

Region VI: New Mexico, Oklahoma, Arkansas, Louisiana, and Texas.

Region VII: Nebraska, Kansas, Missouri, and Iowa.

Region VIII: Montana, Wyoming, North Dakota, South Dakota, Utah, and Colorado.

Region IX: California, Nevada, Arizona, Hawaii, Guam, American Samoa, and Commonwealth of the Northern Mariana Islands.

Region X: Washington, Oregon, Idaho, and Alaska.

"Equivalent method" means any testing or analytical method approved by the Board pursuant to Section 720.120.

"Existing hazardous waste management (HWM) facility" or "existing facility" means a facility that was in operation or for which construction commenced on or before November 19, 1980. A facility had commenced construction if the owner or operator had obtained the federal, State, and local approvals or permits necessary to begin physical construction and either of the following had occurred:

A continuous on-site, physical construction program had begun; or

The owner or operator had entered into contractual obligations that could not be canceled or modified without substantial loss for physical construction of the facility to be completed within a reasonable time.

"Existing portion" means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

"Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and which was in operation, or for which installation was commenced, on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, State, and local approvals or permits necessary to begin

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physical construction of the site or installation of the tank system and if either of the following is true:

A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations that cannot be canceled or modified without substantial loss for physical construction of the site or installation of the tank system to be completed within a reasonable time.

"Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

"Explosives or munitions emergency response" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment, or destruction of the explosives or munitions or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

"Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include United States Department of Defense (USDOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and USDOD-certified civilian or contractor personnel and

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other federal, State, or local government or civilian personnel who are similarly trained in explosives or munitions emergency responses.

"Facility" means the following:

All contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

For the purpose of implementing corrective action pursuant to 35 Ill. Adm. Code 724.201 or 35 Ill. Adm. Code 727.201, all contiguous property under the control of the owner or operator seeking a permit under Subtitle C of RCRA. This definition also applies to facilities implementing corrective action pursuant to RCRA section 3008(h).

Notwithstanding the immediately-preceding paragraph of this definition, a remediation waste management site is not a facility that is subject to 35 Ill. Adm. Code 724.201, but a facility that is subject to corrective action requirements if the site is located within such a facility.

"Federal agency" means any department, agency, or other instrumentality of the federal government, any independent agency or establishment of the federal government, including any government corporation and the Government Printing Office.

"Federal, State, and local approvals or permits necessary to begin physical construction" means permits and approvals required under federal, State, or local hazardous waste control statutes, regulations, or ordinances.

"Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities pursuant to 35 Ill. Adm. Code 724 and 725 are no longer conducted at the facility unless subject to the provisions of 35 Ill. Adm. Code 722.134.

"Food-chain crops" means tobacco, crops grown for human consumption, and

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crops grown for feed for animals whose products are consumed by humans.

"Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

"Free liquids" means liquids that readily separate from the solid portion of a waste under ambient temperature and pressure.

"Gasification" means, for the purpose of complying with 35 Ill. Adm. Code 721.104(a)(12)(A), a process conducted in an enclosed device or system that is designed and operated to process petroleum feedstock, including oil-bearing hazardous secondary materials, through a series of highly controlled steps utilizing thermal decomposition, limited oxidation, and gas cleaning to yield a synthesis gas composed primarily of hydrogen and carbon monoxide gas.

"Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721 or whose act first causes a hazardous waste to become subject to regulation.

"Groundwater" means water below the land surface in a zone of saturation.

"Hazardous secondary material" means a secondary material (e.g., spent material, by-product, or sludge) that, when discarded, would be identified as hazardous waste pursuant to 35 Ill. Adm. Code 721.

"Hazardous secondary material generated and reclaimed under the control of the generator" means one of the following materials:

A material that is both generated and reclaimed at the generating facility (for purposes of this definition, generating facility means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator);

A material that is generated and reclaimed at different facilities, if both of the following conditions are fulfilled:

Either the reclaiming facility is controlled by the generator, or both the generating facility and the reclaiming facility are controlled by the same person, as "person" is defined in this Section; and

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The generator provides either of the following certifications:

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

or

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

For purposes of this definition, "control" means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person, as "person" is defined in this Section, shall not be deemed to "control" such facilities; or

A material that is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and which is reclaimed by the tolling contractor, if the tolling contractor certifies the following:

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

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hazardous secondary materials that are generated during the course of the manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process."

For purposes of this definition, "tolling contractor" means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer. "Toll manufacturer" means a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.

"Hazardous secondary material generator" means any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of this definition, "generating facility" means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator. For the purposes of Sections 721.102(a)(2)(B) and 721.104(a)(23), a facility that collects hazardous secondary materials from other persons is not the hazardous secondary material generator.

"Hazardous waste" means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Hazardous waste constituent" means a constituent that caused the hazardous waste to be listed in Subpart D of 35 Ill. Adm. Code 721, or a constituent listed in 35 Ill. Adm. Code 721.124.

"Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system, and a container storage area. A container alone does not constitute a unit; the unit includes containers, and the land or pad upon which they are placed.

"Inactive portion" means that portion of a facility that was not operated after November 19, 1980. (See also "active portion" and "closed portion.")

"Incinerator" means any enclosed device of which the following is true:

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The facility uses controlled flame combustion, and both of the following are true of the facility:

The facility does not meet the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor

The facility is not listed as an industrial furnace; or

The facility meets the definition of infrared incinerator or plasma arc incinerator.

"Incompatible waste" means a hazardous waste that is unsuitable for the following:

Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire, or explosion, violent reaction, toxic dusts, mists, fumes or gases, or flammable fumes or gases.

(See Appendix E to 35 Ill. Adm. Code 724 and Appendix E to 35 Ill. Adm. Code 725 for references that list examples.)

"Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

Cement kilns;

Lime kilns;

Aggregate kilns;

Phosphate kilns;

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Coke ovens;

Blast furnaces;

Smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces);

Titanium dioxide chloride process oxidation reactors;

Methane reforming furnaces;

Pulping liquor recovery furnaces;

Combustion devices used in the recovery of sulfur values from spent sulfuric acid;

Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least three percent, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20 percent, as generated; and

Any other such device as the Agency determines to be an industrial furnace on the basis of one or more of the following factors:

The design and use of the device primarily to accomplish recovery of material products;

The use of the device to burn or reduce raw materials to make a material product;

The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

The use of the device to burn or reduce secondary materials as

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ingredients in an industrial process to make a material product;

The use of the device in common industrial practice to produce a material product; and

Other relevant factors.

"Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

"Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Inground tank" means a device meeting the definition of tank whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

"In operation" refers to a facility that is treating, storing, or disposing of hazardous waste.

"Injection well" means a well into which fluids are being injected. (See also "underground injection.")

"Inner liner" means a continuous layer of material placed inside a tank or container that protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

"Installation inspector" means a person who, by reason of knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

"Intermediate facility" means any facility that stores hazardous secondary materials for more than 10 days and which is neither a hazardous secondary material generator nor a reclaimer of hazardous secondary material.

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"International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

"Lamp" or "universal waste lamp" means the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, or infrared regions of the electromagnetic spectrum. Examples of common universal waste lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high-pressure sodium, and metal halide lamps.

"Land-based unit" means an area where hazardous secondary materials are placed in or on the land before recycling. This definition does not include land-based production units.

"Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

"Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit (CAMU).

"Landfill cell" means a discrete volume of a hazardous waste landfill that uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

"LDS" means leak detection system.

"Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

"Liner" means a continuous layer of natural or manmade materials beneath or on the sides of a surface impoundment, landfill, or landfill cell that restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

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"Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

"Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

"Manifest" means the shipping document USEPA Form 8700-22 (including, if necessary, USEPA Form 8700-22A), or the e-Manifest, originated and signed in accordance with ~~by the generator or offeror that contains the information required by Subpart B of 35 Ill. Adm. Code 722 and~~ the applicable requirements of 35 Ill. Adm. Code 722 through 727.

"Manifest tracking number" means the alphanumeric identification number (i.e., a unique three letter suffix preceded by nine numerical digits) that is pre-printed in Item 4 of the manifest by a registered source.

"Mercury-containing equipment" means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.

"Military munitions" means all ammunition products and components produced or used by or for the United States Department of Defense or the United States Armed Services for national defense and security, including military munitions under the control of the United States Department of Defense (USDOD), the United States Coast Guard, the United States Department of Energy (USDOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by USDOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components of

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these items and devices. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components of these items and devices. However, the term does include non-nuclear components of nuclear devices, managed under USDOE's nuclear weapons program after all sanitization operations required under the Atomic Energy Act of 1954 (42 USC 2014 et seq.), as amended, have been completed.

"Mining overburden returned to the mine site" means any material overlying an economic mineral deposit that is removed to gain access to that deposit and is then used for reclamation of a surface mine.

"Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container; tank; surface impoundment; pile; land treatment unit; landfill; incinerator; boiler; industrial furnace; underground injection well with appropriate technical standards pursuant to 35 Ill. Adm. Code 730; containment building; corrective action management unit (CAMU); unit eligible for a research, development, and demonstration permit pursuant to 35 Ill. Adm. Code 703.231; or staging pile.

"Movement" means hazardous waste that is transported to a facility in an individual vehicle.

"NAICS Code" means the code number assigned a facility using the "North American Industry Classification System," incorporated by reference in Section 720.111.

"New hazardous waste management facility" or "new facility" means a facility that began operation, or for which construction commenced after November 19, 1980. (See also "Existing hazardous waste management facility.")

"New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation commenced after July 14, 1986; except, however, for purposes of 35 Ill. Adm. Code 724.293(g)(2) and 725.293(g)(2), a new tank system is one for which construction commenced after July 14, 1986. (See also "existing tank system.")

"No free liquids", as used in 35 Ill. Adm. Code 721.104(a)(26) and (b)(18), means that solvent-contaminated wipes may not contain free liquids, as

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determined by Method 9095B (Paint Filter Liquids Test), included in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", incorporated by reference in Section 720.111, and that there is no free liquid in the container holding the wipes. No free liquids may also be determined using another standard or test method that the Agency has determined by permit condition is equivalent to Method 9095B.

"Onground tank" means a device meeting the definition of tank that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surfaces so that the external tank bottom cannot be visually inspected.

"On-site" means the same or geographically contiguous property that may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way that the owner controls and to which the public does not have access is also considered on-site property.

"Open burning" means the combustion of any material without the following characteristics:

Control of combustion air to maintain adequate temperature for efficient combustion;

Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

Control of emission of the gaseous combustion products.

(See also "incineration" and "thermal treatment.")

"Operator" means the person responsible for the overall operation of a facility.

"Owner" means the person that owns a facility or part of a facility.

"Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 35 Ill. Adm. Code 724 or 725 at a facility that contains other active hazardous waste management units.

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For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

"Person" means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.

"Personnel" or "facility personnel" means all persons who work at or oversee the operations of a hazardous waste facility and whose actions or failure to act may result in noncompliance with 35 Ill. Adm. Code 724 or 725.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or intended for use as a plant regulator, defoliant, or desiccant, other than any article that fulfills one of the following descriptions:

It is a new animal drug under section 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA; 21 USC 321(v)), incorporated by reference in Section 720.111(c);

It is an animal drug that has been determined by regulation of the federal Secretary of Health and Human Services pursuant to FFDCA section 512 (21 USC 360b), incorporated by reference in Section 720.111(c), to be an exempted new animal drug; or

It is an animal feed under FFDCA section 201(w) (21 USC 321(w)), incorporated by reference in Section 720.111(c), that bears or contains any substances described in either of the two preceding paragraphs of this definition.

BOARD NOTE: The second exception of corresponding 40 CFR 260.10 reads as follows: "Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug." This is very similar to the language of section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 USC 136(u)). The three exceptions, taken together, appear intended not to include as pesticide any material within the scope of federal Food and Drug Administration regulation. The Board codified this provision with

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the intent of retaining the same meaning as its federal counterpart while adding the definiteness required under Illinois law.

"Pile" means any non-containerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage, and that is not a containment building.

"Plasma arc incinerator" means any enclosed device that uses a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Point source" means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

"Publicly owned treatment works" or "POTW" is as defined in 35 Ill. Adm. Code 310.110.

"Qualified groundwater scientist" means a scientist or engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields, as demonstrated by state registration, professional certifications, or completion of accredited university courses that enable the individual to make sound professional judgments regarding groundwater monitoring and contaminant rate and transport.

BOARD NOTE: State registration includes, but is not limited to, registration as a professional engineer with the Department of Professional Regulation, pursuant to 225 ILCS 325 and 68 Ill. Adm. Code 1380. Professional certification includes, but is not limited to, certification under the certified groundwater professional program of the National Ground Water Association.

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

"RCRA standardized permit" means a RCRA permit issued pursuant to Subpart J of 35 Ill. Adm. Code 703 and Subpart G of 35 Ill. Adm. Code 702 that authorizes management of hazardous waste. The RCRA standardized permit may have two

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parts: a uniform portion issued in all cases and a supplemental portion issued at the discretion of the Agency.

"Regional Administrator" means the Regional Administrator for the USEPA region in which the facility is located or the Regional Administrator's designee.

"Remediation waste" means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that are managed for implementing cleanup.

"Remediation waste management site" means a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action pursuant to 35 Ill. Adm. Code 724.201, but a remediation waste management site is subject to corrective action requirements if the site is located in such a facility.

"Replacement unit" means a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed, and which is subsequently reused to treat, store, or dispose of hazardous waste. Replacement unit does not include a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with a closure or corrective action plan approved by USEPA or the Agency.

"Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) that can be expected to exhibit the average properties of the universe or whole.

"Runoff" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

"Runon" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

"Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

"SIC code" means "Standard Industrial Classification code," as assigned to a site

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by the United States Department of Transportation, Federal Highway Administration, based on the particular activities that occur on the site, as set forth in its publication "Standard Industrial Classification Manual," incorporated by reference in Section 720.111(a).

"Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

"Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and which has a total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu/lb or less of sludge treated on a wet-weight basis.

"Small quantity generator" means a generator that generates less than 1,000 kg of hazardous waste in a calendar month.

"Solid waste" means a solid waste as defined in 35 Ill. Adm. Code 721.102.

"Solvent-contaminated wipe" means the following: A wipe that, after use or after cleaning up a spill, fulfills one or more of the following conditions:

The wipe contains one or more of the F001 through F005 solvents listed in 35 Ill. Adm. Code 721.131 or the corresponding P- or U-listed solvents found in 35 Ill. Adm. Code 721.133;

The wipe exhibits a hazardous characteristic found in Subpart C of 35 Ill. Adm. Code 721 when that characteristic results from a solvent listed in 35 Ill. Adm. Code 721; or

The wipe exhibits only the hazardous waste characteristic of ignitability found in 35 Ill. Adm. Code 721.121 due to the presence of one or more solvents that are not listed in 35 Ill. Adm. Code 721.

Solvent-contaminated wipes that contain listed hazardous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions at 35 Ill. Adm. Code 721.104(a)(26) and (b)(18).

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"Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. "Sorb" means to either adsorb or absorb, or both.

"Staging pile" means an accumulation of solid, non-flowing "remediation waste" (as defined in this Section) that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the Agency according to 35 Ill. Adm. Code 724.654.

"State" means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

"Sump" means any pit or reservoir that meets the definition of tank and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that, as used in the landfill, surface impoundment, and waste pile rules, sump means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

"Surface impoundment" or "impoundment" means a facility or part of a facility that is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials) that is designed to hold an accumulation of liquid wastes or wastes containing free liquids and which is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds, and lagoons.

"Tank" means a stationary device, designed to contain an accumulation of hazardous waste that is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) that provide structural support.

"Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

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"TEQ" means toxicity equivalence, the international method of relating the toxicity of various dioxin and furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

"Thermal treatment" means the treatment of hazardous waste in a device that uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. (See also "incinerator" and "open burning.")

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element and mercury-containing ampules that have been removed from such a temperature control device in compliance with 35 Ill. Adm. Code 733.113(c)(2) or 733.133(c)(2).

"Totally enclosed treatment facility" means a facility for the treatment of hazardous waste that is directly connected to an industrial production process and which is constructed and operated in a manner that prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

"Transfer facility" means any transportation-related facility, including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste or hazardous secondary materials are held during the normal course of transportation.

"Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

"Transportation" means the movement of hazardous waste by air, rail, highway, or water.

"Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

"Treatability study" means the following:

A study in which a hazardous waste is subjected to a treatment process to

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determine the following:

Whether the waste is amenable to the treatment process;

What pretreatment (if any) is required;

The optimal process conditions needed to achieve the desired treatment;

The efficiency of a treatment process for a specific waste or wastes; and

The characteristics and volumes of residuals from a particular treatment process;

Also included in this definition for the purpose of 35 Ill. Adm. Code 721.104(e) and (f) exemptions are liner compatibility, corrosion and other material compatibility studies, and toxicological and health effects studies. A treatability study is not a means to commercially treat or dispose of hazardous waste.

"Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste, recover energy or material resources from the waste, or render the waste non-hazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

"Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also "injection well.")

"Underground tank" means a device meeting the definition of tank whose entire surface area is totally below the surface of and covered by the ground.

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"Unfit-for-use tank system" means a tank system that has been determined, through an integrity assessment or other inspection, to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

"United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"Universal waste" means any of the following hazardous wastes that are managed pursuant to the universal waste requirements of 35 Ill. Adm. Code 733:

Batteries, as described in 35 Ill. Adm. Code 733.102;

Pesticides, as described in 35 Ill. Adm. Code 733.103;

Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.104; and

Lamps, as described in 35 Ill. Adm. Code 733.105.

"Universal waste handler" means either of the following:

A generator (as defined in this Section) of universal waste; or

The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates the universal waste, and sends that universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

"Universal waste handler" does not mean either of the following:

A person that treats (except under the provisions of Section 733.113(a) or (c) or 733.133(a) or (c)), disposes of, or recycles universal waste; or

A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

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"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

"Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

"Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

"USDOT" or "Department of Transportation" means the United States Department of Transportation.

"Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

"USEPA" or "EPA" means the United States Environmental Protection Agency.

"User of the Electronic Manifest System" or "user of the e-Manifest System" means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person or entity –

that is required to use a manifest to comply with any federal or state requirement to track the shipment, transportation, and receipt of either –

hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal; or

rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and

which elects to use either –

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the e-Manifest System to obtain, complete and transmit an e-Manifest format supplied by the USEPA e-Manifest System; or

the paper manifest form and submits to the e-Manifest System for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accordance with 35 Ill. Adm. Code 724.171(a)(2)(E) or 725.171(a)(2)(E).

A paper copy submitted for data processing purposes is submitted for data exchange purposes only and is not the official copy of record for legal purposes.

"USPS" means the United States Postal Service.

"Vessel" includes every description of watercraft used or capable of being used as a means of transportation on the water.

"Wastewater treatment unit" means a device of which the following is true:

It is part of a wastewater treatment facility that has an NPDES permit pursuant to 35 Ill. Adm. Code 309 or a pretreatment permit or authorization to discharge pursuant to 35 Ill. Adm. Code 310;

It receives and treats or stores an influent wastewater that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103; and

It meets the definition of tank or tank system in this Section.

"Water (bulk shipment)" means the bulk transportation of hazardous waste that is loaded or carried on board a vessel without containers or labels.

"Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

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"Well injection" (See "underground injection.")

"Wipe" means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

"Zone of engineering control" means an area under the control of the owner or operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to groundwater or surface water.

(Source: Amended at 39 Ill. Reg. 1542, effective January 12, 2015)

Section 720.111 References

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ASTM D 2234-76, "Standard Practice for Collection of a Gross Sample of

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Coal," approved 1976, referenced in Appendix A to 35 Ill. Adm. Code 721.

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

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

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

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

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

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

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

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

ASTM G 22-76 (1984b), "Standard Practice for Determining Resistance

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of Plastics to Bacteria," referenced in 35 Ill. Adm. Code 724.414 and 725.414.

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

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

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

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

"Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," NACE Recommended Practice RP0285-85, approved March 1985, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

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

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

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

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

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

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

"Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry," Revision A, February 1999, USEPA publication number EPA-821/R-98-002, NTIS document number PB99-121949, or Revision B, February 2010, USEPA publication number EPA-821/R-10-001, NTIS document number PB2011-100735, USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

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

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

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

"North American Industry Classification System," July 2007, U.S. Department of Commerce, Bureau of the Census, document number PB2007-100002 (hardcover printed volume) or PB2007-500023,

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referenced in Section 720.110 (definition of "NAICS Code") for the purposes of Section 720.142.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Method 1310B (November 2004) (Extraction Procedure (EP) Toxicity Test Method and Structural Integrity Test), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and referenced in Appendix I to 35 Ill. Adm. Code 728.

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

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

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

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

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

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

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

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

Method 9060A (November 2004) (Total Organic Carbon), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 724.934, 724.963, 725.934, and 725.963.

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

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

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

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

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

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

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

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

"Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure" (individually referred to as "Annex C to OECD Guidance Manual" in 35 Ill. Adm.

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Code 722), combining Appendix 4 to OECD decision C(2001)107/FINAL, as amended, together with the text of Annexes II ("Categories of Wastes Requiring Special Consideration") and VIII ("List A") to the Basel Convention.

BOARD NOTE: The OECD Guidance Manual is available online from OECD at www.oecd.org/dataoecd/57/1/42262259.pdf. The OECD and the Basel Convention consider the OECD Guidance Manual unofficial text of these documents. Despite this unofficial status, the Board has chosen to follow USEPA's lead and incorporate the OECD Guidance Manual by reference, instead of separately incorporating the OECD decision C(2001)107/FINAL (with its subsequent amendments: OECD decisions C(2001)107/ADD1, C(2004)20, C(2005)141, and C(2008)156) and the Basel Convention by reference. Use of the OECD Guidance Manual eases reference to the documents, increases access to the documents, and facilitates future updates to this incorporation by reference. All references to "OECD C(2001)107/FINAL" in the text of 35 Ill. Adm. Code 722 refer to both the OECD decision and the Basel Convention that the OECD decision references. The OECD Guidance Manual includes as Annex A the full text of OECD document C(2001)107/FINAL, with amendments, and Annexes B and C set forth lists of wastes subject to Green control procedures and wastes subject to Amber control procedures, respectively, which consolidate the wastes from C(2001)107/FINAL together with those from the Basel Convention.

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

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

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

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USDOD. Available from the United States Department of Defense:

"DOD Ammunition and Explosives Safety Standards" (DOD 6055.09-STD), as in effect on February 29, 2008, referenced in 35 Ill. Adm. Code 726.305.

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

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

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

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

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

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

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

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

USEPA, Receptor Analysis Branch. Available from Receptor Analysis Branch, USEPA (MD-14), Research Triangle Park, NC 27711:

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

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

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

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

USGSA. Available from the United States Government Services Administration:

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

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

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

10 CFR 20.2006 ~~(2014)(2013)~~ (Transfer for Disposal and Manifests), referenced in 35 Ill. Adm. Code 726.425 and 726.450.

Table II, column 2 in appendix B to 10 CFR 20 ~~(2014)(2013)~~ (Water Effluent Concentrations), referenced in 35 Ill. Adm. Code 702.110, 730.103, and 730.151.

Appendix G to 10 CFR 20 ~~(2014)(2013)~~ (Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land

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Disposal Facilities and Manifests), referenced in 35 Ill. Adm. Code 726.440.

10 CFR 71 ~~(2014)(2013)~~, as amended at 78 Fed. Reg. 16922 (Mar. 19, 2013) (Packaging and Transportation of Radioactive Material), referenced generally in 35 Ill. Adm. Code 726.430.

10 CFR 71.5 ~~(2014)(2013)~~ (Transportation of Licensed Material), referenced in 35 Ill. Adm. Code 726.425.

33 CFR 153.203 ~~(2014)(2013)~~ (Procedure for the Notice of Discharge), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

40 CFR 3.3 ~~(2014)(2013)~~ (What Definitions Are Applicable to This Part?), referenced in Section 720.104.

40 CFR 3.10 ~~(2014)(2013)~~ (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 720.104.

40 CFR 3.2000 ~~(2014)(2013)~~ (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 720.104.

40 CFR 51.100(ii) ~~(2014)(2013)~~ (Definitions), referenced in 35 Ill. Adm. Code 726.200.

Appendix W to 40 CFR 51 ~~(2014)(2013)~~ (Guideline on Air Quality Models), referenced in 35 Ill. Adm. Code 726.204.

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

Appendix B to 40 CFR 52.741 ~~(2014)(2013)~~ (VOM Measurement Techniques for Capture Efficiency), referenced in 35 Ill. Adm. Code 703.213, 703.352, 724.982, 724.984, 724.986, 724.989, 725.983, 725.985, 725.987, and 725.990.

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40 CFR 60 ~~(2014)(2013)~~, as amended at 78 Fed. Reg. 58415 (Sept. 19, 2013) and 78 Fed. Reg. 76753 (Dec. 19, 2013) (Standards of Performance for New Stationary Sources), referenced generally in 35 Ill. Adm. Code 724.964, 724.980, 725.964, and 725.980.

Subpart VV of 40 CFR 60 ~~(2014)(2013)~~ (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Appendix A to 40 CFR 60 ~~(2014)(2013)~~ (Test Methods), referenced generally in 35 Ill. Adm. Code 726.205 (in addition to the references cited below for specific methods):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 CFR 61 ~~(2014)(2013)~~ (National Emission Standards for Hazardous Air Pollutants), referenced generally in 35 Ill. Adm. Code 724.933, 724.964, 725.933, 725.964, and 725.980.

Subpart V of 40 CFR 61 ~~(2014)(2013)~~ (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Subpart FF of 40 CFR 61 ~~(2014)(2013)~~ (National Emission Standard for Benzene Waste Operations), referenced in 35 Ill. Adm. Code 724.982 and 725.983.

40 CFR 63 ~~(2014)(2013)~~, as amended at 78 Fed. Reg. 79317 (Dec. 30, 2013) (National Emission Standards for Hazardous Air Pollutants for Source Categories), referenced generally in 35 Ill. Adm. Code 724.933, 724.964, 724.980, 725.933, 725.964, 725.980, and 726.200.

Subpart RR of 40 CFR 63 ~~(2014)(2013)~~ (National Emission Standards for Individual Drain Systems), referenced in 35 Ill. Adm. Code 724.984, 724.985, 725.985, and 725.986.

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

Subpart EEE of 40 CFR 63 [\(2014\)](#)~~(2013)~~ (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (includes 40 CFR 63.1206 (When and How Must You Comply with the Standards and Operating Requirements?), 63.1215 (What are the Health-Based Compliance Alternatives for Total Chlorine?), 63.1216 (What are the Standards for Solid-Fuel Boilers that Burn Hazardous Waste?), 63.1217 (What are the Standards for Liquid-Fuel Boilers that Burn Hazardous Waste?), 63.1218 (What are the Standards for Hydrochloric Acid Production Furnaces that Burn Hazardous Waste?), 63.1219 (What are the Replacement Standards for Hazardous Waste Incinerators?), 63.1220 (What are the Replacement Standards for Hazardous Waste-Burning Cement Kilns?), and 63.1221 (What are the Replacement Standards for Hazardous Waste-Burning Lightweight Aggregate Kilns?)), referenced in Appendix A to 35 Ill. Adm. Code 703 and 35 Ill. Adm. Code 703.155, 703.205, 703.208, 703.221, 703.232, 703.320, 703.280, 724.440, 724.701, 724.950, 725.440, and 726.200.

Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63 [\(2014\)](#)~~(2013)~~ (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

Appendix C to 40 CFR 63 [\(2014\)](#)~~(2013)~~ (Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit), referenced in 35 Ill. Adm. Code 725.984.

Appendix D to 40 CFR 63 [\(2014\)](#)~~(2013)~~ (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

40 CFR 136.3 (Identification of Test Procedures) [\(2014\)](#)~~(2013)~~, referenced in 35 Ill. Adm. Code 702.110, 704.150, 704.187, and 730.103.

40 CFR 144.70 [\(2014\)](#)~~(2013)~~ (Wording of the Instruments), referenced in 35 Ill. Adm. Code 704.240.

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40 CFR 232.2 [\(2014\)\(2013\)](#) (Definitions), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 257 [\(2014\)\(2013\)](#) (Criteria for Classification of Solid Waste Disposal Facilities and Practices), referenced in 35 Ill. Adm. Code 739.181.

Subpart B of 40 CFR 257 [\(2014\)\(2013\)](#) (Disposal Standards for the Receipt of Conditionally Exempt Small Quantity Generator (CESQG) Wastes at Non-Municipal Non-Hazardous Waste Disposal Units) (40 CFR 257.5 through 257.30), referenced in 35 Ill. Adm. Code 721.105.

40 CFR 258 [\(2014\)\(2013\)](#) (Criteria for Municipal Solid Waste Landfills), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 260.21(b) [\(2014\)\(2013\)](#) (Alternative Equivalent Testing Methods), referenced in Section 720.121.

40 CFR 261.151 [\(2014\)\(2013\)](#) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 721.251.

Appendix III to 40 CFR 261 [\(2014\)\(2013\)](#) (Chemical Analysis Test Methods), referenced in 35 Ill. Adm. Code 704.150 and 704.187.

40 CFR 262.53 [\(2014\)\(2013\)](#) (Notification of Intent to Export), referenced in 35 Ill. Adm. Code 722.153.

40 CFR 262.54 [\(2014\)\(2013\)](#) (Special Manifest Requirements), referenced in 35 Ill. Adm. Code 722.154.

40 CFR 262.55 [\(2014\)\(2013\)](#) (Exception Reports), referenced in 35 Ill. Adm. Code 722.155.

40 CFR 262.56 [\(2014\)\(2013\)](#) (Annual Reports), referenced in 35 Ill. Adm. Code 722.156.

40 CFR 262.57 [\(2014\)\(2013\)](#) (Recordkeeping), referenced in 35 Ill. Adm. Code 722.157.

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Appendix to 40 CFR 262 ~~(2014)(2013)~~ (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), referenced in Appendix A to 35 Ill. Adm. Code 722 and 35 Ill. Adm. Code 724.986 and 725.987.

40 CFR 264.151 ~~(2014)(2013)~~ (Wording of the Instruments), referenced in 35 Ill. Adm. Code 724.251 and 727.240.

Appendix I to 40 CFR 264 ~~(2014)(2013)~~ (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 724.

Appendix IV to 40 CFR 264 ~~(2014)(2013)~~ (Cochran's Approximation to the Behrens-Fisher Students' T-Test), referenced in Appendix D to 35 Ill. Adm. Code 724.

Appendix V to 40 CFR 264 ~~(2014)(2013)~~ (Examples of Potentially Incompatible Waste), referenced in Appendix E to 35 Ill. Adm. Code 724 and 35 Ill. Adm. Code 727.270.

Appendix VI to 40 CFR 264 ~~(2014)(2013)~~ (Political Jurisdictions in Which Compliance with Section 264.18(a) Must Be Demonstrated), referenced in 35 Ill. Adm. Code 703.306, 724.118, and 727.110.

Appendix I to 40 CFR 265 ~~(2014)(2013)~~ (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 725.

Appendix III to 40 CFR 265 ~~(2014)(2013)~~ (EPA Interim Primary Drinking Water Standards), referenced in Appendix C to 35 Ill. Adm. Code 725.

Appendix IV to 40 CFR 265 ~~(2014)(2013)~~ (Tests for Significance), referenced in Appendix D to 35 Ill. Adm. Code 725.

Appendix V to 40 CFR 265 ~~(2014)(2013)~~ (Examples of Potentially Incompatible Waste), referenced in 35 Ill. Adm. Code 725.277, 725.301, 725.330, 725.357, 725.382, and 725.413 and Appendix E to 35 Ill. Adm. Code 725.

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Appendix IX to 40 CFR 266 ~~(2014)~~(2013) (Methods Manual for Compliance with the BIF Regulations), referenced generally in Appendix I to 35 Ill. Adm. Code 726.

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

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

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

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

40 CFR 267.151 ~~(2014)~~(2013) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 727.240.

40 CFR 270.5 ~~(2014)~~(2013) (Noncompliance and Program Reporting by the Director), referenced in 35 Ill. Adm. Code 703.305.

40 CFR 761 ~~(2014)~~(2013) (Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions), referenced generally in 35 Ill. Adm. Code 728.145.

40 CFR 761.3 ~~(2014)~~(2013) (Definitions), referenced in 35 Ill. Adm. Code 728.102 and 739.110.

40 CFR 761.60 ~~(2014)~~(2013) (Disposal Requirements), referenced in 35 Ill. Adm. Code 728.142.

40 CFR 761.65 ~~(2014)~~(2013) (Storage for Disposal), referenced in 35 Ill. Adm. Code 728.150.

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40 CFR 761.70 [\(2014\)](#)~~(2013)~~ (Incineration), referenced in 35 Ill. Adm. Code 728.142.

Subpart B of 49 CFR 107 (2013) (Exemptions), referenced generally in 35 Ill. Adm. Code 724.986 and 725.987.

49 CFR 171 (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013), ~~and~~ 78 Fed. Reg. 65454 (Oct. 31, 2013), [and 79 Fed. Reg. 15033 \(Mar. 18, 2014\)](#) (General Information, Regulations, and Definitions), referenced generally in 35 Ill. Adm. Code 721.104, 733.118, 733.138, 733.152, and 739.143.

49 CFR 171.3 (2013) (Hazardous Waste), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 171.8 (2013), as amended at 78 Fed. Reg. 65454 (Oct. 31, 2013) (Definitions and Abbreviations), referenced in 35 Ill. Adm. Code 733.118, 733.138, 733.152, 733.155, and 739.143.

49 CFR 171.15 (2013) (Immediate Notice of Certain Hazardous Materials Incidents), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 171.16 (2013) (Detailed Hazardous Materials Incident Reports), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 172 (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013), 78 Fed. Reg. 65454 (Oct. 31, 2013), ~~and~~ 78 Fed. Reg. 69310 (Nov. 19, ~~2013~~~~2013~~), [and 79 Fed. Reg. 15033 \(Mar. 18, 2014\)](#) (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), referenced generally in 35 Ill. Adm. Code 721.104, 722.131, 722.132, 724.986, 725.987, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143.

49 CFR 172.304 (2013) (Marking Requirements), referenced in 35 Ill. Adm. Code 722.132.

[Subpart C of 49 CFR 172 \(2013\) \(Shipping Papers\), referenced in 35 Ill. Adm. Code 722.124.](#)

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Subpart F of 49 CFR 172 (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013) (Placarding), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 173 (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013) and 78 Fed. Reg. 65454 (Oct. 31, 2013) (Shippers – General Requirements for Shipments and Packages), referenced generally in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 173.2 (2013) (Hazardous Materials Classes and Index to Hazard Class Definitions), referenced in 35 Ill. Adm. Code 733.152.

49 CFR 173.12 (2013) (Exceptions for Shipments of Waste Materials), referenced in 35 Ill. Adm. Code 724.416, 724.986, 725.416, and 725.987.

49 CFR 173.28 (2013) (Reuse, Reconditioning, and Remanufacture of Packagings), referenced in 35 Ill. Adm. Code 725.273.

49 CFR 173.50 (2013) (Class 1 – Definitions), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.54 (2013) (Forbidden Explosives), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.115 (2013) (Class 2, Divisions 2.1, 2.2, and 2.3 – Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 173.127 (2013) (Class 2, Divisions 2.1, 2.2, and 2.3 – Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 174 (2013) (Carriage by Rail), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 175 (2013), as amended at 78 Fed. Reg. 65454 (Oct. 31, 2013) and [79 Fed. Reg. 15033 \(Mar. 18, 2014\)](#) (Carriage by Aircraft), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

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49 CFR 176 (2013), as amended at 78 Fed. Reg. 65454 (Oct. 31, 2013) (Carriage by Vessel), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177 (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013) (Carriage by Public Highway), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

[49 CFR 177.817 \(2013\) \(Shipping Papers\), referenced in 35 Ill. Adm. Code 722.124.](#)

49 CFR 178 (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013), ~~and 78 Fed. Reg. 65454 (Oct. 31, 2013)~~, [and 79 Fed. Reg. 15033 \(Mar. 18, 2014\)](#) (Specifications for Packagings), referenced generally in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 179 (2013) (Specifications for Tank Cars), referenced in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 180 (2013) (Continuing Qualification and Maintenance of Packagings), referenced generally in 35 Ill. Adm. Code 724.986, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 190 (2013) (Pipeline Safety Programs and Rulemaking Procedures), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 191 (2013) (Transportation of Natural and Other Gas by Pipeline: Annual Reports, Incident Reports, and Safety-Related Condition Reports), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 192 (2013) (Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 193 (2013) (Liquefied Natural Gas Facilities: Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

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49 CFR 194 (2013) (Response Plans for Onshore Oil Pipelines), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 195 (2013) (Transportation of Hazardous Liquids by Pipeline), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 198 (2013) (Regulations for Grants to Aid State Pipeline Safety Programs), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 199 (2013) (Drug and Alcohol Testing), referenced generally in 35 Ill. Adm. Code 721.104.

c) Federal Statutes:

Section 11 of the Atomic Energy Act of 1954 (42 USC 2014)(2011), referenced in 35 Ill. Adm. Code 721.104 and 726.310.

Sections 201(v), 201(w), and 512(j) of the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 USC 321(v), 321(w), and 360b(j)) (2012), referenced in Section 720.110 and 35 Ill. Adm. Code 733.109.

Chapter 601 of subtitle VIII of 49 USC (49 USC 60101 through 60140) (2011), referenced in 35 Ill. Adm. Code 721.104.

Section 1412 of the Department of Defense Authorization Act of 1986 (50 USC 1521(j)(1)) (2011), referenced in 35 Ill. Adm. Code 726.301.

d) This Section incorporates no later editions or amendments.

(Source: Amended at 39 Ill. Reg. 1542, effective January 12, 2015)

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- 1) Heading of the Part: Identification and Listing of Hazardous Waste
- 2) Code Citation: 35 Ill. Adm. Code 721
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
721.101	Amendment
721.104	Amendment
721.105	Amendment
721.138	Amendment
721.139	Amendment
721.141	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date of Rule: January 12, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted December 18, 2014 in docket R15-1, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: October 31, 2014, 38 Ill. Reg. 20441
- 10) Has JCAR issued a statement of Objection to this rulemaking? No. Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the Proposal and the Final Version: A table that appears in the Board's opinion and order of December 18, 2014 in docket R15-1 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated October 16, 2014, in docket R15-1. Many of the

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differences are explained in greater detail in the Board's opinion and order adopting the amendments.

The differences are limited to minor, non-substantive revisions suggested by JCAR or found necessary by the Board. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the October 31, 2014 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of December 18, 2014 in docket R15-1, as indicated in item 11 above. See the December 18, 2014 opinion and order in docket R15-1 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of Rulemaking: The amendments to Part 721 are a single segment of the docket R15-1 rulemaking that also affects 35 Ill. Adm. Code 720, 722, 723, 724, and 725, each of which is covered by a separate notice in this issue of the Illinois Register. To save space, a more detailed description of the subjects and issues involved in the docket R15-1 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendment for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of December 18, 2014, adopting amendments in docket R15-1, which opinion and order is available from the address below.

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Specifically, the amendments to Part 721 implement segments of the federal amendments of June 20, 2014. The amendments incorporate segments of the export-related amendments to the used CRT rule. The Board has included a limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments.

Tables appear in the Board's opinion and order of December 18, 2014 in docket R15-1 that list the revisions to the text of the corresponding federal rule, the amendments that are not based on current federal amendments, and the revisions to the text since the Board's March 20, 2014 proposal for public comment. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the December 18, 2014 opinion and order in docket R15-1.

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

- 16) Information and questions regarding these adopted rules shall be directed to: Please reference consolidated docket R15-1 and direct inquiries to the following person:

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

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

Request copies of the Board's opinion and order of December 18, 2014 at 312-814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

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

SUBPART A: GENERAL PROVISIONS

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

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

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

SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

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

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SUBPART D: LISTS OF HAZARDOUS WASTE

Section

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

SUBPART E: EXCLUSIONS AND EXEMPTIONS

Section

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

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

Section

721.240	Applicability
721.241	Definitions of Terms as Used in This Subpart
721.242	Cost Estimate
721.243	Financial Assurance Condition
721.247	Liability Requirements
721.248	Incapacity of Owners or Operators, Guarantors, or Financial Institutions
721.249	Use of State-Required Mechanisms
721.250	State Assumption of Responsibility
721.251	Wording of the Instruments
721.APPENDIX A	Representative Sampling Methods
721.APPENDIX B	Method 1311 Toxicity Characteristic Leaching Procedure (TCLP) (Repealed)
721.APPENDIX C	Chemical Analysis Test Methods (Repealed)
721.TABLE A	Analytical Characteristics of Organic Chemicals (Repealed)
721.TABLE B	Analytical Characteristics of Inorganic Species (Repealed)
721.TABLE C	Sample Preparation/Sample Introduction Techniques (Repealed)

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

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992;

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

SUBPART A: GENERAL PROVISIONS

Section 721.101 Purpose and Scope

- a) This Part identifies those solid wastes that are subject to regulation as hazardous wastes under 35 Ill. Adm. Code 702, 703, and 722 through 728, and which are subject to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.). In this Part:
 - 1) Subpart A of this Part defines the terms "solid waste" and "hazardous waste," identifies those wastes that are excluded from regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and establishes special management requirements for hazardous waste produced by conditionally exempt small quantity generators and hazardous waste that is recycled.

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- 2) Subpart B of this Part sets forth the criteria used to identify characteristics of hazardous waste and to list particular hazardous wastes.
 - 3) Subpart C of this Part identifies characteristics of hazardous wastes.
 - 4) Subpart D of this Part lists particular hazardous wastes.
- b) Limitations on definition of solid waste.
- 1) The definition of solid waste contained in this Part applies only to wastes that also are hazardous for purposes of the regulations implementing Subtitle C of RCRA. For example, it does not apply to materials (such as non-hazardous scrap, paper, textiles or rubber) that are not otherwise hazardous wastes and that are recycled.
 - 2) This Part identifies only some of the materials that are solid wastes and hazardous wastes under Sections 1004(5), 1004(27) and 7003 of RCRA. A material that is not defined as a solid waste in this Part, or is not a hazardous waste identified or listed in this Part, is still a hazardous waste for purposes of those Sections if, in the case of Section 7003 of RCRA, the statutory elements are established.
- c) For the purposes of Sections 721.102 and 721.106 the following definitions apply:
- 1) A "spent material" is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.
 - 2) "Sludge" has the same meaning used in 35 Ill. Adm. Code 720.110.
 - 3) A "by-product" is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.
 - 4) A material is "reclaimed" if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent

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batteries and regeneration of spent solvents. In addition, for purposes of Sections 721.102(a)(2)(B) and 721.104(a)(23) and (a)(24) smelting, melting, and refining furnaces are considered to be solely engaged in metals reclamation if the metal recovery from the hazardous secondary materials meets the same requirements as those specified for metals recovery from hazardous waste found in 35 Ill. Adm. Code 726.200(d)(1) through (d)(3), and if the residuals meet the requirements specified in 35 Ill. Adm. Code 726.212.

- 5) A material is "used or reused" if either of the following is true:
 - A) It is employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or
 - B) It is employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorus precipitant and sludge conditioner in wastewater treatment).
- 6) "Scrap metal" is bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, or wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, or railroad box cars) that when worn or superfluous can be recycled.
- 7) A material is "recycled" if it is used, reused, or reclaimed.
- 8) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that, during the calendar year (commencing on January 1), the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75

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percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under Section 721.104(c) are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

BOARD NOTE: Various segments of this Part and 35 Ill. Adm. Code 720 use the verbal phrase "accumulated speculatively" and the noun phrase "speculative accumulation". Some of those segments rely on this subsection (c)(8) definition of "speculatively accumulated" for definition of the "speculative accumulation". The Board infers that USEPA intends that the verb phrase define the noun phrase: material that is accumulated speculatively is the subject of speculative accumulation.

- 9) "Excluded scrap metal" is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.
- 10) "Processed scrap metal" is scrap metal that has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to, scrap metal that has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and fines, drosses and related materials that have been agglomerated. (Note: shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (Section [721.104\(a\)\(14\)](#))).
- 11) "Home scrap metal" is scrap metal as generated by steel mills, foundries, and refineries, such as turnings, cuttings, punchings, and borings.
- 12) "Prompt scrap metal" is scrap metal as generated by the metal working/fabrication industries, and it includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap metal is also known as industrial or new scrap metal.

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- d) The Agency has inspection authority pursuant to Section 3007 of RCRA and Section 4 of the Environmental Protection Act [415 ILCS 5/4].
- e) Electronic reporting. The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 3, 271.10(b), 271.11(b), and 271.12(h) (2014). ~~BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 3, 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2010).~~

(Source: Amended at 39 Ill. Reg. 1607, effective January 12, 2015)

Section 721.104 Exclusions

- a) Materials that are not solid wastes. The following materials are not solid wastes for the purpose of this Part:
 - 1) Sewage.
 - A) Domestic sewage (untreated sanitary wastes that pass through a sewer system); and
 - B) Any mixture of domestic sewage and other waste that passes through a sewer system to publicly-owned treatment works for treatment.
 - 2) Industrial wastewater discharges that are point source discharges with National Pollutant Discharge Elimination System (NPDES) permits issued by the Agency pursuant to Section 12(f) of the Environmental Protection Act [415 ILCS 5/12(f)] and 35 Ill. Adm. Code 309.

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

- 3) Irrigation return flows.

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- 4) Source, by-product, or special nuclear material, as defined by section 11 of the Atomic Energy Act of 1954, as amended (42 USC 2014), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- 5) Materials subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process.
- 6) Pulping liquors (i.e., black liquors) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively, as defined in Section 721.101(c).
- 7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively, as defined in Section 721.101(c).
- 8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated, where they are reused in the production process, provided that the following is true:
 - A) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
 - B) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
 - C) The secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and
 - D) The reclaimed material is not used to produce a fuel or used to produce products that are used in a manner constituting disposal.
- 9) Wood preserving wastes.
 - A) Spent wood preserving solutions that have been used and which are reclaimed and reused for their original intended purpose;
 - B) Wastewaters from the wood preserving process that have been reclaimed and which are reused to treat wood; and

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- C) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in subsections (a)(9)(A) and (a)(9)(B) of this Section, so long as they meet all of the following conditions:
- i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water-borne plants in the production process for their original intended purpose;
 - ii) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;
 - iii) Any unit used to manage wastewaters or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;
 - iv) Any drip pad used to manage the wastewaters or spent wood preserving solutions prior to reuse complies with the standards in Subpart W of 35 Ill. Adm. Code 725, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and
 - v) Prior to operating pursuant to this exclusion, the plant owner or operator prepares a one-time notification to the Agency stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the Agency

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for reinstatement. The Agency must reinstate the exclusion in writing if it finds that the plant has returned to compliance with all conditions and that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. The applicant under this subsection (a)(9)(C)(v) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act [415 ILCS 5/40].

- 10) Hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic specified in Section 721.124, when subsequent to generation these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the waste from the point it is generated to the point it is recycled to coke ovens, to tar recovery, to the tar refining processes, or prior to when it is mixed with coal.
- 11) Nonwastewater splash condenser dross residue from the treatment of hazardous waste number K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.
- 12) Certain oil-bearing hazardous secondary materials and recovered oil, as follows:
 - A) Oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (standard industrial classification (SIC) code 2911) and are inserted into the petroleum refining process (SIC code 2911: including, but not limited to, distillation, catalytic cracking, fractionation, gasification (as defined in 35 Ill. Adm. Code 720.110), or thermal cracking units (i.e., cokers)), unless the material is placed on the land, or speculatively accumulated before

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being so recycled. Materials inserted into thermal cracking units are excluded under this subsection (a)(12), provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated or sent directly to another petroleum refinery and still be excluded under this provision. Except as provided in subsection (a)(12)(B) of this Section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this subsection (a)(12)(A), where such materials as generated would have otherwise met a listing under Subpart D of this Part, are designated as USEPA hazardous waste number F037 listed wastes when disposed of or intended for disposal.

- B) Recovered oil that is recycled in the same manner and with the same conditions as described in subsection (a)(12)(A) of this Section. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in Subpart D of this Part; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil, as defined in 35 Ill. Adm. Code 739.100.
- 13) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.
 - 14) Shredded circuit boards being recycled, provided that they meet the following conditions:
 - A) The circuit boards are stored in containers sufficient to prevent a release to the environment prior to recovery; and
 - B) The circuit boards are free of mercury switches, mercury relays,

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nickel-cadmium batteries, and lithium batteries.

- 15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with federal Clean Air Act regulation 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.
- 16) Comparable fuels or comparable syngas fuels that meet the requirements of Section 721.138.
- 17) Spent materials (as defined in Section 721.101) (other than hazardous wastes listed in Subpart D of this Part) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that the following is true:
 - A) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;
 - B) The spent material is not accumulated speculatively;
 - C) Except as provided in subsection (a)(17)(D) of this Section, the spent material is stored in tanks, containers, or buildings that meet the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support (except that smelter buildings may have partially earthen floors, provided that the spent material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in 35 Ill. Adm. Code 720.110), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If a tank or container contains any particulate that may be subject to wind dispersal, the owner or operator must operate the unit in a manner that controls fugitive dust. A tank, container, or building must be designed, constructed, and operated to prevent significant releases to the environment of these materials.

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- D) The Agency must allow by permit that solid mineral processing spent materials only may be placed on pads, rather than in tanks, containers, or buildings if the facility owner or operator can demonstrate the following: the solid mineral processing secondary materials do not contain any free liquid; the pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment; and the pads provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion.
- i) The Agency must also consider whether storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, and air exposure pathways must include the following: the volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway.
 - ii) Pads must meet the following minimum standards: they must be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material; they must be capable of withstanding physical stresses associated with placement and removal; they must have runoff and runoff controls; they must be operated in a manner that controls fugitive dust; and they must have integrity assurance through inspections and maintenance programs.
 - iii) Before making a determination under this subsection (a)(17)(D), the Agency must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers,

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or broadcasting notice over local radio stations.

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

- E) The owner or operator provides a notice to the Agency, providing the following information: the types of materials to be recycled, the type and location of the storage units and recycling processes, and the annual quantities expected to be placed in non-land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.
 - F) For purposes of subsection (b)(7) of this Section, mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.
- 18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided that both of the following conditions are true of the oil:
- A) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in Section 721.121) or toxicity for benzene (Section 721.124, USEPA hazardous waste code D018);
 - B) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility for which all of the following is true: its primary SIC code is 2869, but its operations may also include SIC codes 2821, 2822, and 2865; it is physically co-located with a petroleum refinery; and the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing

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facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

- 19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid, unless the material is placed on the land or accumulated speculatively, as defined in Section 721.101(c).
- 20) Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions are satisfied:
 - A) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in Section 721.101(c)(8).
 - B) A generator or intermediate handler of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must fulfill the following conditions:
 - i) It must submit a one-time notice to the Agency that contains the name, address, and USEPA identification number of the generator or intermediate handler facility, that provides a brief description of the secondary material that will be subject to the exclusion, and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).
 - ii) It must store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and it must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. A tank used for this

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purpose must be structurally sound and, if outdoors, it must have a roof or cover that prevents contact with wind and rain. A container used for this purpose must be kept closed, except when it is necessary to add or remove material, and it must be in sound condition. Containers that are stored outdoors must be managed within storage areas that fulfill the conditions of subsection (a)(20)(F) of this Section:

- iii) With each off-site shipment of excluded hazardous secondary materials, it must provide written notice to the receiving facility that the material is subject to the conditions of this subsection (a)(20).
 - iv) It must maintain records at the generator's or intermediate handler's facility for no less than three years of all shipments of excluded hazardous secondary materials. For each shipment these records must, at a minimum, contain the information specified in subsection (a)(20)(G) of this Section.
- C) A manufacturer of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must fulfill the following conditions:
- i) It must store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in subsection (a)(20)(B)(ii) of this Section.
 - ii) It must submit a one-time notification to the Agency that, at a minimum, specifies the name, address, and USEPA identification number of the manufacturing facility and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).

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

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- iii) It must prevent run-on into the containment system.

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

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

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

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

- A) The fertilizers meet the following contaminant limits:
- i) For metal contaminants:

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

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Chromium	0.6
Lead	2.8
Mercury	0.3

- ii) For dioxin contaminants, the fertilizer must contain no more than eight parts per trillion of dioxin, measured as toxic equivalent (TEQ).
- B) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less frequently than once every six months, and for dioxins no less frequently than once every 12 months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.
- C) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with subsection (a)(21)(B) of this Section. Such records must at a minimum include the following:
- i) The dates and times product samples were taken, and the dates the samples were analyzed;
 - ii) The names and qualifications of the persons taking the samples;
 - iii) A description of the methods and equipment used to take the samples;
 - iv) The name and address of the laboratory facility at which analyses of the samples were performed;

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- v) A description of the analytical methods used, including any cleanup and sample preparation methods; and
 - vi) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (a)(21).
- 22) Used CRTs.
- A) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste within the United States, unless they are disposed of or speculatively accumulated, as defined in Section 721.101(c)(8), by a CRT collector or glass processor.
 - B) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste when exported for recycling, provided that they meet the requirements of Section 721.140.
 - C) Used, broken CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste, provided that they meet the requirements of Section 721.139.
 - D) Glass removed from CRTs is not a solid waste provided that it meets the requirements of Section 721.139(c).
- 23) Hazardous secondary materials managed in land-based units. Hazardous secondary material generated and reclaimed within the United States or its territories and managed in land-based units, as defined in 35 Ill. Adm. Code 720.110, is not a solid waste if the following conditions are fulfilled with regard to the material:
- A) The material is contained;
 - B) The material is a hazardous secondary material generated and reclaimed under the control of the generator, as defined in 35 Ill. Adm. Code 720.110;
 - C) The material is not speculatively accumulated, as defined in Section 721.101(c)(8);

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- D) The material is not otherwise subject to material-specific management conditions under subsection (a) of this Section when reclaimed, it is not a spent lead acid battery (see 35 Ill. Adm. Code 726.180 and 733.102), and it does not meet either of the listing descriptions for K171 or K172 waste in Section 721.132;
- E) The reclamation of the material is legitimate, as determined pursuant to 35 Ill. Adm. Code 720.143; and
- F) In addition, a person claiming the exclusion under this subsection (a)(23) must provide notification of regulated waste activity, as required by 35 Ill. Adm. Code 720.142. (For hazardous secondary material managed in a non-land-based unit, see Section 721.102(a)(2)(B)).
- 24) Hazardous secondary materials transferred for off-site recycling. Hazardous secondary material that is generated and then transferred to another person for the purpose of reclamation is not a solid waste if the management of the material fulfills the conditions of subsections (a)(24)(A) through (a)(24)(G) of this Section:
- A) The hazardous secondary material must not be speculatively accumulated, as defined in Section [721.101\(c\)\(8\)](#)~~721.110~~.
- B) No person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility, or a reclaimer manages the material; the material must not be stored for more than 10 days at a transfer facility, as defined in Section 721.110; and the material must be packaged according to applicable USDOT regulations codified as 49 CFR 173, 178, and 179, incorporated by reference in 35 Ill. Adm. Code 720.111, while in transport.
- C) The hazardous secondary material must not otherwise be subject to material-specific management conditions pursuant to other provisions of this subsection (a) when reclaimed; the material must not be a spent lead-acid battery (see 35 Ill. Adm. Code 726.180

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and 733.102); and the material must not fulfill either of the listing descriptions for K171 or K172 waste in Section 721.132.

- D) The reclamation of the hazardous secondary material must be legitimate, as determined pursuant to 35 Ill. Adm. Code 720.143.
- E) The hazardous secondary material generator must satisfy each of the following conditions:
- i) The hazardous secondary material must be contained.
 - ii) This subsection (a)(24)(E)(ii) applies when non-RCRA management of hazardous secondary material will occur at a reclamation facility or transfer facility. For the purposes of this subsection (a)(24), "non-Subtitle C management" is management of the hazardous secondary material that is not addressed under a RCRA Part B permit or under the interim status facility standards (of 35 Ill. Adm. Code 725 or similar regulations authorized by USEPA as equivalent to 40 CFR 265). Prior to arranging for transport of hazardous secondary materials to a reclamation facility where non-Subtitle C management will occur, the hazardous secondary material generator must make reasonable efforts to ensure that the reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it, and that the reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment. If the hazardous secondary material will pass through an intermediate facility where non-RCRA management will occur, the hazardous secondary material generator must make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator must perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. Reasonable efforts must be repeated at a

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minimum of once every three years for the hazardous secondary material generator to claim the exclusion of this subsection (a)(24) and to send the hazardous secondary materials to a reclaimer and any intermediate facility. In making these reasonable efforts, the generator may use any credible evidence available, including information gathered by the hazardous secondary material generator, provided by the reclaimer or intermediate facility, or provided by a third party. The hazardous secondary material generator must make the series of affirmative determinations set forth in subsection (a)(24)(H) of this Section for each reclamation facility and intermediate facility that will manage its waste.

BOARD NOTE: Corresponding 40 CFR 261.4(a)(24)(v)(B) makes it clear that USEPA intends that the generator undertake this determination for each reclaimer that will manage its hazardous secondary material. The Board added a definition of "non-Subtitle C management" and substituted this term for the language "management of the hazardous secondary materials is not addressed under a RCRA Part B permit or interim status standards." Although the Board shifted the language for enhanced readability, the Board intends no shift in meaning. The Board moved the material from 40 CFR 261.4(a)(24)(v)(B)(1) through (a)(24)(v)(B)(5) to appear as 35 Ill. Adm. Code 721.104(a)(24)(H)(i) through (a)(24)(H)(v). This movement allowed compliance with codification requirements relating to the maximum permissible indent level.

- iii) The hazardous secondary material generator must execute a certification statement that includes the following language, together with the printed name and official title of an authorized representative of the hazardous secondary material generator, the authorized representative's signature, and the date signed:

"I hereby certify in good faith and to the best of my knowledge that, prior to arranging for transport of

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excluded hazardous secondary materials to [insert the name of each reclamation facility and any intermediate facility that will manage the materials], reasonable efforts were made in accordance with 35 Ill. Adm. Code 721.104(a)(24)(E)(ii) (and corresponding 40 CFR 261.4(a)(24)(v)(B)) to ensure that the hazardous secondary materials would be recycled legitimately and would be otherwise managed in a manner that is protective of human health and the environment, and that such efforts were based on current and accurate information."

BOARD NOTE: Corresponding 40 CFR 261.4(a)(24)(v)(C) combines the requirements for records retention and availability for inspection with the requirement for certification. The Board combined the certification requirements from 40 CFR 261.4(a)(24)(v)(C), (a)(24)(v)(C)(1), and (a)(24)(v)(C)(2) in this single subsection (a)(24)(E)(iii). This combination allowed compliance with codification requirements relating to the maximum permissible indent level. The Board moved the records retention and availability for inspection requirements from 40 CFR 261.4(a)(24)(v)(C) to subsection (a)(24)(E)(iv) of this Section. This forced renumbering 40 CFR 261.4(a)(24)(v)(D) and (a)(24)(v)(E) as subsections (a)(24)(E)(v) and (a)(24)(E)(vi) of this Section. Although the Board shifted the language for enhanced readability, the Board intends no shift in meaning.

- iv) The hazardous secondary material generator must maintain the following records for a minimum of three years: documentation and certification that the generator made reasonable efforts, prior to transferring hazardous secondary material, for each reclamation facility and, if applicable, intermediate facility where non-Subtitle C management of the hazardous secondary materials will occur. Documentation and certification must be made

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available, within 72 hours, or within any longer period of time specified by the Agency, upon request by the Agency.

BOARD NOTE: The Board moved the records retention and availability for inspection requirements of corresponding 40 CFR 261.4(a)(24)(v)(C) to this subsection (a)(24)(E)(iv).

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

BOARD NOTE: The Board combined and moved the shipping documentation and records retention requirements of corresponding 40 CFR 261.4(a)(24)(v)(D) and (a)(24)(v)(D)(1) through (a)(24)(v)(D)(3) to this single subsection (a)(24)(E)(v). This combination allowed compliance with codification requirements relating to the maximum permissible indent level.

- vi) The hazardous secondary material generator must maintain at the generating facility, for a minimum of three years, for every off-site shipment of hazardous secondary materials, confirmations of receipt from each reclaimer and intermediate facility to which its hazardous secondary materials were sent. Each confirmation of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received, and the date on which the facility received the hazardous secondary materials. The generator may satisfy this requirement using routine business records (e.g., financial records, bills

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of lading, copies of DOT shipping papers, or electronic confirmations of receipt).

BOARD NOTE: The Board moved the shipment confirmation documentation and records retention requirements of corresponding 40 CFR 261.4(a)(24)(v)(E) to this subsection (a)(24)(E)(vi).

F) The reclaimer of hazardous secondary material or any intermediate facility, as defined in 35 Ill. Adm. Code 720.110, that manages material which is excluded from regulation pursuant to this subsection (a)(24) must satisfy all of the following conditions:

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

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

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- ii) The intermediate facility must send the hazardous secondary material to the reclaimers designated by the generator of the hazardous secondary materials.
- iii) The reclaimer or intermediate facility that receives a shipment of hazardous secondary material must send a confirmation of receipt to the hazardous secondary material generator for each off-site shipment of hazardous secondary materials. A confirmation of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received, and the date on which the facility received the hazardous secondary materials. The reclaimer or intermediate facility may satisfy this requirement using routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt).
- iv) The reclaimer or intermediate facility must manage the hazardous secondary material in a manner that is at least as protective of human health and the environment as that employed for analogous raw material, and the material must be contained. An "analogous raw material" is a raw material for which the hazardous secondary material substitutes and that serves the same function and has similar physical and chemical properties as the hazardous secondary material.
- v) A reclaimer of hazardous secondary materials must manage any residuals that are generated from its reclamation processes in a manner that is protective of human health and the environment. If any residuals of the reclamation process exhibit a characteristic of hazardous waste, as defined in Subpart C of this Part, or if the residuals themselves are specifically listed as hazardous waste in Subpart D of this Part, those residuals are hazardous waste. The reclaimer and any subsequent persons must manage that hazardous waste in accordance with the applicable

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requirements of 35 Ill. Adm. Code: Subtitle G or similar regulations authorized by USEPA as equivalent to 40 CFR 260 through 272.

- vi) The reclaimer and intermediate facility must have financial assurance that satisfies the requirements of Subpart H of this Part.
- G) Any person claiming the exclusion for recycled hazardous secondary material pursuant to this subsection (a)(24) must provide notification as required by 35 Ill. Adm. Code 720.142.
- H) For the purposes of subsection (a)(24)(E)(ii) of this Section, the hazardous secondary material generator must affirmatively determine that each of the following conditions is true for each reclamation facility and any intermediate facility that will manage the generator's hazardous secondary material:
 - i) Available information indicates that the reclamation process is legitimate recycling, as determined pursuant to 35 Ill. Adm. Code 720.143. In making this determination, the hazardous secondary material generator may rely on its existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as on information from other sources (e.g., the reclamation facility, audit reports, etc.) about the reclamation process. (By making this determination, the hazardous secondary material generator has also satisfied the requirement in 35 Ill. Adm. Code 720.143(a) that the generator demonstrate that the recycling is legitimate).
 - ii) Publicly available information indicates that each reclamation facility and any intermediate facility that is used by the hazardous secondary material generator has submitted the notification required by 35 Ill. Adm. Code 720.142, and these facilities have submitted the required proofs of financial assurance as required by the applicable of Section 721.243(a)(1), (b)(1), (c)(1), (d)(1), (e)(3), and (g) and notification of financial assurance pursuant to 35

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Ill. Adm. Code 720.142(a)(5). In making this dual determination, the hazardous secondary material generator may rely on the available information documenting the reclamation facility's and any intermediate facility's compliance with the notification requirements pursuant to 35 Ill. Adm. Code 720.142, including the requirement in 35 Ill. Adm. Code 720.142(a)(5) to notify the Agency whether the reclaimer or intermediate facility has financial assurance.

- iii) Publicly available information indicates that each reclamation facility and any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility within the previous three years for violations of the RCRA hazardous waste regulations, and the facility has not been classified as a significant non-complier (SNC) with RCRA Subtitle C requirements. In making this determination, the hazardous secondary material generator may rely on the publicly available information from USEPA, the Agency, or the Office of the Attorney General. If the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has had a formal enforcement action taken against the facility within the previous three years for violations of the RCRA hazardous waste regulations, or if the facility has been classified as a SNC with RCRA Subtitle C requirements, the hazardous secondary material generator must have credible evidence that the facility will manage the hazardous secondary materials properly. In making this determination, the hazardous secondary material generator can obtain additional information from USEPA, the Agency, the Office of the Attorney General, or the facility itself which indicates that the facility has addressed the violations, taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the generator's hazardous secondary materials.

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BOARD NOTE: USEPA or a state may make a formalized determination that a facility is a SNC (pronounced "snick") pursuant to USEPA's "Hazardous Waste Civil Enforcement Response Policy" (most recent version: December 2003, available from USEPA, Envirofacts Data Warehouse (www.epa.gov/compliance/resources/policies/civil/rcra/finalerp1203.pdf)). USEPA operates the online RCRAInfo database (www.epa.gov/enviro/html/rcris/) from which interested persons can learn whether a facility has significant federal enforcement action against it, or if it is a SNC.

- iv) Available information indicates that the reclamation facility and any intermediate facility used by the hazardous secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material. In making this determination, the generator may rely on a description made by the reclamation facility or an independent third party of the equipment and trained personnel that the facility will use to manage and recycle the generator's hazardous secondary material.
- v) If residuals are generated from the reclamation of the excluded hazardous secondary materials, the reclamation facility has the permits required (if any) to manage the residuals. If the reclamation facility does not have required permits, the facility has a contract with an appropriately permitted facility to dispose of the residuals. If the reclamation facility does not have required permits or a contract with a permitted facility, the hazardous secondary material generator has credible evidence that the residuals will be managed in a manner that is protective of human health and the environment. In making these determinations, the hazardous secondary material generator may rely on publicly available information from USEPA or the Agency, or on information provided by the facility itself.

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BOARD NOTE: The Board moved 40 CFR 261.4(a)(24)(v)(B)(1) through (a)(24)(v)(B)(5) to appear as 35 Ill. Adm. Code 721.104(a)(24)(H)(i) through (a)(24)(H)(v), which set forth the determinations mandated for the purposes of subsection (a)(24)(E)(ii). This movement allowed compliance with codification requirements relating to the maximum permissible indent level.

- 25) Hazardous secondary materials exported for recycling. Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste, so long as the hazardous secondary material generator complies with the applicable requirements of subsections (a)(24)(A) through (a)(24)(E) of this Section, except that the requirements of subsection (a)(24)(H)(ii) of this Section (requiring the use of publicly available information to verify that the facility has submitted required notifications) do not apply to foreign reclaimers and intermediate facilities, and the hazardous secondary material generator also complies with the following requirements:
- A) The generator must notify the Agency and USEPA of an intended export before the hazardous secondary material is scheduled to leave the United States. The generator must submit a complete notification at least 60 days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a period up to 12 months in duration, but not longer. The notification must be in writing and signed by the hazardous secondary material generator, and must include the following information:
- i) The name, mailing address, telephone number and USEPA identification number (if applicable) of the hazardous secondary material generator;
 - ii) A description of the hazardous secondary material; the USEPA hazardous waste number that would apply were the hazardous secondary material to be managed as hazardous waste; and the USDOT proper shipping name, hazard class, and identification number (UN or NA number) for each hazardous secondary material, as identified in 49 CFR 171

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through 173, each incorporated by reference in 35 Ill. Adm. Code 720.111;

- iii) The estimated frequency or rate at which the hazardous secondary material is to be exported, and the period of time over which the hazardous secondary material is to be exported;
- iv) The estimated total quantity of hazardous secondary material;
- v) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass;
- vi) A description of the means by which each shipment of the hazardous secondary material will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), and the types of container (drums, boxes, tanks, etc.));
- vii) A description of the manner in which the hazardous secondary material will be reclaimed in the receiving country;
- viii) The name and address of each reclaimer, any intermediate facility, and any alternative reclaimer and intermediate facilities; and
- ix) The name of any transit countries through which the hazardous secondary material will be sent, together with a description of the approximate length of time the material will remain in each transit country and the nature of the handling of the material while in the country (for purposes of this Section, the meanings of the terms "Acknowledgement of Consent," "receiving country," and "transit country" are as defined in 35 Ill. Adm. Code 722.151, with the exception that the terms in this Section refer to hazardous secondary materials, rather than hazardous waste).

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B) Submission of notification of intent to export hazardous secondary material. Whether delivered by mail or hand delivery, the following words must prominently appear on the front of the envelope: "Attention: Notification of Intent to Export."

i) A notification that is submitted by mail must be sent to the following mailing addresses:

Office of Enforcement and Compliance Assurance
Office of Federal Activities
International Compliance Assurance Division (Mail
Code 2254A)
Environmental Protection Agency
1200 Pennsylvania Ave., NW.
Washington, DC 20460

Permits Section
Division of Land Pollution Control
Illinois Environmental Protection Agency
P.O. Box 19276
Springfield, Illinois 62794-9276

ii) A notification that is hand-delivered must be delivered to the following addresses:

Office of Enforcement and Compliance Assurance
Office of Federal Activities
International Compliance Assurance Division
Environmental Protection Agency
Ariel Rios Bldg., Room 6144
12th St. and Pennsylvania Ave., NW.
Washington, DC 20004

Permits Section
Division of Land Pollution Control
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

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- C) Except for a change in the telephone number submitted pursuant to subsection (a)(25)(A)(i) of this Section or a decrease in the quantity of hazardous secondary material indicated pursuant to subsection (a)(25)(A)(iv) of this Section, when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification), the hazardous secondary material generator must provide the Agency and USEPA with a written re-notification of the change. The shipment cannot take place until consent of the receiving country to the changes (except for changes to subsection (a)(25)(A)(ix) of this Section and in the ports of entry to and departure from transit countries pursuant to subsection (a)(25)(A)(v) of this Section) has been obtained and the hazardous secondary material generator receives from USEPA an Acknowledgment of Consent reflecting the receiving country's consent to the changes.
- D) Upon request from the Agency or USEPA, the hazardous secondary material generator must furnish to the Agency and USEPA any additional information that a receiving country requests in order to respond to a notification.
- E) USEPA has stated in corresponding 40 CFR 261.4(a)(25)(v) that it will provide a complete notification to the receiving country and any transit countries. A notification is complete when USEPA determines that the notification satisfies the requirements of subsection (a)(25)(A) of this Section. When a claim of confidentiality is asserted with respect to any notification information required by subsection (a)(25)(A) of this Section, USEPA has stated in corresponding 40 CFR 261.4(a)(25)(v) that it may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.
- F) The export of hazardous secondary material pursuant to this subsection (a)(25) is prohibited, unless the receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the hazardous secondary material, USEPA has stated in corresponding 40 CFR

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261.4(a)(25)(vi) that it will send an Acknowledgment of Consent to the hazardous secondary material generator. When the receiving country objects to receipt of the hazardous secondary material or withdraws a prior consent, USEPA has stated that it will notify the hazardous secondary material generator in writing. USEPA has stated that it will also notify the hazardous secondary material generator of any responses from transit countries.

- G) For exports to OECD Member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any receiving country or transit countries to a notification provided pursuant to subsection (a)(25)(A) of this Section within 30 days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the receiving country, the trans-boundary movement may commence. In such cases, USEPA has stated in corresponding 40 CFR 261.4(a)(25)(vii) that it will send an Acknowledgment of Consent to inform the hazardous secondary material generator that the receiving country and any relevant transit countries have not objected to the shipment, and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the 30-day period; re-notification and renewal of all consents is required for exports after that date.
- H) A copy of the Acknowledgment of Consent must accompany the shipment. The shipment must conform to the terms of the Acknowledgment of Consent.
- I) If a shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator must re-notify the Agency and USEPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with subsection (a)(25)(C) of this Section and obtain another Acknowledgment of Consent.
- J) The hazardous secondary material generator must keep a copy of each notification of intent to export and each Acknowledgment of

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Consent for a period of three years following receipt of the Acknowledgment of Consent.

- K) Annual reporting of hazardous secondary material exports. A hazardous secondary material generator must file with the Agency and USEPA, no later than March 1 of each year, a report that summarizes the types, quantities, frequency, and ultimate destinations of all hazardous secondary materials exported during the previous calendar year. Annual reports must be sent to the addresses listed in subsection (a)(25)(B) of this Section (for mail or hand delivery, as appropriate) for submission notification of intent to export hazardous secondary material. The annual reports must include the following information:
- i) The name, mailing and site addresses, and USEPA identification number (if applicable) of the hazardous secondary material generator;
 - ii) The calendar year covered by the report;
 - iii) The name and site address of each reclaimer and intermediate facility that received exported hazardous secondary material from the generator;
 - iv) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the USEPA hazardous waste number that would apply were the hazardous secondary material to be managed as hazardous waste; the USDOT hazard class for the material, as determined pursuant to 49 CFR 171 through 173, each incorporated by reference in 35 Ill. Adm. Code 720.111; the name and USEPA identification number (where applicable) for each transporter used; the total amount of hazardous secondary material shipped; and the number of shipments pursuant to each notification;
 - v) A certification signed by the hazardous secondary material generator that states as follows:

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

- L) Any person that claims an exclusion under this subsection (a)(25) must provide notification as required by 35 Ill. Adm. Code 720.142.
- 26) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that all of the following conditions are fulfilled:
- A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
 - B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;
 - C) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated

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wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;

- D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
 - E) Generators must maintain at their site the following documentation:
 - i) The name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;
 - ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(a)(26)(B) is being met; and
 - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning; and
 - F) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the federal Clean Water Act (33 USC 1311 and 1341 or 33 USC 1317) or equivalent Illinois or sister-state requirements approved by USEPA pursuant to 33 USC 1311 through 1346 and 1370.
- b) Solid wastes that are not hazardous wastes. The following solid wastes are not hazardous wastes:
- 1) Household waste, including household waste that has been collected, transported, stored, treated, disposed of, recovered (e.g., refuse-derived fuel), or reused. "Household waste" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels, and motels,

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bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste must not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this Part, if the following describe the facility:

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

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

- 2) Solid wastes generated by any of the following that are returned to the soil as fertilizers:
 - A) The growing and harvesting of agricultural crops, or

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- B) The raising of animals, including animal manures.
- 3) Mining overburden returned to the mine site.
- 4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided in 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- 5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy.
- 6) Chromium wastes.
 - A) Wastes that fail the test for the toxicity characteristic (Section 721.124 and Appendix B to this Part) because chromium is present or which are listed in Subpart D of this Part due to the presence of chromium, that do not fail the test for the toxicity characteristic for any other constituent or which are not listed due to the presence of any other constituent, and that do not fail the test for any other characteristic, if the waste generator shows the following:
 - i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium;
 - ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and
 - iii) The waste is typically and frequently managed in non-oxidizing environments.
 - B) The following are specific wastes that meet the standard in subsection (b)(6)(A) of this Section (so long as they do not fail the test for the toxicity characteristic for any other constituent and do not exhibit any other characteristic):
 - i) Chrome (blue) trimmings generated by the following

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- subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
- ii) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - iii) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue;
 - iv) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - v) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - vi) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, and through-the-blue;
 - vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries; and
 - viii) Wastewater treatment sludges from the production of

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titanium dioxide pigment using chromium-bearing ores by the chloride process.

- 7) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- A) For purposes of this subsection (b)(7), beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water or carbon dioxide; roasting; autoclaving or chlorination in preparation for leaching (except where the roasting (or autoclaving or chlorination) and leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; floatation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat tank, and in situ leaching.
- B) For the purposes of this subsection (b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:
- i) Slag from primary copper processing;
 - ii) Slag from primary lead processing;
 - iii) Red and brown muds from bauxite refining;
 - iv) Phosphogypsum from phosphoric acid production;
 - v) Slag from elemental phosphorus production;
 - vi) Gasifier ash from coal gasification;
 - vii) Process wastewater from coal gasification;

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- viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
 - ix) Slag tailings from primary copper processing;
 - x) Fluorogypsum from hydrofluoric acid production;
 - xi) Process wastewater from hydrofluoric acid production;
 - xii) Air pollution control dust or sludge from iron blast furnaces;
 - xiii) Iron blast furnace slag;
 - xiv) Treated residue from roasting and leaching of chrome ore;
 - xv) Process wastewater from primary magnesium processing by the anhydrous process;
 - xvi) Process wastewater from phosphoric acid production;
 - xvii) Basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;
 - xviii) Basic oxygen furnace and open hearth furnace slag from carbon steel production;
 - xix) Chloride processing waste solids from titanium tetrachloride production; and
 - xx) Slag from primary zinc production.
- C) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under this subsection (b) if the following conditions are fulfilled:
- i) The owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal

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mineral processing raw materials; and

- ii) The owner or operator legitimately reclaims the secondary mineral processing materials.
- 8) Cement kiln dust waste, except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
 - 9) Solid waste that consists of discarded arsenical-treated wood or wood products that fails the test for the toxicity characteristic for hazardous waste codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons that utilize the arsenical-treated wood and wood products for these materials' intended end use.
 - 10) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of Section 721.124 (hazardous waste codes D018 through D043 only) and which are subject to corrective action regulations under 35 Ill. Adm. Code 731.
 - 11) This subsection (b)(11) corresponds with 40 CFR 261.4(b)(11), which expired by its own terms on January 25, 1993. This statement maintains structural parity with USEPA regulations.
 - 12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems, that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.
 - 13) Non-terne plated used oil filters that are not mixed with wastes listed in Subpart D of this Part, if these oil filters have been gravity hot-drained using one of the following methods:
 - A) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;
 - B) Hot-draining and crushing;

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- C) Dismantling and hot-draining; or
- D) Any other equivalent hot-draining method that will remove used oil.
- 14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.
- 15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed of, under the following circumstances:
- A) The following conditions must be fulfilled:
- i) The solid wastes disposed of would meet one or more of the listing descriptions for the following USEPA hazardous waste numbers that are generated after the effective date listed for the waste:
- | USEPA Hazardous Waste Numbers | Listing Effective Date |
|-------------------------------|------------------------|
| K169, K170, K171, and K172 | February 8, 1999 |
| K174 and K175 | May 7, 2001 |
| K176, K177, and K178 | May 20, 2002 |
| K181 | August 23, 2005 |
- ii) The solid wastes described in subsection (b)(15)(A)(i) of this Section were disposed of prior to the effective date of the listing (as set forth in that subsection);
- iii) The leachate or gas condensate does not exhibit any characteristic of hazardous waste nor is derived from any other listed hazardous waste; and
- iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to

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regulation under section 307(b) or 402 of the federal Clean Water Act (33 USC 1317(b) or 1342).

- B) Leachate or gas condensate derived from K169, K170, K171, K172, K176, K177, K178, or K181 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this subsection (b)(15) after the emergency ends.
- 16) This subsection (b)(16) corresponds with 40 CFR 261.4(b)(16), which USEPA has marked "reserved". This statement maintains structural parity with USEPA regulations.
- 17) This subsection (b)(17) corresponds with 40 CFR 261.4(b)(17), which pertains exclusively to waste generated by a specific facility outside Illinois. This statement maintains structural parity with USEPA regulations.
- 18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided that all of the following conditions are fulfilled:
- A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids

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properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

- B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;
- C) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
- D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
- E) Generators must maintain at their site the following documentation:
 - i) The name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;
 - ii) The documentation that the 180 day accumulation time limit in 35 Ill. Adm. Code 721.104(b)(18)(B) is being met; and
 - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being transported for disposal; and
- F) The solvent-contaminated wipes are sent for disposal at one of the following facilities:
 - i) A municipal solid waste landfill regulated under RCRA Subtitle D regulations: 35 Ill. Adm. Code 810 through 815, including the landfill design criteria of 35 Ill. Adm. Code 811.303 through 811.309, 811.315 through 811.317, and Subpart E of 35 Ill. Adm. Code 811 or 35 Ill. Adm. Code 814.302 and 814.402; 40 CFR 258, including the landfill

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design criteria of 40 CFR 258.40; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6943 and 6947; or

- ii) A hazardous waste landfill regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725; 40 CFR 264 or 265; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926; or
 - iii) A municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act (42 USC 7429) or equivalent Illinois or sister-state regulations approved by USEPA pursuant to 42 USC 7429; or
 - iv) A hazardous waste combustor, boiler, or industrial furnace regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725 or Subpart H of 35 Ill. Adm. Code 726; 40 CFR 264 or 265 or subpart H of 40 CFR 266; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926.
- c) Hazardous wastes that are exempted from certain regulations. A hazardous waste that is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit, or an associated non-waste-treatment manufacturing unit, is not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728 or to the notification requirements of section 3010 of RCRA (42 USC 6930) until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing or for storage or transportation of product or raw materials.
- d) Samples.
- 1) Except as provided in subsection (d)(2) of this Section, a sample of solid waste or a sample of water, soil, or air that is collected for the sole purpose of testing to determine its characteristics or composition is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, and 722 through 728. The sample qualifies when it fulfills one of the following

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conditions:

- A) The sample is being transported to a laboratory for the purpose of testing;
 - B) The sample is being transported back to the sample collector after testing;
 - C) The sample is being stored by the sample collector before transport to a laboratory for testing;
 - D) The sample is being stored in a laboratory before testing;
 - E) The sample is being stored in a laboratory for testing but before it is returned to the sample collector; or
 - F) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).
- 2) In order to qualify for the exemption in subsection (d)(1)(A) or (d)(1)(B) of this Section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must do the following:
- A) Comply with USDOT, U.S. Postal Service (USPS), or any other applicable shipping requirements; or
 - B) Comply with the following requirements if the sample collector determines that USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample:
 - i) Assure that the following information accompanies the sample: The sample collector's name, mailing address, and telephone number; the laboratory's name, mailing address, and telephone number; the quantity of the sample; the date of the shipment; and a description of the sample; and
 - ii) Package the sample so that it does not leak, spill, or

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vaporize from its packaging.

- 3) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in subsection (d)(1) of this Section.
- e) Treatability study samples.
- 1) Except as is provided in subsection (e)(2) of this Section, a person that generates or collects samples for the purpose of conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of section 3010 of the Resource Conservation and Recovery Act. Nor are such samples included in the quantity determinations of Section 721.105 and 35 Ill. Adm. Code 722.134(d) when:
 - A) The sample is being collected and prepared for transportation by the generator or sample collector;
 - B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or
 - C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.
 - 2) The exemption in subsection (e)(1) of this Section is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that the following conditions are fulfilled:
 - A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1,000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream;
 - B) The mass of each shipment does not exceed 10,000 kg; the 10,000

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kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste;

- C) The sample must be packaged so that it does not leak, spill, or vaporize from its packaging during shipment and the requirements of subsection (e)(2)(C)(i) or (e)(2)(C)(ii) of this Section are met.
 - i) The transportation of each sample shipment complies with USDOT, USPS, or any other applicable shipping requirements; or
 - ii) If the USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample: The name, mailing address, and telephone number of the originator of the sample; the name, address, and telephone number of the facility that will perform the treatability study; the quantity of the sample; the date of the shipment; and, a description of the sample, including its USEPA hazardous waste number;
- D) The sample is shipped to a laboratory or testing facility that is exempt under subsection (f) of this Section, or has an appropriate RCRA permit or interim status;
- E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:
 - i) Copies of the shipping documents;
 - ii) A copy of the contract with the facility conducting the treatability study; and
 - iii) Documentation showing the following: The amount of waste shipped under this exemption; the name, address, and USEPA identification number of the laboratory or testing

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facility that received the waste; the date the shipment was made; and whether or not unused samples and residues were returned to the generator; and

- F) The generator reports the information required in subsection (e)(2)(E)(iii) of this Section in its report under 35 Ill. Adm. Code 722.141.
- 3) The Agency may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Agency may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in subsections (e)(2)(A), (e)(2)(B), and (f)(4) of this Section, for up to an additional 5,000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste under the circumstances set forth in either subsection (e)(3)(A) or (e)(3)(B) of this Section, subject to the limitations of subsection (e)(3)(C) of this Section:
- A) In response to requests for authorization to ship, store, and conduct further treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing (particularly in relation to scale-up considerations), the time or quantity of material required to reach steady-state operating conditions, or test design considerations, such as mass balance calculations.
- B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when the following occurs: There has been an equipment or mechanical failure during the conduct of the treatability study, there is need to verify the results of a previously-conducted treatability study, there is a need to study and analyze alternative techniques within a previously-evaluated treatment process, or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

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- C) The additional quantities allowed and timeframes allowed in subsections (e)(3)(A) and (e)(3)(B) of this Section are subject to all the provisions in subsections (e)(1) and (e)(2)(B) through (e)(2)(F) of this Section. The generator or sample collector must apply to the Agency and provide in writing the following information:
- i) The reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;
 - ii) Documentation accounting for all samples of hazardous waste from the waste stream that have been sent for or undergone treatability studies, including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;
 - iii) A description of the technical modifications or change in specifications that will be evaluated and the expected results;
 - iv) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and
 - v) Such other information as the Agency determines is necessary.
- 4) Final Agency determinations pursuant to this subsection (e) may be appealed to the Board.
- f) Samples undergoing treatability studies at laboratories or testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise

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subject to RCRA requirements) are not subject to any requirement of this Part, or of 35 Ill. Adm. Code 702, 703, 722 through 726, and 728 or to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act (42 USC 6930), provided that the requirements of subsections (f)(1) through (f)(11) of this Section are met. A mobile treatment unit may qualify as a testing facility subject to subsections (f)(1) through (f)(11) of this Section. Where a group of mobile treatment units are located at the same site, the limitations specified in subsections (f)(1) through (f)(11) of this Section apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.

- 1) No less than 45 days before conducting treatability studies, the facility notifies the Agency in writing that it intends to conduct treatability studies under this subsection (f).
- 2) The laboratory or testing facility conducting the treatability study has a USEPA identification number.
- 3) No more than a total of 10,000 kg of "as received" media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.
- 4) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including non-hazardous solid waste) added to "as received" hazardous waste.
- 5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be

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archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

- 6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.
- 7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:
 - A) The name, address, and USEPA identification number of the generator or sample collector of each waste sample;
 - B) The date the shipment was received;
 - C) The quantity of waste accepted;
 - D) The quantity of "as received" waste in storage each day;
 - E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;
 - F) The date the treatability study was concluded;
 - G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the USEPA identification number.
- 8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.
- 9) The facility prepares and submits a report to the Agency, by March 15 of each year, that includes the following information for the previous calendar year:

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- A) The name, address, and USEPA identification number of the facility conducting the treatability studies;
 - B) The types (by process) of treatability studies conducted;
 - C) The names and addresses of persons for whom studies have been conducted (including their USEPA identification numbers);
 - D) The total quantity of waste in storage each day;
 - E) The quantity and types of waste subjected to treatability studies;
 - F) When each treatability study was conducted; and
 - G) The final disposition of residues and unused sample from each treatability study.
- 10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703, and 721 through 728, unless the residues and unused samples are returned to the sample originator under the exemption of subsection (e) of this Section.
- 11) The facility notifies the Agency by letter when the facility is no longer planning to conduct any treatability studies at the site.
- g) Dredged material that is not a hazardous waste. Dredged material that is subject to the requirements of a permit that has been issued under section 404 of the Federal Water Pollution Control Act (33 USC 1344) is not a hazardous waste. For the purposes of this subsection (g), the following definitions apply:
- "Dredged material" has the meaning ascribed it in 40 CFR 232.2 (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- "Permit" means any of the following:
- A permit issued by the U.S. Army Corps of Engineers (Army Corps) under section 404 of the Federal Water Pollution Control

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Act (33 USC 1344);

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

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

- h) Carbon dioxide stream injected for geologic sequestration. Carbon dioxide streams that are captured and transported for purposes of injection into an underground injection well subject to the requirements for Class VI carbon sequestration injection wells, including the requirements in 35 Ill. Adm. Code 704 and 730, are not a hazardous waste, provided the following conditions are met:
- 1) Transportation of the carbon dioxide stream must be in compliance with U.S. Department of Transportation requirements, including the pipeline safety laws (chapter 601 of subtitle VIII of 49 USC, incorporated by reference in 35 Ill. Adm. Code 720.111) and regulations (49 CFR 190 through 199, incorporated by reference in 35 Ill. Adm. Code 720.111) of the U.S. Department of Transportation, and pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC 60105, incorporated by reference in 35 Ill. Adm. Code 720.111, and 49 CFR 171 through 180, incorporated by reference in 35 Ill. Adm. Code 720.111, as applicable.

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

- 2) Injection of the carbon dioxide stream must be in compliance with the applicable requirements for Class VI carbon sequestration injection wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730;

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- 3) No hazardous wastes shall be mixed with, or otherwise co-injected with, the carbon dioxide stream; and
- 4) Required Certifications.
 - A) Any generator of a carbon dioxide stream, who claims that a carbon dioxide stream is excluded under this subsection (h), must have an authorized representative (as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

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

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

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

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requirements for UIC Class VI wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730."

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

(Source: Amended at 39 Ill. Reg. 1607, effective January 12, 2015)

Section 721.105 Special Requirements for Hazardous Waste Generated by Small Quantity Generators

- a) A generator is a conditionally exempt small quantity generator (CESQG) in a calendar month if it generates no more than 100 kilograms of hazardous waste in that month.
- b) Except for those wastes identified in subsections (e), (f), (g), and (j) of this Section, a CESQG's hazardous wastes are not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and the notification requirements of section 3010 of Resource Conservation and Recovery Act (42 USC 6930), provided the generator complies with subsections (f), (g), and (j) of this Section.
- c) When making the quantity determinations of this Part and 35 Ill. Adm. Code 722, the generator must include all hazardous waste that it generates, except the following hazardous waste:
- 1) Hazardous waste that is exempt from regulation under Section 721.104(c) through (f), 721.106(a)(3), 721.107(a)(1), or 721.108;
 - 2) Hazardous waste that is managed immediately upon generation only in on-

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site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities, as defined in 35 Ill. Adm. Code 720.110;

- 3) Hazardous waste that is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under Section 721.106(c)(2);
 - 4) Hazardous waste that is used oil managed pursuant to Section 721.106(a)(4) and 35 Ill. Adm. Code 739;
 - 5) Hazardous waste that is spent lead-acid batteries managed pursuant to Subpart G of 35 Ill. Adm. Code 726;
 - 6) Hazardous waste that is universal waste managed pursuant to Section 721.109 and 35 Ill. Adm. Code 733; and
 - 7) Hazardous waste that is an unused commercial chemical product (that is listed in Subpart D of 35 Ill. Adm. Code 721 or which exhibits one or more characteristics in Subpart C of 35 Ill. Adm. Code 721) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to Section 722.313. For purposes of this subsection (c)(7), the term "eligible academic entity" has the meaning given that term in 35 Ill. Adm. Code 722.300.
- d) In determining the quantity of hazardous waste it generates, a generator need not include the following:
- 1) Hazardous waste when it is removed from on-site storage;
 - 2) Hazardous waste produced by on-site treatment (including reclamation) of its hazardous waste so long as the hazardous waste that is treated was counted once;
 - 3) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.
- e) If a generator generates acute hazardous waste in a calendar month in quantities greater than those set forth in subsections (e)(1) and (e)(2) of this Section, all quantities of that acute hazardous waste are subject to full regulation under 35 Ill.

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Adm. Code 702, 703, and 722 through 728, and the notification requirements of section 3010 of the Resource Conservation and Recovery Act (42 USC 6930).

- 1) A total of one kilogram of one or more of the acute hazardous wastes listed in Section 721.131 or 721.133(e); or
- 2) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any one or more of the acute hazardous wastes listed in Section 721.131 or 721.133(e).

BOARD NOTE: "Full regulation" means those regulations applicable to generators of 1,000 kg or greater of hazardous waste in a calendar month.

- f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in subsection (e)(1) or (e)(2) of this Section to be excluded from full regulation under this Section, the generator must comply with the following requirements:
 - 1) 35 Ill. Adm. Code 722.111.
 - 2) The generator may accumulate acute hazardous waste on-site. If the generator accumulates at any time acute hazardous wastes in quantities greater than set forth in subsection (e)(1) or (e)(2) of this Section, all of those accumulated wastes are subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and the applicable notification requirements of section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(a), for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit.
 - 3) A CESQG may either treat or dispose of its acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:
 - A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
 - B) The facility has interim status under 35 Ill. Adm. Code 702, 703,

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and 725;

- C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;
- D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or federal 40 CFR 258;
- E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to federal 40 CFR 257.5 through 257.30, [incorporated by reference in 35 Ill. Adm. Code 720.111](#);

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (f)(3)(D) and (f)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

- F) The facility is one that fulfills one of the following conditions:
 - i) It beneficially uses or reuses or legitimately recycles or reclaims its waste; or
 - ii) It treats its waste prior to beneficial use or reuse or legitimate recycling or reclamation; or
- G) For universal waste managed under 35 Ill. Adm. Code 733 or federal 40 CFR 273, the facility is a universal waste handler or destination facility subject to 35 Ill. Adm. Code 733 or federal 40 CFR 273.

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- g) In order for hazardous waste generated by a CESQG in quantities of 100 kilograms or less of hazardous waste during a calendar month to be excluded from full regulation under this Section, the generator must comply with the following requirements:
- 1) The hazardous waste determination requirements of 35 Ill. Adm. Code 722.111;
 - 2) The CESQG may accumulate hazardous waste on-site. If it accumulates at any time 1,000 kilograms or greater of the generator's hazardous waste, all of those accumulated wastes are subject to regulation pursuant to the special provisions of 35 Ill. Adm. Code 722 applicable to generators of greater than 100 kg and less than 1,000 kg of hazardous waste in a calendar month, as well as 35 Ill. Adm. Code 702, 703, and 723 through 728, and the applicable notification requirements of Section 3010 of the Resource Conservation and Recovery Act (42 USC 6930). The time period of 35 Ill. Adm. Code 722.134(d) for accumulation of wastes on-site begins for a small quantity generator when the accumulated wastes equal or exceed 1,000 kilograms;
 - 3) A CESQG may either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:
 - A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
 - B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;
 - C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;
 - D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or federal 40 CFR 258;

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- E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to federal CESQG waste landfill disposal standards in 40 CFR 257.5 through 257.30;

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (g)(3)(D) and (g)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

- F) The facility is one that fulfills the following conditions:
- i) It beneficially uses or re-uses, or legitimately recycles or reclaims the small quantity generator's waste; or
 - ii) It treats its waste prior to beneficial use or re-use or legitimate recycling or reclamation; or
- G) For universal waste managed under 35 Ill. Adm. Code 733 or federal 40 CFR 273, the facility is a universal waste handler or destination facility subject to 35 Ill. Adm. Code 733 or federal 40 CFR 273.
- h) Hazardous waste subject to the reduced requirements of this Section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this Section, unless the mixture meets any of the characteristics of hazardous wastes identified in Subpart C of this Part.
- i) If a small quantity generator mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this Section, the mixture is subject to full regulation.

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- j) If a CESQG's hazardous wastes are mixed with used oil, the mixture is subject to the used oil standards in 35 Ill. Adm. Code 739. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated.

(Source: Amended at 39 Ill. Reg. 1607, effective January 12, 2015)

SUBPART E: EXCLUSIONS AND EXEMPTIONS

Section 721.138 Exclusion of Comparable Fuel and Syngas Fuel

- a) Specifications for excluded fuels. Wastes that meet specifications for comparable fuel or syngas fuel under subsection (a)(1) or (a)(2) of this Section, respectively, and the other requirements of this Section, are not solid wastes:
- 1) Comparable fuel specifications.
 - A) Physical specifications.
 - i) Heating value. The heating value must exceed 5,000 Btu/lb (11,500 J/g).
 - ii) Viscosity. The viscosity must not exceed 50 cS, as fired.
 - B) Constituent specifications. For the compounds listed, the constituent specification levels and minimum required detection limits (where non-detect is the constituent specification) are set forth in the table in Appendix Y to this Part.
 - 2) Synthesis gas fuel specifications. Synthesis gas fuel (i.e., syngas fuel) that is generated from hazardous waste must fulfill the following requirements:
 - A) It must have a minimum Btu value of 100 Btu/Scf;
 - B) It must contain less than 1 ppmv of total halogen;
 - C) It must contain less than 300 ppmv of total nitrogen other than diatomic nitrogen (N₂);

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- D) It must contain less than 200 ppmv of hydrogen sulfide; and
 - E) It must contain less than 1 ppmv of each hazardous constituent in the target list of constituents listed in Appendix H of this Part.
- 3) Blending to meet the specifications.
- A) Hazardous waste shall not be blended to meet the comparable fuel specification under subsection (a)(1) of this Section, except as provided by subsection (a)(3)(B) of this Section.
 - B) Blending to meet the viscosity specification. A hazardous waste blended to meet the viscosity specification for comparable fuel must fulfill the following requirements:
 - i) As generated, and prior to any blending, manipulation, or processing, the hazardous waste must meet the constituent and heating value specifications of subsections (a)(1)(A)(i) and (a)(1)(B) of this Section;
 - ii) The hazardous waste must be blended at a facility that is subject to the applicable requirements of 35 Ill. Adm. Code 722.134, 724, 725, or 727; and
 - iii) The hazardous waste must not violate the dilution prohibition of subsection (a)(6) of this Section.
- 4) Treatment to meet the comparable fuel specifications.
- A) A hazardous waste may be treated to meet the specifications for comparable fuel set forth in subsection (a)(1) of this Section, provided the treatment fulfills the following requirements:
 - i) The treatment destroys or removes the constituent listed in the specification or raises the heating value by removing or destroying hazardous constituents or materials;

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- ii) The treatment is performed at a facility that is subject to the applicable requirements of 35 Ill. Adm. Code 722.134, 724, 725, or 727; and
 - iii) The treatment does not violate the dilution prohibition of subsection (a)(6) of this Section.
 - B) Residuals resulting from the treatment of a hazardous waste listed in Subpart D of this Part to generate a comparable fuel remain a hazardous waste.
- 5) Generation of a syngas fuel.
 - A) A syngas fuel can be generated from the processing of hazardous wastes to meet the exclusion specifications of subsection (a)(2) of this Section, provided the processing fulfills the following requirements:
 - i) The processing destroys or removes the constituent listed in the specification or raises the heating value by removing or destroying constituents or materials;
 - ii) The processing is performed at a facility that is subject to the applicable requirements of 35 Ill. Adm. Code 722.134, 724, 725, or 727 or is an exempt recycling unit pursuant to 35 Ill. Adm. Code 721.106(c); and
 - iii) The processing does not violate the dilution prohibition of subsection (a)(6) of this Section.
 - B) Residuals resulting from the treatment of a hazardous waste listed in Subpart D of this Part to generate a syngas fuel remain a hazardous waste.
- 6) Dilution prohibition. A generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility must not in any way dilute a hazardous waste to meet the specifications of subsections (a)(1)(A)(i) or (a)(1)(B) of this Section for comparable fuel, or subsection (a)(2) of this section for Syngas.

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- b) Implementation.
 - 1) General.
 - A) Wastes that meet the specifications provided by subsection (a) of this Section for comparable fuel or syngas fuel are excluded from the definition of solid waste provided that the following requirements are met. For purposes of this Section, such materials are called "excluded fuel," the person claiming and qualifying for the exclusion is called the "excluded fuel generator," and the person burning the excluded fuel is called the "excluded fuel burner."
 - B) The person who generates the excluded fuel must claim the exclusion by complying with the conditions of this Section and keeping records necessary to document compliance with those conditions.
 - 2) Notices.
 - A) Notice to the Agency.
 - i) The generator must submit a one-time notice, except as provided by subsection (b)(2)(A)(iii) of this Section, to the Agency, certifying compliance with the conditions of the exclusion and providing documentation, as required by subsection (b)(2)(C) of this Section;

BOARD NOTE: This subsection (b)(2)(A)(i) corresponds with 40 CFR 261.38(c)(2)(i)(A) (2009). Due to limitations on the maximum indent levels allowed in the Illinois Administrative Code, the Board found it necessary to move 40 CFR 261.38(c)(2)(i)(A)(1) through (c)(2)(i)(A)(5) to appear as subsections (c)(2)(C)(i) through (c)(2)(C)(v) of this Section.

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- ii) If there is a substantive change in the information provided in the one-time notice required under this subsection (b)(2)(A), the generator must submit a revised notification.
 - iii) An excluded fuel generator must include an estimate of the average and maximum monthly and annual quantity of material for which an exclusion would be claimed in notices for newly excluded fuel or for revised notices as required by subsection (b)(2)(A)(ii) of this Section.
- B) Public notice. Prior to burning an excluded fuel, the burner must publish in a major newspaper of general circulation, local to the site where the fuel will be burned, a notice entitled "Notification of Burning a Fuel Excluded Under the Resource Conservation and Recovery Act" containing the following information:
- i) The name, address, and USEPA identification number of the generating facility;
 - ii) The name and address of the burner and identification of the units that will burn the excluded fuel;
 - iii) A brief, general description of the manufacturing, treatment, or other process generating the excluded fuel;
 - iv) An estimate of the average and maximum monthly and annual quantity of the excluded fuel to be burned; and
 - v) The name and mailing address of the Agency office to which the generator submitted a claim for the exclusion.
- C) The one-time notice required by subsection (b)(2)(A)(i) of this Section must certify compliance with the conditions of the exclusion and provide documentation, as follows:
- i) The name, address, and USEPA identification number of the person or facility claiming the exclusion;
 - ii) The applicable USEPA hazardous waste codes for the

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hazardous waste;

- iii) The name and address of the units that meet the requirements of subsections (b)(3) and (c) of this Section that will burn the excluded fuel;
- iv) An estimate of the average and maximum monthly and annual quantity of material for which an exclusion would be claimed, except as provided by subsection (b)(2)(A)(iii) of this Section; and
- v) The following statement must be signed and submitted by the person claiming the exclusion or its authorized representative:

Under penalty of criminal and civil prosecution for making or submitting false statements, representations, or omissions, I certify that the requirements of 35 Ill. Adm. Code 721.138 have been met for all waste identified in this notification. Copies of the records and information required by 35 Ill. Adm. Code 721.138(b)(8) are available at the comparable or syngas fuel generator's facility. Based on my inquiry of the individuals immediately responsible for obtaining the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

BOARD NOTE: Subsections (b)(2)(C)(i) through (c)(2)(C)(v) are derived from 40 CFR 261.138(b)(2)(i)(A)(I) ~~through and~~ (b)(2)(i)(A)(5), which the Board has codified here to comport with Illinois Administrative Code format requirements.

- 3) Burning. The exclusion applies only if the fuel is burned in the following units that also must be subject to federal, State, and local air emission requirements, including all applicable federal hazardous air pollutant

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emissions requirements implementing section 112 of the Clean Air Act (CAA) (42 USC 7412):

- A) Industrial furnaces, as defined in 35 Ill. Adm. Code 720.110;
 - B) Boilers, as defined in 35 Ill. Adm. Code 720.110, that are further defined as follows:
 - i) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or
 - ii) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale;
 - C) Hazardous waste incinerators subject to regulation pursuant to Subpart O of 35 Ill. Adm. Code 724 or Subpart O of 35 Ill. Adm. Code 725 and applicable CAA MACT standards.
 - D) Gas turbines used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.
- 4) Fuel analysis plan for generators. The generator of ~~a~~ an excluded fuel must develop and follow a written fuel analysis plan that describes the procedures for sampling and analysis of the material to be excluded. The plan must be followed and retained at the site of the generator claiming the exclusion.
- A) At a minimum, the plan must specify the following:
 - i) The parameters for which each excluded fuel will be analyzed and the rationale for the selection of those parameters;
 - ii) The test methods that will be used to test for these parameters;
 - iii) The sampling method that will be used to obtain a

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representative sample of the excluded fuel to be analyzed;

- iv) The frequency with which the initial analysis of the excluded fuel will be reviewed or repeated to ensure that the analysis is accurate and up to date; and
- v) If process knowledge is used in the determination, any information prepared by the generator in making such determination.

B) For each analysis, the generator must also document the following:

- i) The dates and times that waste samples were obtained, and the dates the samples were analyzed;
- ii) The names and qualifications of the persons who obtained the samples;
- iii) A description of the temporal and spatial locations of the samples;
- iv) The name and address of the laboratory facility at which analyses of the samples were performed;
- v) A description of the analytical methods used, including any clean-up and sample preparation methods;
- vi) All quantitation limits achieved and all other quality control results for the analysis (including method blanks, duplicate analyses, matrix spikes, etc.), laboratory quality assurance data, and description of any deviations from analytical methods written in the plan or from any other activity written in the plan that occurred;
- vii) All laboratory results demonstrating whether the exclusion specifications have been met; and
- viii) All laboratory documentation that supports the analytical results, unless a contract between the claimant and the

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laboratory provides for the documentation to be maintained by the laboratory for the period specified in subsection (b)(9) of this Section and also provides for the availability of the documentation to the claimant upon request.

- C) A syngas fuel generator must submit for approval, prior to performing sampling, analysis, or any management of an excluded syngas fuel, a fuel analysis plan containing the elements of subsection (b)(4)(A) of this Section to the Agency. The approval of a fuel analysis plan must be stated in writing and received by the facility prior to sampling and analysis to demonstrate the exclusion of a syngas. The approval of the fuel analysis plan may contain such provisions and conditions as the regulatory authority deems appropriate.
- 5) Excluded fuel sampling and analysis.
- A) General. For each waste for which an exclusion is claimed under the specifications provided by subsection (a)(1) or (a)(2) of this Section, the generator of the waste must test for all the constituents in Appendix H of this Part, except for those constituents that the generator determines, based on testing or knowledge, should not be present in the fuel. The generator is required to document the basis of each determination that a constituent with an applicable specification should not be present. The generator may not determine that any of the following categories of constituents with a specification in the table in Appendix Y to this Part should not be present:
- i) A constituent that triggered the toxicity characteristic for the constituents that were the basis for listing the secondary material as a hazardous waste, or constituents for which there is a treatment standard for the waste code in 35 Ill. Adm. Code 728.140;
 - ii) A constituent detected in previous analysis of the waste;
 - iii) Constituents introduced into the process that generates the waste; or

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- iv) Constituents that are byproducts or side reactions to the process that generates the waste.
- B) Use of process knowledge. For each waste for which the comparable fuel or syngas exclusion is claimed where the generator of the excluded fuel is not the original generator of the hazardous waste, the generator of the comparable or syngas fuel may not use process knowledge pursuant to subsection (b)(5)(A) of this Section and must test to determine that all of the constituent specifications of subsections (a)(1) and (a)(2) of this Section, as applicable, have been met.
- C) The excluded fuel generator may use any reliable analytical method to demonstrate that no constituent of concern is present at concentrations above the specification levels. It is the responsibility of the generator to ensure that the sampling and analysis are unbiased, precise, and representative of the excluded fuel. For the fuel to be eligible for exclusion, a generator must demonstrate the following:
- i) That the 95% upper confidence limit of the mean concentration for each constituent of concern is not above the specification level; and
 - ii) That the analyses could have detected the presence of the constituent at or below the specification level.
- D) Nothing in this subsection (b)(5) preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any person that generates a solid waste to determine if that waste is a hazardous waste.
- E) In an enforcement action, the burden of proof to establish conformance with the exclusion specification must be on the generator claiming the exclusion.
- F) The generator must conduct sampling and analysis in accordance with the fuel its waste analysis plan developed pursuant to

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subsection (b)(4) of this Section.

- G) Viscosity condition for comparable fuel.
- i) Excluded comparable fuel that has not been blended to meet the kinematic viscosity specification must be analyzed as generated.
 - ii) If hazardous waste is blended to meet the kinematic viscosity specification for comparable fuel, the generator must analyze the hazardous waste as generated to ensure that it meets the constituent and heating value specifications of subsection (a)(1) of this Section, and after blending, analyze the fuel again to ensure that the blended fuel meets all comparable fuel specifications.

BOARD NOTE: The Board found it necessary to combine the text of 40 CFR 261.38(b)(5)(vii)(B)(1) and (b)(5)(vii)(B)(2) together with the text of 40 CFR 261.38(b)(5)(vii)(B) to comport with the maximum indent level allowed by Illinois Administrative Code codification requirements.

- H) Excluded fuel must be retested, at a minimum, annually and must be retested after a process change that could change its chemical or physical properties in a manner that may affect conformance with the specifications.

BOARD NOTE: Any claim pursuant to this Section must be valid and accurate for all hazardous constituents; a determination not to test for a hazardous constituent will not shield a generator from liability should that constituent later be found in the waste above the exclusion specifications.

- 6) This subsection (b)(6) corresponds with 40 CFR 261.38(b)(6), which USEPA has marked "reserved." This statement maintains structural parity with the corresponding federal regulations.
- 7) Speculative accumulation. Excluded fuel must not be accumulated speculatively, as such is defined in 35 Ill. Adm. Code 721.101(c)(8).

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- 8) Operating record. The generator must maintain an operating record on site containing the following information:
- A) All information required to be submitted to the implementing authority as part of the notification of the claim:
 - i) The owner or operator name, address, and USEPA identification number of the person claiming the exclusion;
 - ii) For each excluded fuel, the USEPA hazardous waste codes that would be applicable if the material were discarded; and
 - iii) The certification signed by the person claiming the exclusion or his authorized representative;
 - B) A brief description of the process that generated the excluded fuel. If the comparable fuel generator is not the generator of the original hazardous waste, provide a brief description of the process that generated the hazardous waste;
 - C) The monthly and annual quantities of each fuel claimed to be excluded;
 - D) Documentation for any claim that a constituent is not present in the excluded fuel, as required pursuant to subsection (b)(5)(A) of this Section;
 - E) The results of all analyses and all detection limits achieved, as required pursuant to subsection (b)(5) of this Section;
 - F) If the comparable fuel was generated through treatment or blending, documentation of compliance with the applicable provisions of subsections (a)(3) and (a)(4) of this Section;
 - G) If the excluded fuel is to be shipped off-site, a certification from the burner, as required pursuant to subsection (b)(10) of this Section;

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- H) The fuel analysis plan and documentation of all sampling and analysis results as required by subsection (b)(4) of this Section; and
- I) If the generator ships excluded fuel off-site for burning, the generator must retain for each shipment the following information on-site:
 - i) The name and address of the facility receiving the excluded fuel for burning;
 - ii) The quantity of excluded fuel shipped and delivered;
 - iii) The date of shipment or delivery;
 - iv) A cross-reference to the record of excluded fuel analysis or other information used to make the determination that the excluded fuel meets the specifications, as required pursuant to subsection (b)(5) of this Section; and
 - v) A one-time certification by the burner, as required pursuant to subsection (b)(10) of this Section.
- 9) Records retention. Records must be maintained for a period of three years.
- 10) Burner certification to the generator. Prior to submitting a notification to the Agency, a generator of excluded fuel that intends to ship the excluded fuel off-site for burning must obtain a one-time written, signed statement from the burner that includes the following:
 - A) A certification that the excluded fuel will only be burned in an industrial furnace, industrial boiler, utility boiler, or hazardous waste incinerator, as required pursuant to subsection (b)(3) of this Section;
 - B) Identification of the name and address of the facility that will burn the excluded fuel; and

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- C) A certification that the state in which the burner is located is authorized to exclude wastes as excluded fuel under the provisions of 40 CFR 261.38.
- 11) Ineligible waste codes. Wastes that are listed as hazardous waste because of the presence of dioxins or furans, as set out in Appendix G of this Part, are not eligible for these exclusions, and any fuel produced from or otherwise containing these wastes remains a hazardous waste subject to the full RCRA hazardous waste management requirements.
- 12) Regulatory status of boiler residues. Burning excluded fuel that was otherwise a hazardous waste listed under Sections 721.131 through 721.133 of this Part does not subject boiler residues, including bottom ash and emission control residues, to regulation as derived from hazardous wastes.
- 13) Residues in containers and tank systems upon cessation of operations.
- A) Liquid and accumulated solid residues that remain in a container or tank system for more than 90 days after the container or tank system ceases to be operated for storage or transport of excluded fuel product are subject to regulation under 35 Ill. Adm. Code 702, 703, 722 through 725, 727, and 728.
- B) Liquid and accumulated solid residues that are removed from a container or tank system after the container or tank system ceases to be operated for storage or transport of excluded fuel product are solid wastes subject to regulation as hazardous waste if the waste exhibits a characteristic of hazardous waste under Sections 721.121 through 721.124 or if the fuel were otherwise a hazardous waste listed under Sections 721.131 through 721.133 when the exclusion was claimed.
- C) Liquid and accumulated solid residues that are removed from a container or tank system and which do not meet the specifications for exclusion under subsection (a)(1) or (a)(2) of this Section are solid wastes subject to regulation as hazardous waste if either of the following conditions exist with regard to the residues:

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- i) The waste exhibits a characteristic of hazardous waste under Sections 721.121 through 721.124; or
 - ii) The fuel was otherwise a hazardous waste listed under Sections 721.131 through 721.133. The hazardous waste code for the listed waste applies to these liquid and accumulated solid residues.
- 14) Waiver of RCRA closure requirements. Interim status and permitted storage and combustion units, and generator storage units exempt from the permit requirements under 35 Ill. Adm. Code 722.134, are not subject to the closure requirements of 35 Ill. Adm. Code 724, 725, or 727, provided that the storage and combustion unit has been used to manage only hazardous waste that is subsequently excluded under the conditions of this Section, and that afterward will be used only to manage fuel excluded under this Section.
- 15) Spills and leaks.
 - A) Excluded fuel that is spilled or leaked and that therefore no longer meets the conditions of the exclusion is discarded and must be managed as a hazardous waste if it exhibits a characteristic of hazardous waste under Sections 721.121 through 721.124 or if the fuel were otherwise a hazardous waste listed in Sections 721.131 through 721.133.
 - B) For excluded fuel that would have otherwise been a hazardous waste listed in Sections 721.131 through 721.133 and which is spilled or leaked, the USEPA hazardous waste code for the listed waste applies to the spilled or leaked material.
- 16) In corresponding 40 CFR 261.38(b)(16), USEPA included the following disclaimer, which the Board quotes in full: "Nothing in this section preempts, overrides, or otherwise negates the provisions in CERCLA Section 103, which establish reporting obligations for releases of hazardous substances, or the Department of Transportation requirements for hazardous materials in 49 CFR parts 171 through 180."

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- c) Failure to comply with the conditions of the exclusion. An excluded fuel loses its exclusion if any person managing the fuel fails to comply with the conditions of the exclusion under this Section, and the material must be managed as a hazardous waste from the point of generation. In such situations, USEPA, the Agency, or any person may take enforcement action pursuant to section 31 of the Act [415 ILCS 5/31].

BOARD NOTE: Corresponding 40 CFR 261.38(c) provides that USEPA or an authorized state may take enforcement action pursuant to section 3008(a) of RCRA (42 USC 6927(a)). In Illinois, Section 31(a) and (d) of the Act [415 ILCS 5/31(a) and (d)] provide that the Agency or any person may pursue an enforcement action for violation of the Act or Board regulations.

(Source: Amended at 39 Ill. Reg. 1607, effective January 12, 2015)

Section 721.139 Conditional Exclusion for Used, Broken CRTs and Processed CRT Glass Undergoing Recycling

Used, broken CRTs are not solid waste if they meet the following conditions:

- a) Prior to CRT processing. These materials are not solid wastes if they are destined for recycling and they meet the following requirements:
- 1) Storage. The broken CRTs must be managed in either of the following ways:
 - A) They are stored in a building with a roof, floor, and walls, or
 - B) They are placed in a container (i.e., a package or a vehicle) that is constructed, filled, and closed to minimize releases to the environment of CRT glass (including fine solid materials).
 - 2) Labeling. Each container in which the used, broken CRT is contained must be labeled or marked clearly with one of the following phrases: "Used cathode ray tubes – contains leaded glass" or "Leaded glass from televisions or computers." It must also be labeled with the following statement: "Do not mix with other glass materials."

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- 3) Transportation. The used, broken CRTs must be transported in a container meeting the requirements of subsections (a)(1)(B) and (a)(2) of this Section.
- 4) Speculative accumulation and use constituting disposal. The used, broken CRTs are subject to the limitations on speculative accumulation, as defined in subsection (c)(8) of this Section. If they are used in a manner constituting disposal, they must comply with the applicable requirements of Subpart C of 40 CFR 726, instead of the requirements of this Section.
- 5) Exports. In addition to the applicable conditions specified in subsections (a)(1) through (a)(4) of this Section, an exporter of used, broken CRTs must comply with the following requirements:
 - A) It must notify the Agency and USEPA of an intended export before the CRTs are scheduled to leave the United States. A complete notification should be submitted sixty (60) days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a 12-month or shorter period. The notification must be in writing, signed by the exporter, and include the following information:
 - i) The name, mailing address, telephone number and USEPA identification number (if applicable) of the exporter of the CRTs.
 - ii) The estimated frequency or rate at which the CRTs are to be exported and the period of time over which they are to be exported.
 - iii) The estimated total quantity of CRTs specified in kilograms.
 - iv) All points of entry to and departure from each foreign country through which the CRTs will pass.
 - v) A description of the means by which each shipment of the CRTs will be transported (e.g., mode of transportation

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vehicle (air, highway, rail, water, etc.), types of container (drums, boxes, tanks, etc.).

- vi) The name and address of the recycler or recyclers and the estimated quantity of used CRTs to be sent to each facility, as well as the name of~~and~~ any alternate recycler.
 - vii) A description of the manner in which the CRTs will be recycled in the foreign country that will be receiving the CRTs.
 - viii) The name of any transit country through which the CRTs will be sent and a description of the approximate length of time the CRTs will remain in such country and the nature of their handling while there.
- B) Notifications submitted. Whether ~~delivered~~delivered by mail or hand-delivered, the following words must be prominently displayed on the front of any envelope containing an export notification: "Attention: Notification of Intent to Export CRTs."
- i) An export notification submitted to USEPA by mail must be sent to the following mailing address:

Office of Enforcement and Compliance Assurance
Office of Federal Activities, International
Compliance Assurance Division (Mail Code
2254A)
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
 - ii) An export notification hand-delivered to USEPA must be sent to:

Office of Enforcement and Compliance Assurance
Office of Federal Activities, International
Compliance Assurance Division (Mail Code
2254A)

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Environmental Protection Agency
Ariel Rios Bldg., Room 6144
1200 Pennsylvania Ave., NW
Washington, DC [20460](#)

- iii) An export notification submitted to the Agency by mail or hand-delivered must be sent to the following mailing address:

Illinois Environmental Protection Agency
Bureau of Land Pollution Control
1021 North Grand Ave East
P.O. Box 19276
Springfield, IL 62794-9276

- C) Upon request by the Agency or USEPA, the exporter must furnish to the Agency and USEPA any additional information which a receiving country requests in order to respond to a notification.
- D) USEPA has stated that it will provide a complete notification to the receiving country and any transit countries. A notification is complete when the Agency and USEPA receives a notification that USEPA determines satisfies the requirements of subsection (a)(5)(A) of this Section. Where a claim of confidentiality is asserted with respect to any notification information required by subsection (a)(5)(A) of this Section, USEPA has stated that it may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.
- E) The export of CRTs is prohibited, unless the receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the CRTs, USEPA has stated that it will forward an Acknowledgment of Consent to Export CRTs to the exporter. Where the receiving country objects to receipt of the CRTs or withdraws a prior consent, USEPA has stated that it will notify the exporter in writing. USEPA has stated that it will also notify the exporter of any responses from transit countries.

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- F) When the conditions specified on the original notification change, the exporter must provide the Agency and USEPA with a written renotification of the change, except for changes to the telephone number in subsection (a)(5)(A)(i) of this Section and decreases in the quantity indicated pursuant to subsection (a)(5)(A)(iii) of this Section. The shipment cannot take place until consent of the receiving country to the changes has been obtained (except for changes to information about points of entry and departure and transit countries pursuant to subsections (a)(5)(A)(iv) and (a)(5)(A)(viii) of this Section) and the exporter of CRTs receives from USEPA a copy of the Acknowledgment of Consent to Export CRTs reflecting the receiving country's consent to the changes.
- G) A copy of the Acknowledgment of Consent to Export CRTs must accompany the shipment of CRTs. The shipment must conform to the terms of the Acknowledgment.
- H) If a shipment of CRTs cannot be delivered for any reason to the recycler or the alternate recycler, the exporter of CRTs must renotify the Agency and USEPA of a change in the conditions of the original notification to allow shipment to a new recycler in accordance with subsection (a)(5)(F) of this Section and obtain another Acknowledgment of Consent to Export CRTs.
- I) An exporter must keep copies of notifications and Acknowledgments of Consent to Export CRTs for a period of three years following receipt of the Acknowledgment.
- J) A CRT exporter must file with USEPA, no later than March 1 of each year, an annual report summarizing the quantities (in kilograms), frequency of shipment, and ultimate destinations (i.e., the facility or facilities where the recycling occurs) of all used CRTs exported during the previous calendar year. This annual report must also include the following:
- i) The name, USEPA identification number (if applicable), and mailing and site address of the exporter;
 - ii) The calendar year covered by the report;

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iii) A certification signed by the CRT exporter that states as follows:

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

K) Annual reports must be submitted to the office specified in subsection (a)(5)(B) of this Section. A CRT exporter must keep copies of each annual report for a period of at least three years from the due date of the report.

BOARD NOTE: Corresponding 40 CFR 261.39(a)(5) requires communications relating to export of CRTs between the exporter and USEPA. It is clear that USEPA intends to maintain its central role between the exporter and the export-receiving country and its granting authorization to export. Nevertheless, the Board has required the exporter submit to the Agency also whatever notifications it must submit to USEPA relating to the export. The intent is to facilitate the Agency's efforts towards assurance of compliance with the regulations as a whole, and not to require a separate authorization for export by the Agency.

- b) Requirements for used CRT processing. Used, broken CRTs undergoing CRT processing, as defined in 35 Ill. Adm. Code 720.110, are not solid waste if they meet the following requirements:
- 1) Storage. Used, broken CRTs undergoing CRT processing are subject to the requirement of subsection (a)(4) of this Section.
 - 2) CRT processing.
 - A) All activities specified in the second and third paragraphs of the definition of "CRT processing" in 35 Ill. Adm. Code 720.110 must be performed within a building with a roof, floor, and walls; and

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BOARD NOTE: The activities specified in the second and third paragraphs of the definition of "CRT processing" are "intentionally breaking intact CRTs or further breaking or separating broken CRTs" and "sorting or otherwise managing glass removed from CRT monitors."

- B) No activities may be performed that use temperatures high enough to volatilize lead from CRTs.
- c) Glass from CRT processing that is sent to CRT glass making or lead smelting. Glass from CRT processing that is destined for recycling at a CRT glass manufacturer or a lead smelter after CRT processing is not a solid waste unless it is speculatively accumulated, as defined in Section 721.101(c)(8).
- d) Use constituting disposal. Glass from CRT processing that is used in a manner constituting disposal must comply with the requirements of Subpart C of 35 Ill. Adm. Code 726 instead of the requirements of this Section.

(Source: Amended at 39 Ill. Reg. 1607, effective January 12, 2015)

Section 721.141 Notification and Recordkeeping for Used, Intact CRTs Exported for Reuse

- a) A CRT exporter~~person~~ that exports used, intact CRTs for reuse must send a ~~one-time~~ notification to the Agency and ~~the Regional Administrator of USEPA Region 5~~. This notification may cover export activities extending over a 12-month or lesser period.
 - 1) The notification must be in writing, signed by the exporter, and include the following information:~~a statement that the notifier plans to export used, intact CRTs for reuse, the notifier's name, address, and USEPA identification number (if applicable), and the name and phone number of a contact person.~~
 - A) Name, mailing address, telephone number, and USEPA identification number (if applicable) of the exporter of the used, intact CRTs;

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- B) The estimated frequency or rate at which the used, intact CRTs are to be exported for reuse and the period of time over which they are to be exported;
- C) The estimated total quantity of used, intact CRTs specified in kilograms;
- D) All points of entry to and departure from each transit country through which the used, intact CRTs will pass, a description of the approximate length of time the used, intact CRTs will remain in that country, and the nature of their handling while there;
- E) A description of the means by which each shipment of the used, intact CRTs will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), types of container (drums, boxes, tanks, etc.));
- F) The name and address of the ultimate destination facility or facilities where the used, intact CRTs will be reused, refurbished, distributed, or sold for reuse and the estimated quantity of used, intact CRTs to be sent to each facility, as well as the name of any alternate destination facility or facilities;
- G) A description of the manner in which the used, intact CRTs will be reused (including reuse after refurbishment) in the foreign country that will be receiving the used, intact CRTs; and
- H) A certification signed by the CRT exporter that states as follows:
- "I certify under penalty of law that the CRTs described in this notice are intact and fully functioning or capable of being functional after refurbishment and that the used CRTs will be reused or refurbished and reused. I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

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- 2) Notifications submitted by mail should be sent to the following mailing address:

Office of Enforcement and Compliance Assurance
Office of Federal Activities
International Compliance Assurance Division (Mail Code 2254A)
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington DC, 20460

Hand-delivered notifications should be sent to the following address:

Office of Enforcement and Compliance Assurance
Office of Federal Activities
International Compliance Assurance Division (Mail Code 2254A)
Environmental Protection Agency
William Jefferson Clinton Building, Room 6144
1200 Pennsylvania Ave., NW
Washington, DC 20004

In either case, the following must be prominently displayed on the front of the envelope:

"Attention: Notification of Intent to Export CRTs."

A notification submitted to the Agency by mail or hand-delivered must be sent to the following mailing address:

Illinois Environmental Protection Agency
Bureau of Land Pollution Control
1021 North Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276

- b) A CRT exporter~~person~~ that exports used, intact CRTs for reuse must keep copies of normal business records, such as contracts, demonstrating that each shipment of exported used, intact CRTs will be reused. This documentation must be retained for a period of at least three years from the date the CRTs were exported. If the documents are written in a language other than English, a CRT exporter of

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used, intact CRTs sent for reuse must provide both the original, non-English version of the normal business records, as well as a third-party translation of the normal business records into English, within 30 days after a request by USEPA.

(Source: Amended at 39 Ill. Reg. 1607, effective January 12, 2015)

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

<u>Section Numbers:</u>	<u>Adopted Action:</u>
722.120	Amendment
722.124	New Section
722.125	New Section
- 4) Statutory authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective date of Amendments: January 12, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted amendments, a copy of the Board's opinion and order adopted December 18, 2014 in docket R15-1, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: October 31, 2014, 38 Ill. Reg. 20534
- 10) Has JCAR issued a statement of objections to this rulemaking? No. Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the Proposal and the Final Version: A table that appears in the Board's opinion and order of December 18, 2014 in docket R15-1 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated October 16, 2014, in docket R15-1. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

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The differences are limited to minor, non-substantive revisions suggested by JCAR or found necessary by the Board. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the October 31, 2014 issue of the Illinois Register, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of December 18, 2014 in docket R15-1, as indicated in item 11 above. See the December 18, 2014 opinion and order in docket R15-1 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments to Part 722 are a single segment of the docket R15-1 rulemaking that also affects 35 Ill. Adm. Code 720, 721, 723, 724, and 725, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R15-1 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendment for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of December 18, 2014, adopting amendments in docket R15-1, which opinion and order is available from the address below.

Specifically, the amendments to Part 722 implement segments of the federal amendments of February 7, 2014. The amendments incorporate segments of the Electronic Manifest

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Rule and the export-related amendments to the used CRT rule. The Board has included a limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments.

Tables appear in the Board's opinion and order of December 18, 2014 in docket R15-1 that list the revisions to the text of the corresponding federal rule, the amendments that are not based on current federal amendments, and the revisions to the text since the Board's March 20, 2014 proposal for public comment. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the December 18, 2014 opinion and order in docket R15-1.

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

- 16) Information and questions regarding these adopted rules shall be directed to: Please reference consolidated docket R15-1 and direct inquiries to the following person:

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

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

Request copies of the Board's opinion and order of December 18, 2014 at 312/814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 722
STANDARDS APPLICABLE TO
GENERATORS OF HAZARDOUS WASTE

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722.112	USEPA Identification Numbers
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722.306	Container Standards in the Laboratory
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722.APPENDIX A Hazardous Waste Manifest

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R84-9 at 9 Ill. Reg. 11950, effective July 24,

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

SUBPART B: THE MANIFEST

Section 722.120 General Requirements

- a) Manifest form required.
 - 1) A generator that transports hazardous waste or offers a hazardous waste for transportation for off-site treatment, storage, or disposal or a treatment, storage, or disposal facility that offers for transport a rejected load of hazardous waste must prepare a manifest on USEPA Form 8700-22 (and, if necessary, on USEPA Form 8700-22A) according to the instructions included in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

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

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agreement.

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

(Source: Amended at 39 Ill. Reg. 1700, effective January 12, 2015)

Section 722.124 Use of the Electronic Manifest

- a) Legal equivalence to paper manifests. E-Manifests that are obtained, completed, and transmitted in accordance with Section 722.120(a)(3), and used in accordance with this Section in lieu of USEPA Forms 8700-22 and 8700-22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.
- 1) Any requirement in 35 Ill. Adm. Code 721 through 728 to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of Section 722.125.
 - 2) Any requirement in 35 Ill. Adm. Code 721 through 728 to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an e-Manifest is transmitted to the other person by submission to the e-Manifest System.
 - 3) Any requirement in any provision of 35 Ill. Adm. Code 721 through 728 for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed e-Manifest in the generator's account on the national e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or authorized Agency inspector.

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- 4) No generator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the generator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the generator bears no responsibility.

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

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

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and use these paper forms from this point forward in accordance with the requirements of Section 722.123.

- f) Special procedures for electronic signature methods undergoing tests. If a generator has prepared an e-Manifest for a hazardous waste shipment, and signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, the generator must also sign with an ink signature the generator or offeror certification on the printed copy of the manifest provided under subsection (d) of this Section.
- g) Imposition of user fee. A generator that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination of each e-Manifest. USEPA shall maintain and update from time-to-time the current schedule of e-Manifest user fees, which shall be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System.

BOARD NOTE: USEPA stated in corresponding 40 CFR 262.24(g) that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.

(Source: Added at 39 Ill. Reg. 1700, effective January 12, 2015)

Section 722.125 Electronic Manifest Signatures

Electronic signature methods for the e-Manifest System must fulfill the following criteria:

- a) The signature must be a legally valid and enforceable signature under applicable USEPA and other federal requirements pertaining to electronic signatures; and
- b) The signature must be a method that is designed and implemented in a manner that USEPA considers to be as cost-effective and practical as possible for the users of the e-Manifest System.

(Source: Added at 39 Ill. Reg. 1700, effective January 12, 2015)

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

<u>Section Numbers</u> :	<u>Adopted Action</u> :
723.120	Amendment
723.125	New Section
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date of Rule: January 12, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted amendments, a copy of the Board's opinion and order adopted December 18, 2014 in docket R15-1, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: October 31, 2014; 38 Ill. Reg. 20545
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No. Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the Proposal and the Final Version: A table that appears in the Board's opinion and order of December 18, 2014 in docket R15-1 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated October 16, 2014, in docket R15-1. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

The differences are limited to minor, non-substantive revisions suggested by JCAR or found necessary by the Board. The changes are intended to have no substantive effect.

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The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the October 31, 2014 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of December 18, 2014 in docket R15-1, as indicated in item 11 above. See the December 18, 2014 opinion and order in docket R15-1 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments to Part 723 are a single segment of the docket R15-1 rulemaking that also affects 35 Ill. Adm. Code 720, 721, 722, 724, and 725, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R15-1 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendment for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of December 18, 2014, adopting amendments in docket R15-1, which opinion and order is available from the address below.

Specifically, the amendments to Part 723 implement segments of the federal amendments of February 7, 2014. The amendments incorporate segments of the Electronic Manifest Rule and the export-related amendments to the used CRT rule. The Board has included a limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments.

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Tables appear in the Board's opinion and order of December 18, 2014 in docket R15-1 that list the revisions to the text of the corresponding federal rule, the amendments that are not based on current federal amendments, and the revisions to the text since the Board's March 20, 2014 proposal for public comment. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the December 18, 2014 opinion and order in docket R15-1.

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

- 16) Information and questions regarding these adopted rules shall be directed to: Please reference consolidated docket R15-1 and direct inquiries to the following person:

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

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

Request copies of the Board's opinion and order of December 18, 2014 at 312/814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

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

SUBPART A: GENERAL

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

SUBPART B: COMPLIANCE WITH THE MANIFEST
SYSTEM AND RECORDKEEPING

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

SUBPART C: HAZARDOUS WASTE DISCHARGES

Section	Scope
723.130	Immediate Action
723.131	Discharge Cleanup

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

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

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

SUBPART B: COMPLIANCE WITH THE MANIFEST
SYSTEM AND RECORDKEEPING

Section 723.120 The Manifest System

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

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- B) For exports of hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept hazardous waste without a tracking document that includes all information required by 35 Ill. Adm. Code 722.184.
- 3) This subsection (a)(3) corresponds with 40 CFR 263.20(a)(3), an applicability statement that became obsolete for the purposes of the Illinois rules on September 6, 2006. This statement maintains structural parity with the corresponding federal regulations.
- 4) Use of e-Manifest – legal equivalence to paper forms for participating transporters. E-Manifests that are obtained, completed, and transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of USEPA Forms 8700-22 and 8700-22A, are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, carry, provide, give, use, or retain a manifest.
- A) Any requirement in 35 Ill. Adm. Code 720 through 728 to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.
- B) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person by submission to the e-Manifest System.
- C) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment, except that, to the extent that the hazardous materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 49 CFR 177.817, incorporated by reference in 35 Ill. Adm. Code 720.111, a

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hazardous waste transporter must carry one printed copy of the e-Manifest on the transport vehicle.

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

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

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

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additional copies that will be delivered to the designated facility with the hazardous waste.

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

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signature, the printed manifest copy must be delivered to the designated facility with the waste materials.

- 8) Imposition of user fee for e-Manifest use. A transporter that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination or processing of each e-Manifest. USEPA has stated that it will maintain and update from time-to-time the current schedule of e-Manifest user fees, which must be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System. USEPA has stated that it will publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.
- b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.
- c) The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter must ensure that a copy of the USEPA Acknowledgement of Consent also accompanies the hazardous waste.
- d) A transporter that delivers a hazardous waste to another transporter or to the designated facility must do the following:
- 1) It must obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest;
 - 2) It must retain one copy of the manifest in accordance with Section 723.122; and
 - 3) It must give the remaining copies of the manifest to the accepting transporter or designated facility.
- e) Subsections (c), (d), and (f) do not apply to water (bulk shipment) transporters if all of the following are true:
- 1) The hazardous waste is delivered by water (bulk shipment) to the designated facility;

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

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- iii) The last rail transporter designated to handle the waste in the United States;
 - D) It must retain one copy of the manifest and rail shipping paper in accordance with Section 723.122.
- 2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) and, for exports, a USEPA Acknowledgement of Consent accompanies the hazardous waste at all times.

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

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

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

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(Source: Amended at 39 Ill. Reg. 1711, effective January 12, 2015)

Section 723.125 Electronic Manifest Signatures

- a) e-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code 722.125.

- b) This subsection (b) corresponds with 40 CFR 263.25(b), a provision that USEPA has marked "reserved." This statement maintains structural consistency with the corresponding federal rule.

(Source: Added at 39 Ill. Reg. 1711, effective January 12, 2015)

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

<u>Section Numbers:</u>	<u>Adopted Action:</u>
724.171	Amendment
724.241	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date of Rule: January 12, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted amendments, a copy of the Board's opinion and order adopted December 18, 2014 in docket R15-1, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of proposal published in the *Illinois Register*: October 31, 2014; 38 Ill. Reg. 20558
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No. Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the Proposal and the Final Version: A table that appears in the Board's opinion and order of December 18, 2014 in docket R15-1 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated October 16, 2014, in docket R15-1. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

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The differences are limited to minor, non-substantive revisions suggested by JCAR or found necessary by the Board. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the October 31, 2014 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of December 18, 2014 in docket R15-1, as indicated in item 11 above. See the December 18, 2014 opinion and order in docket R15-1 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments to Part 724 are a single segment of the docket R15-1 rulemaking that also affects 35 Ill. Adm. Code 720, 721, 722, 723, and 725, each of which is covered by a separate notice in this issue of the Illinois Register. To save space, a more detailed description of the subjects and issues involved in the docket R15-1 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendment for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of December 18, 2014, adopting amendments in docket R15-1, which opinion and order is available from the address below.

Specifically, the amendments to Part 724 implement segments of the federal amendments of February 7, 2014. The amendments incorporate segments of the Electronic Manifest Rule and the export-related amendments to the used CRT rule. The Board has included a

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limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments.

Tables appear in the Board's opinion and order of December 18, 2014 in docket R15-1 that list the revisions to the text of the corresponding federal rule, the amendments that are not based on current federal amendments, and the revisions to the text since the Board's March 20, 2014 proposal for public comment. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the December 18, 2014 opinion and order in docket R15-1.

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

- 16) Information and questions regarding these adopted rules shall be directed to: Please reference consolidated docket R15-1 and direct inquiries to the following person:

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

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

Request copies of the Board's opinion and order of December 18, 2014 at 312/814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 724
STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE
TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: GENERAL FACILITY STANDARDS

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

SUBPART C: PREPAREDNESS AND PREVENTION

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

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724.137 Arrangements with Local Authorities

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section

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

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section

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

SUBPART F: RELEASES FROM SOLID WASTE MANAGEMENT UNITS

Section

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

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724.201 Corrective Action for Solid Waste Management Units

SUBPART G: CLOSURE AND POST-CLOSURE CARE

Section

724.210 Applicability
724.211 Closure Performance Standard
724.212 Closure Plan; Amendment of Plan
724.213 Closure; Time Allowed For Closure
724.214 Disposal or Decontamination of Equipment, Structures, and Soils
724.215 Certification of Closure
724.216 Survey Plat
724.217 Post-Closure Care and Use of Property
724.218 Post-Closure Care Plan; Amendment of Plan
724.219 Post-Closure Notices
724.220 Certification of Completion of Post-Closure Care

SUBPART H: FINANCIAL REQUIREMENTS

Section

724.240 Applicability
724.241 Definitions of Terms as Used in This Subpart
724.242 Cost Estimate for Closure
724.243 Financial Assurance for Closure
724.244 Cost Estimate for Post-Closure Care
724.245 Financial Assurance for Post-Closure Care
724.246 Use of a Mechanism for Financial Assurance of Both Closure and Post-Closure Care
724.247 Liability Requirements
724.248 Incapacity of Owners or Operators, Guarantors, or Financial Institutions
724.251 Wording of the Instruments

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section

724.270 Applicability
724.271 Condition of Containers
724.272 Compatibility of Waste with Container
724.273 Management of Containers

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724.274	Inspections
724.275	Containment
724.276	Special Requirements for Ignitable or Reactive Waste
724.277	Special Requirements for Incompatible Wastes
724.278	Closure
724.279	Air Emission Standards

SUBPART J: TANK SYSTEMS

Section	
724.290	Applicability
724.291	Assessment of Existing Tank System Integrity
724.292	Design and Installation of New Tank Systems or Components
724.293	Containment and Detection of Releases
724.294	General Operating Requirements
724.295	Inspections
724.296	Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems
724.297	Closure and Post-Closure Care
724.298	Special Requirements for Ignitable or Reactive Waste
724.299	Special Requirements for Incompatible Wastes
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SUBPART K: SURFACE IMPOUNDMENTS

Section	
724.320	Applicability
724.321	Design and Operating Requirements
724.322	Action Leakage Rate
724.323	Response Actions
724.326	Monitoring and Inspection
724.327	Emergency Repairs; Contingency Plans
724.328	Closure and Post-Closure Care
724.329	Special Requirements for Ignitable or Reactive Waste
724.330	Special Requirements for Incompatible Wastes
724.331	Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027
724.332	Air Emission Standards

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SUBPART L: WASTE PILES

Section

724.350	Applicability
724.351	Design and Operating Requirements
724.352	Action Leakage Rate
724.353	Response Action Plan
724.354	Monitoring and Inspection
724.356	Special Requirements for Ignitable or Reactive Waste
724.357	Special Requirements for Incompatible Wastes
724.358	Closure and Post-Closure Care
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724.370	Applicability
724.371	Treatment Program
724.372	Treatment Demonstration
724.373	Design and Operating Requirements
724.376	Food-Chain Crops
724.378	Unsaturated Zone Monitoring
724.379	Recordkeeping
724.380	Closure and Post-Closure Care
724.381	Special Requirements for Ignitable or Reactive Waste
724.382	Special Requirements for Incompatible Wastes
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724.410	Closure and Post-Closure Care
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724.413	Special Requirements for Incompatible Wastes
724.414	Special Requirements for Bulk and Containerized Liquids
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724.416	Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)
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724.442	Principal Organic Hazardous Constituents (POHCs)
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724.444	Hazardous Waste Incinerator Permits
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724.447	Monitoring and Inspections
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724.651	Grandfathered Corrective Action Management Units
724.652	Corrective Action Management Units
724.653	Temporary Units
724.654	Staging Piles
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724.670	Applicability
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724.700 Applicability
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724.702 Monitoring, Analysis, Inspection, Response, Reporting, and Corrective Action
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724.930 Applicability
724.931 Definitions
724.932 Standards: Process Vents
724.933 Standards: Closed-Vent Systems and Control Devices
724.934 Test Methods and Procedures
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SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

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724.951 Definitions
724.952 Standards: Pumps in Light Liquid Service
724.953 Standards: Compressors
724.954 Standards: Pressure Relief Devices in Gas/Vapor Service
724.955 Standards: Sampling Connecting Systems
724.956 Standards: Open-ended Valves or Lines
724.957 Standards: Valves in Gas/Vapor or Light Liquid Service
724.958 Standards: Pumps, Valves, Pressure Relief Devices, and Other Connectors
724.959 Standards: Delay of Repair
724.960 Standards: Closed-Vent Systems and Control Devices
724.961 Alternative Percentage Standard for Valves
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- 724.964 Recordkeeping Requirements
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724.986 Standards: Containers
724.987 Standards: Closed-Vent Systems and Control Devices
724.988 Inspection and Monitoring Requirements
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724.991 Alternative Control Requirements for Tanks (Repealed)

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724.APPENDIX D Cochran's Approximation to the Behrens-Fisher Student's T-Test
724.APPENDIX E Examples of Potentially Incompatible Waste
724.APPENDIX I Groundwater Monitoring List

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

SOURCE: Adopted in R82-19 at 7 Ill. Reg. 14059, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17972, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5115, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6635, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3725, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6009, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6365, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3196, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 893, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12365, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1106, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18873, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17965, effective October 14, 2011; amended in R13-15 at 37 Ill. Reg. 17773, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1724, effective January 12, 2015.

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

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Section 724.171 Use of Manifest System

- a) Receipt of manifested hazardous waste.
- 1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or its agent must sign and date the manifest, as indicated in subsection (a)(2) of this Section, to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.
 - 2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or its agent must do the following:
 - A) The owner, operator, or agent~~It~~ must sign and date, by hand, each copy of the manifest;
 - B) The owner, operator, or agent~~It~~ must note any discrepancies (as defined in Section 724.172) on each copy of the manifest;
 - C) The owner, operator, or agent~~It~~ must immediately give the transporter at least one copy of the manifest;
 - D) The owner, operator, or agent~~It~~ must send a copy (Page 3) of the manifest to the generator within 30 days after delivery; ~~and~~
 - E) Within 30 days after delivery, the owner, operator, or agent must send the top copy (Page 1) of the manifest to the e-Manifest System for purposes of data entry and processing. In lieu of mailing this paper copy to the e-Manifest System operator, the owner or operator may transmit to the e-Manifest System operator an image file of Page 1 of the manifest, or both a data string file and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to USEPA under this subsection (a) must be submitted in data file and image file formats that are acceptable to USEPA and that are supported by USEPA's electronic reporting requirements and by the e-Manifest System; and

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~~FE~~) The owner, operator, or agent must retain at the facility a copy of each manifest for at least three years after the date of delivery.

- 3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming USEPA's consent to the import of hazardous waste to the following address within 30 days after delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460.
- b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator's certification, and signatures), the owner or operator, or the owner or operator's agent, must do the following:
 - 1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;
 - 2) It must note any significant discrepancies (as defined in Section 724.172(a)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

BOARD NOTE: The Board does not intend that the owner or operator of a facility whose procedures under Section 724.113(c) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 724.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

 - 3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);
 - 4) The owner or operator must send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not

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been received within 30 days after delivery) to the generator within 30 days after the delivery; and

BOARD NOTE: Section 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

- 5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.
- c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 35 Ill. Adm. Code 722.

BOARD NOTE: The provisions of 35 Ill. Adm. Code 722.134 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of Section 722.134 only apply to owners or operators that are shipping hazardous waste that they generated at that facility.

- d) Within three working days after the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to competent authorities of all other concerned countries. The original copy of the movement document must be maintained at the facility for at least three years from the date of signature.
- e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. A facility must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to that state.

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- f) Legal equivalence to paper manifests. E-Manifests that are obtained, completed, transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.
- 1) Any requirement in 35 Ill. Adm. Code 720 through 728 for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.
 - 2) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person.
 - 3) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the hazardous waste shipment.
 - 4) Any requirement in 35 Ill. Adm. Code 720 through 728 for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's e-Manifest copies in its account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector.
 - 5) No owner or operator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the owner or operator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the owner or operator bears no responsibility.
- g) An owner or operator may participate in the e-Manifest System either by accessing the e-Manifest System from the owner's or operator's electronic equipment, or by accessing the e-Manifest System from portable equipment

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brought to the owner's or operator's site by the transporter that delivers the waste shipment to the facility.

- h) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:
- 1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest;
 - 2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest;
 - 3) Within 30 days after delivery of the hazardous waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator, and send an additional signed and dated copy of the paper replacement manifest to the e-Manifest System; and
 - 4) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three years after the date of delivery.
- i) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the owner or operator must also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator must retain this original copy among its records for at least three years after the date of delivery of the waste.
- j) Imposition of user fee for e-Manifest use. An owner or operator that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination

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or processing of each e-Manifest. An owner or operator may also be assessed a user fee by USEPA for the collection and processing of paper manifest copies that owners or operators must submit to the e-Manifest System operator under subsection 724.171(a)(2)(E). USEPA has stated that it would maintain and update from time-to-time the current schedule of e-Manifest System user fees, which will be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System. USEPA has said that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.

- k) E-Manifest signatures. E-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code 722.125.

(Source: Amended at 39 Ill. Reg. 1724, effective January 12, 2015)

SUBPART H: FINANCIAL REQUIREMENTS

Section 724.241 Definitions of Terms as Used in This Subpart

For the purposes of this Subpart H, the following terms have the given meanings:

- a) "Closure plan" means the plan for closure prepared in accordance with the requirements of Section 724.212.
- b) "Current closure cost estimate" means that the most recent of the estimates prepared in accordance with Section 724.242(a), (b), and (c).
- c) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with Section 724.244(a), (b), and (c).
- d) "Parent corporation" means a corporation that directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.
- e) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of Sections 724.217 through 724.220.
- f) The following terms are used in the specifications for the financial test for closure, post-closure care and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the

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meanings of terms in a way that conflicts with generally accepted accounting practices.

"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

"Current assets" means cash or other assets or resources commonly identified as those that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

"Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 35 Ill. Adm. Code 704.212(a), (b), and (c).

"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

"Net working capital" means current assets minus current liabilities.

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles, such as goodwill and rights to patents or royalties.

- g) In the liability insurance requirements the terms "bodily injury" and "property damage" have the meanings given below. The Board intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of

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several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

"Accidental occurrence" means an accident, including continuous or repeated exposure to conditions, that results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

"Bodily injury" means bodily injury, sickness, or disease sustained by a person, including death resulting from any of these at any time. However, this term does not include those liabilities that, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

BOARD NOTE: Derived from [the Insurance Services Office, Inc. definition of this term](#) [40 CFR 264.141 \(2010\)](#).

"Environmental damage" means the injurious presence in or upon land, the atmosphere, or any watercourse or body of water of solid, liquid, gaseous, or thermal contaminants, irritants, or pollutants.

BOARD NOTE: [Derived from the Insurance Services Office, Inc. definition of this term.](#) This term is used in the definition of "pollution incident."

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

"Nonsudden accidental occurrence" means an occurrence that takes place over time and involves continuous or repeated exposure.

"Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste.

BOARD NOTE: [Derived from the Insurance Services Office, Inc. definition of this term.](#) This definition is used in the definition of "pollution incident."

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"Pollution incident" means emission, discharge, release, or escape of pollutants into or upon land, the atmosphere or any watercourse or body of water, provided that such emission, discharge, release, or escape results in "environmental damage." The entirety of any such emission, discharge, release, or escape must be deemed to be one "pollution incident." "Waste" includes materials to be recycled, reconditioned, or reclaimed. The term "pollution incident" includes an "occurrence."

BOARD NOTE: [Derived from the Insurance Services Office, Inc. definition of this term.](#) This definition is used in the definition of "property damage."

"Property damage" means as follows:

Either of the following:

Physical injury to, destruction of or contamination of tangible property, including all resulting loss of use of that property; or

Loss of use of tangible property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use or rendered inaccessible because of a "pollution incident."

This term does not include those liabilities that, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage.

[BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term.](#)

~~BOARD NOTE: Derived from 40 CFR 264.141 (2002).~~

"Sudden accidental occurrence" means an occurrence that is not continuous or repeated in nature.

- h) "Substantial business relationship" means the extent of a business relationship

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necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A "substantial business relationship" must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that the Agency can reasonably determine that a substantial business relationship currently exists between the guarantor and the owner or operator that is adequate consideration to support the obligation of the guarantee relating to any liability towards a third party. "Applicable state law," as used in this subsection (h), means the laws of the State of Illinois and those of any sister state that govern the guarantee and the adequacy of the consideration.

BOARD NOTE: Derived from 40 CFR 264.141(h) ~~(2014)(2010)~~ and the discussion at 53 Fed. Reg. 33938, 33941-33943 (Sep. 1, 1988). This term is also independently defined in 35 Ill. Adm. Code 725.141(h) and 727.240(b)(8). Any Agency determination that a substantial business relationship exists is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

(Source: Amended at 39 Ill. Reg. 1724, effective January 12, 2015)

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- 1) Heading of the Part: Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- 2) Code Citation: 35 Ill. Adm. Code 725
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
725.171	Amendment
725.241	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date of Rule: January 12, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted amendments, a copy of the Board's opinion and order adopted December 18, 2014 in docket R15-1, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: October 31, 2014; 38 Ill. Reg. 20580
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No. Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the Proposal and the Final Version: A table that appears in the Board's opinion and order of December 18, 2014 in docket R15-1 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated October 16, 2014, in docket R15-1. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

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The differences are limited to minor, non-substantive revisions suggested by JCAR or found necessary by the Board. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the October 31, 2014 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of December 18, 2014 in docket R15-1, as indicated in item 11 above. See the December 18, 2014 opinion and order in docket R15-1 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments to Part 725 are a single segment of the docket R15-1 rulemaking that also affects 35 Ill. Adm. Code 720, 721, 722, 723, and 724, each of which is covered by a separate notice in this issue of the Illinois Register. To save space, a more detailed description of the subjects and issues involved in the docket R15-1 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendment for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of December 18, 2014, adopting amendments in docket R15-1, which opinion and order is available from the address below.

Specifically, the amendments to Part 725 implement segments of the federal amendments of February 7, 2014. The amendments incorporate segments of the Electronic Manifest Rule and the export-related amendments to the used CRT rule. The Board has included a

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limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments.

Tables appear in the Board's opinion and order of December 18, 2014 in docket R15-1 that list the revisions to the text of the corresponding federal rule, the amendments that are not based on current federal amendments, and the revisions to the text since the Board's March 20, 2014 proposal for public comment. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the December 18, 2014 opinion and order in docket R15-1.

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

- 16) Information and questions regarding these adopted rules shall be directed to: Please reference consolidated docket R15-1 and direct inquiries to the following person:

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

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

Request copies of the Board's opinion and order of December 18, 2014 at 312/814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 725

INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS
WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

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725.APPENDIX B	EPA Report Form and Instructions (Repealed)
725.APPENDIX C	USEPA Interim Primary Drinking Water Standards
725.APPENDIX D	Tests for Significance
725.APPENDIX E	Examples of Potentially Incompatible Wastes
725.APPENDIX F	Compounds with Henry's Law Constant Less Than 0.1 Y/X (at 25°C)

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

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

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2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 14034, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1076, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9575, effective June 20, 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6028, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6389, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3460, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1031, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12566, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1155, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18890, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 18052, effective October 14, 2011; amended in R13-15 at 37 Ill. Reg. 17811, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1746, effective January 12, 2015.

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

Section 725.171 Use of Manifest System

- a) Receipt of manifested hazardous waste.

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- 1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or its agent must sign and date the manifest, as indicated in subsection (a)(2) of this Section, to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.
- 2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or its agent must do the following:
 - A) The owner, operator, or agent~~H~~ must sign and date, by hand, each copy of the manifest;
 - B) The owner, operator, or agent~~H~~ must note any discrepancies (as defined in 35 Ill. Adm. Code 724.172~~Section 725.172~~) on each copy of the manifest;
 - C) The owner, operator, or agent~~H~~ must immediately give the transporter at least one copy of the manifest;
 - D) The owner, operator, or agent~~H~~ must send a copy (Page 3) of the manifest to the generator within 30 days after delivery; ~~and~~
 - E) Within 30 days after delivery, the owner, operator, or agent must send the top copy (Page 1) of the manifest to the e-Manifest System for purposes of data entry and processing. In lieu of mailing this paper copy to the e-Manifest System operator, the owner or operator may transmit to the e-Manifest System operator an image file of Page 1 of the manifest, or both a data string file and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to the e-Manifest System operator under this subsection (a) must be submitted in data file and image file formats that are acceptable to USEPA and that are supported by USEPA's electronic reporting requirements and by the e-Manifest System; and
 - ~~FE)~~ The owner, operator or agent~~H~~ must retain at the facility a copy of each manifest for at least three years after the date of delivery.

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- 3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming USEPA's consent to the import of hazardous waste to the following address within 30 days after delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

- b) If a facility receives from a rail or water (bulk shipment) transporter hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification, and signatures), the owner or operator or its agent must do each of the following:
 - 1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;
 - 2) It must note any significant discrepancies, as defined in Section 725.172(a), in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

BOARD NOTE: The owner or operator of a facility whose procedures under Section 725.113(c) include waste analysis need not perform that analysis before signing the shipping paper and giving it to the transporter. Section 725.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

- 3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);
- 4) The owner or operator must send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator within 30 days after the delivery; and

BOARD NOTE: 35 Ill. Adm. Code 722.123(c) requires the generator to

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send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

- 5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.
- c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 35 Ill. Adm. Code 722.

BOARD NOTE: The provisions of 35 Ill. Adm. Code 722.134 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of 35 Ill. Adm. Code 722.134 apply only to owners or operators that are shipping hazardous waste which they generated at that facility.

- d) Within three working days of the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to competent authorities of all other countries concerned. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature.
- e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. A facility must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to that state.
- f) Legal equivalence to paper manifests. E-Manifests that are obtained, completed, transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.

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- 1) Any requirement in 35 Ill. Adm. Code 720 through 728 for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.
- 2) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person.
- 3) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the hazardous waste shipment.
- 4) Any requirement in 35 Ill. Adm. Code 720 through 728 for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's e-Manifest copies in its account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector.
- 5) No owner or operator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the owner or operator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the owner or operator bears no responsibility.
- g) An owner or operator may participate in the e-Manifest System either by accessing the e-Manifest System from the owner's or operator's electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the owner's or operator's site by the transporter that delivers the waste shipment to the facility.
- h) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:

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- 1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest;
 - 2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest;
 - 3) Within 30 days after delivery of the hazardous waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator and send an additional signed and dated copy of the paper replacement manifest to the e-Manifest System; and
 - 4) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three years after the date of delivery.
- i) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, the owner or operator must also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator must retain this original copy among its records for at least three years after the date of delivery of the waste.
 - j) Imposition of user fee for e-Manifest use. An owner or operator that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination or processing of each e-Manifest. An owner or operator may also be assessed a user fee by USEPA for the collection and processing of paper manifest copies that owners or operators must submit to the e-Manifest System operator under subsection 725.171(a)(2)(E). USEPA has stated that it would maintain and update from time-to-time the current schedule of e-Manifest System user fees, which will be determined based on current and projected e-Manifest System costs

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and level of use of the e-Manifest System. USEPA has said that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.

- k) E-Manifest signatures. E-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code 722.125.

(Source: Amended at 39 Ill. Reg. 1746, effective January 12, 2015)

SUBPART H: FINANCIAL REQUIREMENTS

Section 725.241 Definitions of Terms as Used in this Subpart H

- a) "Closure plan" means the plan for closure prepared in accordance with the requirements of Section 725.212.
- b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with Sections 725.242(a), (b), and (c).
- c) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with Sections 725.244(a), (b), and (c).
- d) "Parent corporation" means a corporation that directly owns at least 50 percent of the voting stock of the corporation that is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.
- e) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of Sections 725.217 through 725.220.
- f) The following terms are used in the specifications for the financial tests for closure, post-closure care, and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices.

"Assets" mean all existing and all probable future economic benefits obtained or controlled by a particular entity.

"Current assets" mean cash or other assets or resources commonly identified as those that are reasonably expected to be realized in cash or

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sold or consumed during the normal operating cycle of the business.

"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

"Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 35 Ill. Adm. Code 704.212(a), (b), and (c).

"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

"Net working capital" means current assets minus current liabilities.

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles, such as goodwill and rights to patents or royalties.

- g) In the liability insurance requirements the terms "bodily injury" and "property damage" have the meanings given below. The Board intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

"Accidental occurrence" means an accident, including continuous or repeated exposure to conditions, that results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

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"Bodily injury" means bodily injury, sickness, or disease sustained by a person, including death resulting from any of these at any time. However, this term does not include those liabilities that, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

[BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term.](#)

"Environmental damage" means the injurious presence in or upon land, the atmosphere or any watercourse or body of water of solid, liquid, gaseous, or thermal contaminants, irritants, or pollutants.

[BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term.](#) This term is used in the definition of "pollution incident."

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

"Nonsudden accidental occurrence" means an occurrence that takes place over time and involves continuous or repeated exposure.

"Pollutants" means any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste.

[BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term.](#) This definition is used in the definition of "pollution incident."

"Pollution incident" means emission, discharge, release or escape of pollutants into or upon land, the atmosphere, or any watercourse or body of water, provided that such emission, discharge, release, or escape results in "environmental damage." The entirety of any such emission, discharge, release, or escape must be deemed to be one "pollution incident." "Waste" includes materials to be recycled, reconditioned, or reclaimed. The term "pollution incident" includes an "occurrence."

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BOARD NOTE: [Derived from the Insurance Services Office, Inc. definition of this term.](#) This definition is used in the definition of "property damage."

"Property damage" means as follows:

Either of the following:

Physical injury to, destruction of, or contamination of tangible property, including all resulting loss of use of that property; or

Loss of use of tangible property that is not physically injured, destroyed, or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of a "pollution incident."

This term does not include those liabilities that, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage.

BOARD NOTE: [Derived from the Insurance Services Office, Inc. definition of this term.](#)

"Sudden accidental occurrence" means an occurrence that is not continuous or repeated in nature.

- h) "Substantial business relationship" means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A "substantial business relationship" must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that the Agency can reasonably determine that a substantial business relationship currently exists between the guarantor and the owner or operator that is adequate consideration to support the obligation of the guarantee relating to any liability towards a third-party. "Applicable state law," as used in this subsection (h), means the laws of the State of Illinois and those of any sister state that govern the guarantee and the adequacy of the consideration.

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BOARD NOTE: Derived from 40 CFR 265.141(h) ~~(2014)~~(2010) and the discussion at 53 Fed. Reg. 33938, 33941-33943 (Sep. 1, 1988). This term is also independently defined in 35 Ill. Adm. Code 724.141(h) and 727.240(b)(8). Any Agency determination that a substantial business relationship exists is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

(Source: Amended at 39 Ill. Reg. 1746, effective January 12, 2015)

DEPARTMENT OF REVENUE

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- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.2197 Adopted Action: Amendment
- 4) Statutory Authority: [35 ILCS 5/601]
- 5) Effective Date of Rulemaking: January 7, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 19128, September 26, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? 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.
- 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 rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
100.2470	Amendment	38 Ill. Reg. 21295; November 14, 2014
100.3450	New Section	38 Ill. Reg. 21758; November 21, 2014
100.7300	Amendment	39 Ill. Reg. 250; January 2, 2015

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- 15) Summary and Purpose of Rulemaking: This rulemaking amends Section 100.2197 to implement amendments to 35 ILCS 5/601 enacted in PA 96-468, which changed the method of computing the maximum allowable credit for taxes paid to other states.
- 16) Information and questions regarding this adopted rule shall be directed to:

Paul Caselton
Deputy General Counsel Income Tax
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/524-3951

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section

100.2000	Introduction
100.2050	Net Income (IITA Section 202)
100.2060	Compassionate Use of Medical Cannabis Pilot Program Act Surcharge (IITA Section 201(o))

SUBPART B: CREDITS

Section

100.2100	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA Section 201(e))
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA Section 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone (IITA Section 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA Section 201(k))
100.2163	Environmental Remediation Credit (IITA 201(l))
100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2171	Angel Investment Credit (IITA 220)
100.2180	Credit for Residential Real Property Taxes (IITA 208)
100.2185	Film Production Services Credit (IITA Section 213)
100.2190	Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2193	Student-Assistance Contributions Credit (IITA 218)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196	Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197	Foreign Tax Credit (IITA Section 601(b)(3))

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- 100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 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 FOR LOSSES
OCCURRING ON OR AFTER DECEMBER 31, 1986

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or

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- After December 31, 1986
- 100.2340 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: 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
- 100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2430 Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies
- 100.2435 Addition Modification for Student-Assistance Contribution Credit (IITA Sections 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10))
- 100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
- 100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the 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 and River Edge Redevelopment Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
- 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

- Section
- 100.2510 Subtraction for Contributions to Illinois Qualified Tuition Programs (Section 529 Plans) (IITA Section 203(a)(2)(Y))
- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))

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100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART H: BASE INCOME OF TRUSTS AND ESTATES

Section

100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
100.2657 Subtraction Modification for High Impact Business Interest (IITA Section 203(b)(2)(M-1))
100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART J: 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)
100.3015 Business Income Election (IITA Section 1501)
100.3020 Resident (IITA Section 301)

SUBPART K: COMPENSATION

Section

100.3100 Compensation (IITA Section 302)
100.3110 State (IITA Section 302)
100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

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100.TABLE A Example of Unitary Business Apportionment

100.TABLE B Example of Unitary Business Apportionment for Groups Which
Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective

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November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008;

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amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at 36 Ill. Reg. 9247, effective June 5, 2012; amended at 37 Ill. Reg. 5823, effective April 19, 2013; amended at 37 Ill. Reg. 20751, effective December 13, 2013; recodified at 38 Ill. Reg. 4527; amended at 38 Ill. Reg. 9550, effective April 21, 2014; amended at 38 Ill. Reg. 13941, effective June 19, 2014; amended at 38 Ill. Reg. 15994, effective July 9, 2014; amended at 38 Ill. Reg. 17043, effective July 23, 2014; amended at 38 Ill. Reg. 18568, effective August 20, 2014; amended at 38 Ill. Reg. 23158, effective November 21, 2014; emergency amendment at 39 Ill. Reg. 483, effective December 23, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 1768, effective January 7, 2015.

SUBPART B: CREDITS

Section 100.2197 Foreign Tax Credit (IITA Section 601(b)(3))

- a) IITA Section 601(b)(3) provides that *the aggregate amount of tax which is imposed upon or measured by income and which is paid by a resident for a taxable year to another state or states on income which is also subject to the tax imposed by IITA Section 201(a) and (b) of the Illinois Income Tax Act shall be credited against the tax imposed by IITA Section 201(a) and (b) otherwise due under the IITA Illinois Income Tax Act for such taxable year.*
- b) Definitions applicable to this Section.
 - 1) Tax qualifying for the credit. A tax qualifies for the credit only if it is *imposed upon or measured by income* and is *paid by an Illinois resident to another state on income which is also subject to Illinois income tax.*
 - A) A tax "imposed upon or measured by income" shall mean an income tax or tax on profits imposed by a state and deductible under IRC section 164(a)(3). Such term shall not include penalties or interest imposed with respect to the tax.
 - B) A tax is "paid by an Illinois resident" to another state "on income

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which is also subject to Illinois income tax" only to the extent the income included in the tax base of the other state is also included in base income computed under IITA Section 203 during a period in which the taxpayer is an Illinois resident. Thus, for example, income tax paid to another state on retirement income excluded from base income under IITA Section 203(a)(2)(F) does not qualify for the credit, nor would income derived from a partnership or Subchapter S corporation whose tax year ends during a period in which the taxpayer is not an Illinois resident. See IRC section 706(a) and IRC section 1366(a)(1). If tax is paid to another state on income that is not included in base income or on income attributable to a period when the taxpayer was not a resident of Illinois, as well as on income that is included in base income and attributable to a period in which the taxpayer was a resident of Illinois, the amount of tax qualifying for the credit shall be determined by multiplying the tax paid by a fraction equal to the income taxed by the other state that is included in base income and attributable to a period in which the taxpayer was a resident of Illinois divided by the total tax base on which the other state's tax was computed.

- 2) For purposes of IITA Section 601(b)(3), "state" *means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any political subdivision of any of the foregoing.* (IITA Section 1501(a)(22)) This definition is effective for tax years ending on or after December 31, 1989. The term "state" does not include foreign countries or any political subdivision of a foreign country.
- 3) "Resident" is defined at IITA Section 1501(a)(20) and in Section 100.3020 of this Part.
- 4) *Base income subject to tax both by another state and by this State* or "double-taxed income" means items of income minus items deducted or excluded in computing the tax for which credit is claimed, to the extent such items of income, deduction or exclusion are taken into account in the computation of base income under IITA Section 203 for the person claiming the credit. However, under IITA Section 601(b)(3), as in effect prior to January 1, 2006 (the effective date of Public Act 94-247), *no*

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compensation received by a resident which qualifies as compensation paid in this State as determined under IITA Section 304(a)(2)(B) shall be considered income subject to tax by another state or states.

- A) Under IITA Section 203(a), base income of an individual is computed without allowing the standard deduction allowed in computing federal taxable income, and without allowing the exemptions provided in IITA Section 204. Double-taxed income is therefore computed without reduction for any standard deductions or exemptions allowed by the state.
- B) An item of income is not included in double-taxed income to the extent it is excluded or deducted in computing the tax for which the credit is claimed. For example, State X allows a deduction or exclusion equal to 60% of long-term capital gains and for 100% of winnings from the State X lottery. Only 40% of long-term capital gains is subject to tax in that state. Similarly, an individual subject to the Washington, D.C. unincorporated business tax is allowed to deduct from taxable income a reasonable allowance for compensation for personal services rendered. This deduction is in fact an exclusion for the "personal income" of the individual, which Congress has forbidden Washington, D.C. to tax except in the case of residents. Accordingly, double-taxed income is net of this deduction.
- C) An item of income that is excluded, subtracted or deducted in the computation of base income under IITA Section 203 cannot be included in double-taxed income. For example, IITA Section 203(a)(2)(L) allows a subtraction for federally-taxed Social Security and Railroad Retirement benefits, while dividends received from a Subchapter S corporation are excluded from federal gross income and therefore from base income. Accordingly, even if another state taxes such benefits or dividends, these amounts are not included in double-taxed income.
- D) An item of expense is deducted or subtracted in computing double-taxed income only to the extent that item is deducted or subtracted in computing the tax base in the other state and in computing base income under IITA Section 203. For example, State Y allows

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deductions for federal itemized deductions and for individual federal income taxes paid. No deduction for federal income taxes is allowed in computing base income under IITA Section 203, and so that deduction is not taken into account in computing base income subject to tax in State Y. Also, IITA Section 203(a) generally does not allow a deduction for federal itemized deductions, and so federal itemized deductions are generally not taken into account in computing base income subject to tax in State Y. However, IITA Section 203(a)(2)(V) allows self-employed individuals a subtraction modification for health insurance premiums, which can be taken as an itemized deduction in computing federal taxable income. Accordingly, in the case of a self-employed individual eligible for the Illinois subtraction, any itemized deduction for health insurance premiums taken into account in computing the State Y tax base is also taken into account in computing double-taxed income.

- E) For taxable years beginning prior to January 1, 2006, compensation paid in Illinois under IITA Section 304(a)(2)(B), as further explained in Section 100.3120 of this Part, is not included in double-taxed income, even if another state taxes such compensation. For example, an Illinois resident whose base of operations is in Illinois, but whose employment requires him or her to work in Illinois and for a substantial period of time in State Z, must treat all compensation from such employment as paid in Illinois under IITA Section 304(a)(2)(B)(iii). None of that compensation may be included in double-taxed income, even if State Z actually taxes the compensation earned for periods during which the resident was working in State Z. Public Act 94-247 (effective January 1, 2006) repealed the provision in IITA Section 601(b)(3) that stated compensation paid in Illinois may not be included in double-taxed income, and so compensation paid in Illinois may be included in double-taxed income in taxable years beginning on or after January 1, 2006.
- F) Some states impose an alternative minimum tax similar to the tax imposed by IRC section 55, under which a taxpayer computes a regular taxable income and also computes an alternative minimum taxable income by reducing some exclusions or deductions, and

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eliminating other exclusions and deductions entirely. The taxpayer applies different rate structures to regular taxable income and to alternative minimum taxable income, and is liable for the higher of the two taxes so computed. An item of income included in a state's alternative minimum taxable income but not in the regular taxable income of that state is not included in base income subject to tax in that state unless the taxpayer is actually liable for alternative minimum tax in that state. For example, a state allows a 60% capital gains exclusion for regular tax purposes, but includes 100% of the capital gains in its alternative minimum taxable income. If a taxpayer incurs alternative minimum tax liability in that state, 100% of the capital gains is included in double-taxed income. If only regular tax liability is incurred, only 40% of capital gains is included in double-taxed income.

- G) Some states compute the tax liability of a nonresident by first computing the tax on all income of the nonresident from whatever source derived, and then multiplying the resulting amount by a percentage equal to in-state sources of income divided by total sources of income or by allowing a credit based on the percentage of total income from sources outside the state. Other states determine the tax base of a nonresident by computing the tax base as if the person were a resident and multiplying the result by the percentage equal to in-state sources of income divided by total sources of income. The use of either of these methods of computing tax does not mean that income from all sources is included in double-taxed income. See *Comptroller of the Treasury v. Hickey*, 114 Md. App. 388, 689 A.2d 1316 (1997); *Chin v. Director, Division of Taxation*, 14 N.J. Tax 304 (T.C. N.J. 1994). When a state uses either of these methods of computation, double-taxed income shall be the base income of the taxpayer from all sources subject to tax in that state, as computed in accordance with the rest of this subsection (b)(4), multiplied by the percentage of income from sources in that state, as computed under that state's law; provided, however, that no compensation paid in Illinois under IITA Section 304(a)(2)(B) shall be treated as income from sources in that state in computing such percentage in any taxable year beginning prior to January 1, 2006.

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EXAMPLE 1: Individual, an Illinois resident, has federal adjusted gross income of \$80,000 in Year 1, comprised of \$75,000 in wages, \$1,000 in taxable interest and \$4,000 in net rental income. Taxable interest includes \$200 in interest on federal government obligations and excludes \$500 in municipal bond interest. The rental income is from property in State X. Individual is subject to \$6,000 in federal income tax in Year 1. Individual's Illinois base income is \$80,300: his \$80,000 in adjusted gross income, plus \$500 in municipal bond interest, minus \$200 in federal government obligation interest.

State X computes Individual's income subject to its tax by starting with the \$4,000 in net rental income included in his federal adjusted gross income, and requiring him to add back \$3,000 in depreciation allowed on his rental property under IRC Section 168 in excess of straight-line depreciation, and subtracting the portion of his federal income tax liability allocable to his State X income. State X also allows Individual an exemption of \$1,000.

Double-taxed income in this case is \$7,000: the \$4,000 in net rental income plus the \$3,000 addition modification for excess depreciation. The \$3,000 addition modification for excess depreciation is a deduction allowed by Illinois but not by State X, and only the amount of depreciation deductible in both states is taken into account. The subtraction for federal income tax and the exemption are not taken into account in computing base income under IITA Section 203(a), and therefore are not taken into account in computing double-taxed income.

EXAMPLE 2. Assume the same facts as in Example 1, except that State X requires Individual to compute income tax as if he were a resident of State X, and then multiply the result by a fraction equal to his federal adjusted gross income from State X sources divided by total federal adjusted gross income. Under this method, Individual has State X taxable income of \$76,300 (\$80,000 in federal adjusted gross income, plus \$500 in municipal bond interest and \$3,000 in excess depreciation, minus \$200 in federal government obligation interest, \$6,000 in federal income taxes, and the \$1,000 exemption). The fraction actually taxed by State X is 5% (the \$4,000 in rental income divided by \$80,000 in federal adjusted gross income).

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Under subsection (b)(4)(G), double-taxed income is \$4,165, computed as follows. First, State X taxable income is computed using only those items of income and deduction taken into account by both State X and Illinois. Accordingly, the \$6,000 in federal income taxes and the \$1,000 exemption are not taken into account. The State X taxable income so computed is \$83,300 (\$80,000 federal adjusted gross income plus \$3,000 in excess depreciation and \$500 in municipal bond interest minus \$200 in federal government obligation interest). Multiplying that amount by the 5% fraction used by State X yields double-taxed income of \$4,165.

EXAMPLE 3: Assume the same facts as in Example 2, except that State X deems \$10,000 of Individual's wages to be earned in State X. Under IITA Section 304(a)(2)(B)(iii), all of Individual's wages are considered "compensation paid in this State", even though Individual performs services in State X, because Individual's base of operations is in Illinois. Accordingly, Individual's State X taxable income is \$76,300, just as in Example 2, but his fraction allocated to State X is 17.5% (\$10,000 in wages plus \$4,000 in net rental income, the total divided by \$80,000 in federal adjusted gross income).

For taxable years beginning prior to January 1, 2006, Individual's double-taxed income is \$4,165, the same as in Example 2. Because compensation deemed "paid in this State" cannot be treated as double-taxed income, the State X fraction must be computed under subsection (b)(4)(G) without treating the \$10,000 in wages as allocable to State X. Accordingly, double-taxed income is the \$83,300 total of all items taxed by both states minus deductions allowed by both states, times 5% (the \$4,000 in net rental income divided by the \$80,000 in federal adjusted gross income).

For taxable years beginning on or after January 1, 2006, Individual's double-taxed income is \$14,578, which is the \$83,300 total of all items taxed by both states minus deductions allowed by both states, times 17.5% (the \$10,000 in wages taxed by both states plus the \$4,000 in net rental income, divided by the \$80,000 in federal adjusted gross income).

- c) Amount of the credit. Subject to limitations described in subsection (d) of this Section, the amount of the credit for a taxable year is the *aggregate amount of tax paid by a resident for the taxable year*. (IITA Section 601(b)(3)) Because the credit is allowed for taxes paid for the taxable year, rather than for taxes paid in or

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during the taxable year:

- 1) The amount of tax withheld for another state, estimated payments made to that state and overpayments from prior years applied against the current liability to that state are not relevant to the computation of the credit.
 - 2) Any credit (including a credit for taxes paid to Illinois or another state, but not including a credit that is allowed for an actual payment of tax, such as a credit for income taxes withheld, for estimated taxes paid or for an overpayment of income tax in another taxable year) that is taken into account in determining the amount of tax actually paid or payable to another state shall reduce the amount of credit to which the taxpayer is entitled under this Section. In a case in which the taxpayer claims a transferable credit on the other state's return, the credit shall be treated as an actual payment of tax up to the amount the taxpayer paid for the credit, and only the amount of credit in excess of the amount paid shall reduce the amount of credit to which the taxpayer is entitled under this Section.
 - 3) Any increase or decrease in the amount of tax paid to another state for a taxable year, as the result of an audit, claim for refund, or other change, shall increase or decrease the amount of credit for that taxable year, not for the taxable year in which the increase or decrease is paid or credited.
- d) Limitations on the amount of credit allowed for taxable years ending prior to December 31, 2009. *The aggregate credit allowed under IITA Section 601(b)(3) shall not exceed that amount which bears the same ratio to the tax imposed by IITA Section 201(a) and (b) otherwise due as the amount the taxpayer's base income subject to tax both by such other state or states and by this State bears to his total base income subject to tax by this State for the taxable year.* (IITA Section 601(b)(3)) The credit allowed under this Section for taxable years ending prior to December 31, 2009 is therefore the smaller of either the total amount of taxes paid to other states for the year or the product of Illinois income tax otherwise due (before taking into account any Article 2 credit or the foreign tax credit allowed under IITA Section 601(b)(3)) multiplied by a fraction equal to the aggregate amount of the taxpayer's double-taxed income, divided by the taxpayer's Illinois base income.
- 1) In computing the aggregate amount of the taxpayer's double-taxed income, any item of income or deduction taken into account in more than one state

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shall be taken into account only once. For example, an individual subject to tax on his or her compensation by both State X and by a city in State X shall include the amount of such compensation only once in computing the aggregate amount of double-taxed income.

- 2) Because base income subject to tax both in another state and in Illinois cannot exceed 100% of base income, the credit cannot exceed 100% of the tax otherwise due under IITA Section 201(a) and (b).
- 3) No carryover of any amount in excess of this limitation is allowed by the IITA.

e) Limitations on the amount of credit allowed for taxable years ending on or after December 31, 2009. The credit allowed under IITA Section 601(b)(3) for tax paid to other states shall not exceed that amount which bears the same ratio to the tax imposed by IITA Section 201(a) and (b) otherwise due under the IITA as the amount of the taxpayer's base income that would be allocated or apportioned to other states if all other states had adopted the provisions in Article 3 of the IITA bears to the taxpayer's total base income subject to tax by this State for the taxable year. (IITA Section 601(b)(3)) The credit allowed under this Section for taxable years ending on or after December 31, 2009 is therefore the smaller of either the total amount of taxes paid to other states for the year or the product of Illinois income tax otherwise due (before taking into account any Article 2 credit or the foreign tax credit allowed under IITA Section 601(b)(3)) multiplied by a fraction equal to the amount of the taxpayer's base income that is sourced outside Illinois using the allocation and apportionment provisions of Article 3 of the IITA, divided by the taxpayer's Illinois base income.

EXAMPLE 4: Individual is an Illinois resident whose only income is employee compensation. Individual's employment requires him or her to spend a substantial amount of time each year working in other states, but Individual's base of operations under IITA Section 304(a)(2)(B) is in Illinois. Because all of Individual's base income is employee compensation that is sourced to Illinois under IITA Section 304(a)(2)(B), the limitation under this subsection on Individual's credit for taxes paid to other states will be zero, even if some or all of the employee compensation is actually taxed by another state.

EXAMPLE 5: Individual is an Illinois resident whose only income is employee compensation. Individual's employment requires him or her to spend a substantial

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amount of time each year working in several states, but Individual's base of operations under IITA Section 304(a)(2)(B) is in a state that imposes no personal income tax. Because all of Individual's base income is employee compensation that is sourced outside Illinois under IITA Section 304(a)(2)(B), his or her credit for taxes paid to other states may offset 100% of his or her Illinois income tax liability, even if some of his or her employee compensation is not actually taxed by another state.

EXAMPLE 6: Individual is an Illinois resident partner in a partnership engaged in multistate business activities, and his or her only income is business income derived from the partnership. The partnership apportions 25% of its business income to Illinois under IITA Section 304(a). Individual's credit may offset 75% of his or her Illinois income tax liability, regardless of how much of his or her income from the partnership is actually taxed by other states.

- fe)** Disallowance of credit for taxes deducted in computing base income. *The credit provided by IITA Section 601(b)(3) shall not be allowed if any creditable tax was deducted in determining base income for the taxable year.* (IITA Section 601(b)(3)) A trust that has deducted the amount of a state tax imposed upon or measured by net income may include such tax in the computation of the credit allowed under this Section, but IITA Section 203(c)(2)(F) requires that trust to add back to its federal taxable income *an amount equal to the tax deducted pursuant to IRC section 164 of the Internal Revenue Code if the trust or estate is claiming the same tax for purposes of the Illinois foreign tax credit.* The amount that must be added back for a taxable year shall be the amount of tax deducted for such year on the trust's federal income tax return. Because no similar provision is made for individuals, an individual who has deducted taxes paid to another state in computing his or her federal adjusted gross income may not claim a credit for such taxes on his or her Illinois tax return.
- gf)** Credit for taxes paid on behalf of the taxpayer. An Illinois resident individual who is a shareholder or partner claiming a foreign tax credit for the shareholder's or partner's share of personal income taxes paid to a foreign state on his or her behalf by a Subchapter S corporation or a partnership, respectively, must attach to his or her Illinois return a written statement from the Subchapter S corporation or partnership containing the name and federal employee identification number of the Subchapter S corporation or partnership and clearly showing the paid amount of foreign tax attributable to the shareholder or partner, respectively. Additionally, for taxable years ending prior to December 31, 2009, the statement

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must include the shareholder's or partner's share of the Subchapter S corporation's or partnership's items of income, deduction and exclusion in sufficient detail to allow computation of the amount of base income subject to tax under subsection (b)(4) of this Section. Taxes imposed directly on the Subchapter S corporation or the partnership are not eligible for the credit.

hg) Documentation required to support claims for credit. Any person claiming the credit under IITA Section 601(b)(3) *shall attach a statement in support thereof and shall notify the Director of any refund or reductions in the amount of tax claimed as a credit under IITA Section 601(b)(3) all in such manner and at such time as the Department shall by regulations prescribe. For taxable years ending on or after December 31, 2009, the documentation required to be provided with the taxpayer's return in order to support the credit shall be as stated in the forms or instructions. For taxable years ending prior to December 31, 2009, no* credit shall be allowed under this Section for any tax paid to another state nor shall any item of income be included in base income subject to tax in that state except to the extent the amount of such tax and income is evidenced by the following documentation attached to the taxpayer's return (or, in the case of an electronically-filed return, to the taxpayer's Form IL-8453, Illinois Individual Income Tax Electronic Filing Declaration), amended return or claim for refund:

- 1) Unless otherwise provided in this subsection (h)(g), a taxpayer claiming the credit must attach a copy of the tax return filed for taxes paid to the other state or states to the taxpayer's Illinois income tax return, Form IL-8453, amended return or claim for refund.
- 2) If the tax owed to the other state is satisfied by withholding of the tax from payments due to the taxpayer without the necessity of a return filing by the taxpayer, the taxpayer must attach a copy of the statement provided by the payor evidencing the amount of tax withheld and the amount of income subject to withholding.
- 3) A taxpayer claiming a credit for taxes paid by a Subchapter S corporation or partnership on the taxpayer's behalf must attach a copy of the statement provided to the taxpayer by the Subchapter S corporation or partnership pursuant to subsection (g)(f) of this Section, showing the taxpayer's share of the taxes paid and the income of the taxpayer on which the taxes were paid.

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(Source: Amended at 39 Ill. Reg. 1768, effective January 7, 2015)

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- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
130.2080	Amendment
130.ILLUSTRATION A	Amendment
- 4) Statutory Authority: 35 ILCS 120/2-5(11)
- 5) Effective Date of Rulemaking: January 12, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Copies of the adopted rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and are available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 9171; May 2, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. In addition to grammatical and technical changes, the following changes were made:

In Section 2080(b), before the comma added "(22 USC 4301 through 4316)".

In Illustration A(f), deleted the added text and strike the existing text.

Changed subsequent subsection labels
- 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 rulemaking replace any emergency rule currently in effect? No

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14) Are there any rulemakings pending on this Part?

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
130.605	Amendment	39 Ill. Reg. 252; January 2, 2015
130.2055	Amendment	39 Ill. Reg. 252; January 2, 2015

15) Summary and Purpose of Rulemaking: The amendment to Section 130.2080(a) will no longer permit a retailer to accept U.S. Government Bank cards for sales to the U.S. Government and its agencies to document a governmental exemption. Only sales of tangible personal property invoiced directly to, and paid by, governmental bodies that possess active exemption identification numbers, or E-numbers, are exempt. Sales made to individual government employees who will be reimbursed by the government are subject to tax, whether or not the employee provides an E-number.

Under the Vienna Convention, some foreign diplomats are not required to pay reimbursement charges that are similar in nature to taxes. A new Section 130.2080(b) explains that in June 2011, the U.S. Department of State, Office of Foreign Missions, began issuing newly-designed diplomatic tax exemption cards to document exemptions from taxes. A new Section 130.2080(c) explains that the American Institute in Taiwan/Washington, pursuant to the provisions of 22 U.S.C. 3301 et seq., the Taiwan Relations Act (Pub. L. 96-8), and Executive Order 13014, with the authority of the Secretary of State, U.S. Department of State, issues Mission Tax Exemption Cards and Personal Tax Exemption Cards to officials of the Taipei Economic and Cultural Representative Office (TECRO). TECRO was established to represent the political, social and economic interests of Taiwan after the United States established diplomatic relations with China.

Section 130.ILLUSTRATION A provides retailers with examples of the new cards issued by the U.S. Department of State and the American Institute in Taiwan/Washington that can be accepted to document an exemption from Retailers' Occupation Tax.

16) Information and questions regarding this adopted rule shall be directed to:

Richard S. Wolters
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

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217/782-2844

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

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TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section

130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section

130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section

130.305	Farm Machinery and Equipment
130.310	Food, Soft Drinks and Candy
130.311	Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321	Fuel Used by Air Common Carriers in Flights Engaged in Foreign Trade or Engaged in Trade Between the United States and any of its Possessions
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit

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- 130.332 Automatic Vending Machines
- 130.335 Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled Devices
- 130.340 Rolling Stock
- 130.341 Commercial Distribution Fee Sales Tax Exemption
- 130.345 Oil Field Exploration, Drilling and Production Equipment
- 130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
- 130.351 Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

SUBPART D: GROSS RECEIPTS

- Section
- 130.401 Meaning of Gross Receipts
- 130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
- 130.410 Cost of Doing Business Not Deductible
- 130.415 Transportation and Delivery Charges
- 130.420 Finance or Interest Charges – Penalties – Discounts
- 130.425 Traded-In Property
- 130.430 Deposit or Prepayment on Purchase Price
- 130.435 State and Local Taxes Other Than Retailers' Occupation Tax
- 130.440 Penalties
- 130.445 Federal Taxes
- 130.450 Installation, Alteration and Special Service Charges
- 130.455 Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

- Section
- 130.501 Monthly Tax Returns – When Due – Contents
- 130.502 Quarterly Tax Returns
- 130.505 Returns and How to Prepare
- 130.510 Annual Tax Returns
- 130.515 First Return
- 130.520 Final Returns When Business is Discontinued
- 130.525 Who May Sign Returns
- 130.530 Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations

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130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period
130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552	Alcoholic Liquor Reporting
130.555	Vending Machine Information Returns
130.560	Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section	
130.601	Preliminary Comments (Repealed)
130.605	Sales of Property Originating in Illinois; Questions of Interstate Commerce
130.610	Sales of Property Originating in Other States (Repealed)

SUBPART G: CERTIFICATE OF REGISTRATION

Section	
130.701	General Information on Obtaining a Certificate of Registration
130.705	Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710	Procedure When Security Must be Forfeited
130.715	Sub-Certificates of Registration
130.720	Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725	Display
130.730	Replacement of Certificate
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130.745	Revocation of Certificate

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130.801	General Requirements
130.805	What Records Constitute Minimum Requirement
130.810	Records Required to Support Deductions
130.815	Preservation and Retention of Records
130.820	Preservation of Books During Pendency of Assessment Proceedings

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130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

Section
130.901 Civil Penalties
130.905 Interest
130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section
130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section
130.1101 Definition of Federal Area
130.1105 When Deliveries on Federal Areas Are Taxable
130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section
130.1201 General Information
130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section
130.1301 When Lessee of Premises Must File Return for Leased Department
130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

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Section

- 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
- 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
- 130.1410 Requirements for Certificates of Resale (Repealed)
- 130.1415 Resale Number – When Required and How Obtained
- 130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

- 130.1501 Claims for Credit – Limitations – Procedure
- 130.1505 Disposition of Credit Memoranda by Holders Thereof
- 130.1510 Refunds
- 130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON
SELLING OUT OR DISCONTINUING BUSINESS

Section

- 130.1601 When Returns are Required After a Business is Discontinued
- 130.1605 When Returns Are Not Required After Discontinuation of a Business
- 130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section

- 130.1801 When Powers of Attorney May be Given
- 130.1805 Filing of Power of Attorney With Department
- 130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

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Section

130.1901	Addition Agents to Plating Baths
130.1905	Agricultural Producers
130.1910	Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
130.1915	Auctioneers and Agents
130.1920	Barbers and Beauty Shop Operators
130.1925	Blacksmiths
130.1930	Chiropodists, Osteopaths and Chiropractors
130.1934	Community Water Supply
130.1935	Computer Software
130.1940	Construction Contractors and Real Estate Developers
130.1945	Co-operative Associations
130.1950	Dentists
130.1951	Enterprise Zones
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130.1954	River Edge Redevelopment Zones
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130.1971	Sellers of Pets and the Like
130.1975	Operators of Games of Chance and Their Suppliers
130.1980	Optometrists and Opticians
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130.1990	Peddlers, Hawkers and Itinerant Vendors
130.1995	Personalizing Tangible Personal Property
130.2000	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
130.2004	Sales to Nonprofit Arts or Cultural Organizations
130.2005	Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
130.2006	Sales by Teacher-Sponsored Student Organizations
130.2007	Exemption Identification Numbers
130.2008	Sales by Nonprofit Service Enterprises
130.2009	Personal Property Purchased Through Certain Fundraising Events for the Benefit

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	of Certain Schools
130.2010	Persons Who Rent or Lease the Use of Tangible Personal Property to Others
130.2011	Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
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130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
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130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
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130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps, Discount Coupons, Automobile Rebates and Dealer Incentives
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
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130.2156 Vendors of Steam
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Prizes, Etc.
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SUBPART T: DIRECT PAYMENT PROGRAM

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130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration
130.ILLUSTRATION C Food Flow Chart

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg.

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1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at

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25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20, 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935, effective August 19, 2010; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at 36 Ill. Reg. 6662, effective April 12, 2012; amended at 38 Ill. Reg. 12909, effective June 9, 2014; amended at 38 Ill. Reg. 17060, effective July 25, 2014; amended at 38 Ill. Reg. 17421, effective July 31, 2014; amended at 38 Ill. Reg. 17756, effective August 6, 2014; amended at 38 Ill. Reg. 19998, effective October 1, 2014; amended at 39 Ill. Reg. 1793, effective January 12, 2015.

SUBPART S: SPECIFIC APPLICATIONS

Section 130.2080 Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel

- a) Exemption Identification Number. On and after January 1, 2015, except as provided in subsections (b) and (c), sales of tangible personal property Sales made to a governmental body (~~federal~~ Federal, State, local or foreign) are exempt from the Retailers' Occupation Tax only if the governmental body. ~~Such sales are not~~

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~~exempt from the Retailers' Occupation Tax unless a governmental body~~ has an active exemption identification number ("E-number") issued by the Department and it provides this active E-number to the retailer, who records that number instead of collecting the tax. ~~In addition, only sales of tangible personal property invoiced directly to and paid by governmental bodies that possess active E-~~ numbers are exempt. ~~If an individual government employee provides a credit card to the retailer containing the name of the employee along with the name of the governmental body, tax will be due even if the employee provides an active E-number.~~ However, ~~until December 31, 2014,~~ retailers may accept U.S. Government Bank Cards in sales to the U.S. Government and its agencies without requiring an Illinois active exemption identification number.

- 1) For the foregoing purposes, the date of sale is considered to be the date of delivery to the purchaser.
 - 2) The purchase of meals, fuel and other tangible personal property by corporations in Illinois are taxable sales at retail, unless otherwise exempt, notwithstanding the fact that the stock of such corporations may be owned exclusively or in part by foreign governments.
- b) Diplomatic Tax Exemption Cards. The U.S. State Department, Office of Foreign Missions ("OFM"), issues Diplomatic Tax Exemption Cards to accredited foreign diplomatic and consular officials. Under the authority of the federal Foreign Missions Act (22 USC 4301 through 4316), various tax exemptions are granted to foreign diplomatic and consular officials on their purchases. When making a purchase, the holder must present the card of the card presents it to the retailer, who records the card number instead of collecting the tax. The validity of the Diplomatic Tax Exemption Card can be confirmed electronically using the Department of State's Diplomatic Tax Exemption Card Verification system, which is available at <https://ofmapps.state.gov/tecv/>.
- 1) Illustration A. Illustration A depicts examples of the four types of Diplomatic Tax Exemption Cards currently being issued. The exemptions identified on the card to which the cardholder is entitled are unique to the cardholder. The determination of eligibility for an exemption is made on a case-by-case basis. It is important to look at the card carefully to determine whether a specific purchase qualifies for an exemption.

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- 2) Some cardholders are issued a card labeled "Mission Tax Exemption – Official Purchases Only" that permits the cardholder to make official purchases only. All mission purchases made with this type of Diplomatic Tax Exemption Card must be paid only by check or credit card bearing the name of the associated diplomatic or consular mission.
 - 3) Some cardholders are issued a card labeled "Personal Tax Exemption". This card does not restrict the form of payment associated with its use (e.g., the cardholder could pay by cash, personal check or credit card).
 - 4) Diplomatic Tax Exemption Cards, alone, do not provide an exemption from Illinois occupation or use taxes on vehicles. OFM administers the exemption when a foreign mission or official buys a vehicle from a retailer. The purchaser must first present a Diplomatic Tax Exemption Card to the retailer. The retailer must retain a copy of this card and contact OFM at (202) 895-3500. OFM will determine the tax-exempt status of the purchaser. If the purchaser qualifies for an exemption, OFM will provide a letter to the retailer that states that the purchaser is eligible for a tax exemption on the sale of the vehicle. Only authorization letters provided directly from OFM to the retailer, along with a copy of the Tax Exemption Card, will be accepted by the Department as documentation for the exemption.
- c) Taipei Economic and Cultural Representative Office Cards. The American Institute in Taiwan/Washington (AIT/W), pursuant to the provisions of 22 USC 3301 et seq., the Taiwan Relations Act (P.L. 96-8), and Executive Order 13014, with the authority of the Secretary of State, U.S. Department of State, issues Mission Tax Exemption Cards and Personal Tax Exemption Cards to officials of the Taipei Economic and Cultural Representative Office (TECRO). Under the authority of the Taiwan Relations Act, various tax exemptions are granted to officials on their purchases. When making a purchase, the cardholder must present it to the retailer, who records the card number instead of collecting the tax.
- 1) Illustration A. Illustration A depicts examples of the types of tax exemption cards currently being issued. The exemptions identified on the card to which the cardholder is entitled are unique to the cardholder. The determination of eligibility for an exemption is made on a case-by-case basis. It is important to look at the card carefully to determine whether a specific purchase qualifies for an exemption.

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- 2) Tax Exemption Cards, alone, do not provide an exemption from Illinois occupation or use taxes on vehicles. AIT/W administers the exemption when an official buys a vehicle from a retailer. The purchaser must first present a Tax Exemption Card to the retailer. The retailer must retain a copy of this card and contact AIT/W at (703) 525-8474. AIT/W will determine the tax-exempt status of the purchaser. If the purchaser qualifies for an exemption, AIT/W will provide a letter to the retailer that states that the purchaser is eligible for a tax exemption on the purchase of the vehicle. Only authorization letters provided directly from AIT/W to the retailer, along with a copy of the Tax Exemption Card, will be accepted by the Department as documentation for the exemption. AIT/W requires that dealers do all title work for the sale of a vehicle.
- e) ~~The U.S. State Department, Office of Foreign Missions, issues tax exemption identification cards to accredited foreign diplomatic and consular officials. Under the authority of the Foreign Missions Act, various levels of exemption are authorized. Section 130.Illustration A depicts examples of the various cards currently being issued.~~

(Source: Amended at 39 Ill. Reg. 1793, effective January 12, 2015)

Section 130.ILLUSTRATION A Examples of Tax Exemption Cards~~Card~~

- a) ~~This Illustration A provides~~These are samples of the tax exemption cards issued by the U.S. Department of State to certain foreign government personnel and offices under the authority of the Foreign Missions Act (22 USC 4301 et seq.) prior to June 2011. The plastic cards, which are the size of credit cards and have a hologram, are valid nationwide. Cards are used at the point of sale for exemption from State and local sales taxes and similar taxes normally charged to customers. Some cards have restrictions on tax-free purchases. Tax exemption cards are not valid for exemption from taxes on telephones, other utilities, or gasoline purchases. Cards are not transferable. Only the person whose photograph appears on the front side of the card may use it. Vendors may ask for additional identification such as a driver's license.
- b) Examples of tax exemption cards for personal purchases.



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	Personal Tax Exemption Card
	MISSION: (Name of mission inserted here)
	EXPIRATION DATE: 00/00/00
	NO: 0000-0000-01 SEX: M DOB: 00/00/00 LAST NAME OF DIPLOMAT, FIRST NAME OF DIPLOMAT
(Blue stripe here) EXEMPT FROM ALL SALES TAX	

BLUE STRIPE
Full tax exemption
on all personal
purchases

(Picture of Diplomat)	UNITED STATES DEPARTMENT OF STATE Personal Tax Exemption Card
	MISSION: (Name of mission inserted here)
	EXPIRATION DATE: 00/00/00
	NO: 0000-0000-01 SEX: M DOB: 00/00/00 LAST NAME OF DIPLOMAT, FIRST NAME OF DIPLOMAT
(Yellow stripe here) EXEMPTION NOT VALID FOR: FOOD; CLOTHING; RESTAURANTS; SERVICE; HOTELS; GROCERIES	

YELLOW STRIPE
Full tax exemption
on all personal
purchases except
restricted [categories](#)
[category\(ies\)](#)
identified on the
face of the card.

c) Mission tax exemption cards are issued to embassies, consulates, and international organizations for official purchases only and for the sole benefit of the mission identified on the face of the card. All purchases must be made in the name of the mission and paid for by mission check or credit card (not cash or personal check). Personal purchases are prohibited when using a mission tax exemption card.

d) Examples of tax exemption cards for mission (official) business.

(Picture of Diplomat)	UNITED STATES DEPARTMENT OF STATE Mission Tax Exemption Card
	MISSION: (Name of mission inserted here)
	EXPIRATION DATE: 00/00/00
	NO: 0000-0000-01 SEX: F DOB: 00/00/00 LAST NAME OF DIPLOMAT, FIRST NAME OF DIPLOMAT
(Blue stripe here) EXEMPT FROM ALL SALE S TAX	

BLUE STRIPE
Full tax exemption
on all official
purchases

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(Picture of Diplomat)	UNITED STATES DEPARTMENT OF STATE Mission Tax Exemption Card OFFICIAL PURCHASES ONLY MISSION: (Name of mission inserted here)	YELLOW STRIPE Full tax exemption on all official purchases except restricted <u>categories</u> <u>category(ies)</u> identified on the face of the card.
	EXPIRATION DATE: 00/00/00 NO: 0000-0000-01 SEX: F DOB: 00/00/00 LAST NAME OF DIPLOMAT, FIRST NAME OF DIPLOMAT	
(Yellow stripe here) TAX EXEMPTION NOT VALID FOR: SALES UNDER \$350; HOTELS		

- e) Examples of reverse of both mission and personal tax exemption cards.

NOT TRANSFERABLE This card entitles bearer, whose photo appears on reverse, to nationwide exemption from state and local sales taxes, restaurant and similar taxes normally charged to the customer. Vendor may ask for additional identification. IF FOUND PLEASE RETURN TO: Office of Foreign Missions U.S. Department of State 3507 International Place, N.W. Washington, D.C. 20008-3034 202-895-3563 Monday through Friday Return Postage Guaranteed 9:00 a.m.-4:00 p.m. EST Rev. 08-95

- f) ~~Old format laminated cards are valid until the expiration date on the cards. The new yellow stripe card lists all restrictions on the tax exemption. This color will eventually replace all other color stripes except blue stripes. Until December 31, 2001 the following cards are valid and may be accepted by vendors:~~

- ~~1) Green Stripe: Full tax exemption on all purchases except restricted category(ies) identified on the face of the card.~~
- ~~2) Red Stripe: Full tax exemption on all purchases over a minimum amount identified on the face of the card.~~

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- 3) ~~Red/Green Stripe: Full tax exemption on all purchases over a minimum amount identified on the face of the card. The exemption is not valid on purchases from restricted category(ies) listed on the face of the card.~~
- f) Beginning in June 2011, the U.S. Department of State began issuing new types of U.S. Department of State Diplomatic Tax Exemption Cards. The new Diplomatic Tax Exemption Cards are the same size as credit cards, made from plastic, and contain security features such as laser-engraved personalization of data, the inclusion of an optically variable device or kinegram, and tactile micro-text (small raised text). They are valid nationwide. These cards are used at the point of sale for exemption from State and local sales taxes and similar taxes normally charged to customers. Some cards have restrictions on tax-free purchases. Tax exemption cards are not valid for exemption from taxes on telecommunications, other utilities, or gasoline purchases. The cards are not transferable. Only the person whose photograph appears on the front side of the card may use the card. Vendors may ask for additional identification such as a driver's license.
- 1) New image and text of U.S. Department State Diplomatic Tax Exemption Cards. Each Diplomatic Tax Exemption Card bears an image of an animal (an owl, eagle, buffalo or deer, replacing the previously used blue/yellow stripes") indicating the cardholder's specific type of tax exemption and contains text outlining the scope of the exemptions. The types of exemptions given are determined on a case-by-case basis and, thus, will usually vary by cardholder. The images and text in this subsection (f)(1) were taken from the U.S. Department of State, Bureau of Diplomatic Security, Office of Foreign Missions' "New Tax Card Design Flyer" (publication dated June 2011), which can be found on-line at www.state.gov/ofm/tax/. Each card is unique to the cardholder, indicates whether the card was issued for official purchases only or for personal purchases, and lists the specific exemptions to which that cardholder is entitled.
- A) OWL

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Cards with this image are intended to be used solely in connection with **official** purchases; the cardholder/mission is eligible for exemption from sales, occupancy, restaurant/meal, and other similarly imposed taxes without restriction.

B) **BUFFALO**



Cards with this image are intended to be used solely in connection with **official** purchases; the cardholder/mission is subject to some degree of restriction on exemption from sales, occupancy, restaurant/meal, and other similarly imposed taxes. (For example, such cards may read "EXEMPT FROM TAXES IMPOSED ON PURCHASES OVER \$300; NOT VALID AT HOTELS".)

C) **EAGLE**

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Cards with this image are intended to be used solely in connection with **personal** purchases; the cardholder is eligible for exemption from sales, occupancy, restaurant/meal, and other similarly imposed taxes without restriction.

D) **DEER**



Cards with this image are intended to be used solely in connection with **personal** purchases; the cardholder is subject to some degree of restriction on exemption from sales, occupancy, restaurant/meal, and other similarly imposed taxes. (For example, such cards may read "EXEMPT FROM TAXES IMPOSED ON PURCHASES OF HOTEL STAYS, RESTAURANT MEALS, AND RENTAL CARS".)

- 2) Samples of the U.S. Department of State Diplomatic Tax Exemption Cards are for illustrative purposes only. It is important to look at the card to determine the precise exemptions to which the cardholder is entitled. The images below of the four types of U.S. Department State Diplomatic Tax Exemption Cards were taken from the "White Paper Detailing the Department of State's Newly Designed Diplomatic Tax Exemption Cards" found on the U.S. Department of State, Bureau of Diplomatic Security, Office of Foreign Missions website at www.state.gov/ofm/tax/.

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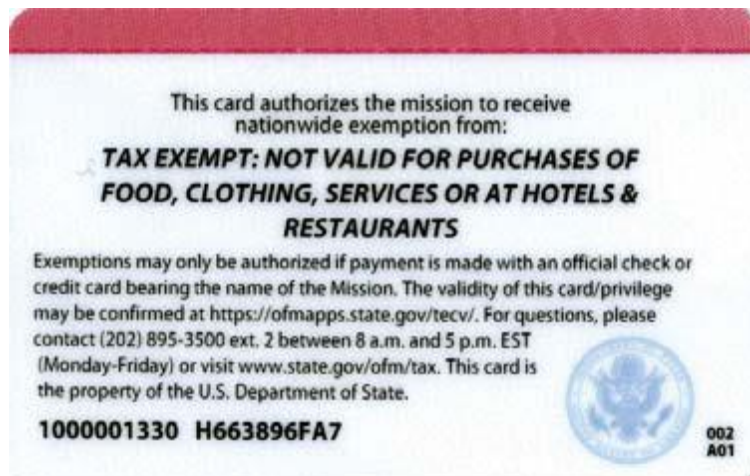
A) Official Purchases Only, Without Restrictions



B) Official Purchases Only, With Restrictions

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C) Personal Tax Exemption, Without Restrictions

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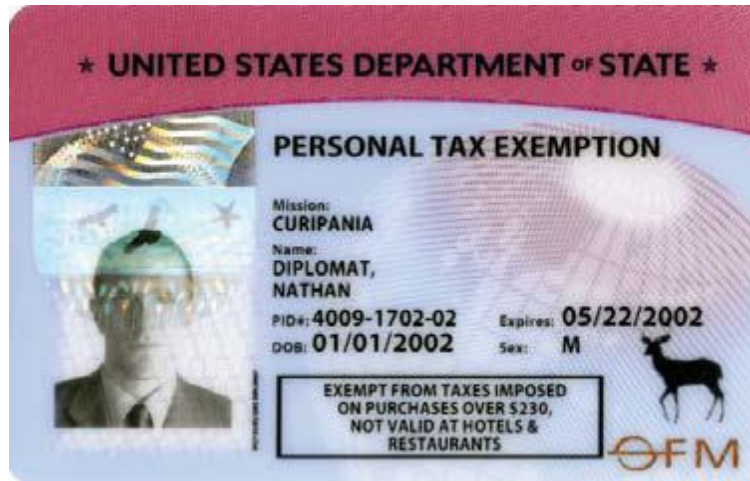
NOTICE OF ADOPTED AMENDMENTS



D) Personal Tax Exemption, With Restrictions.

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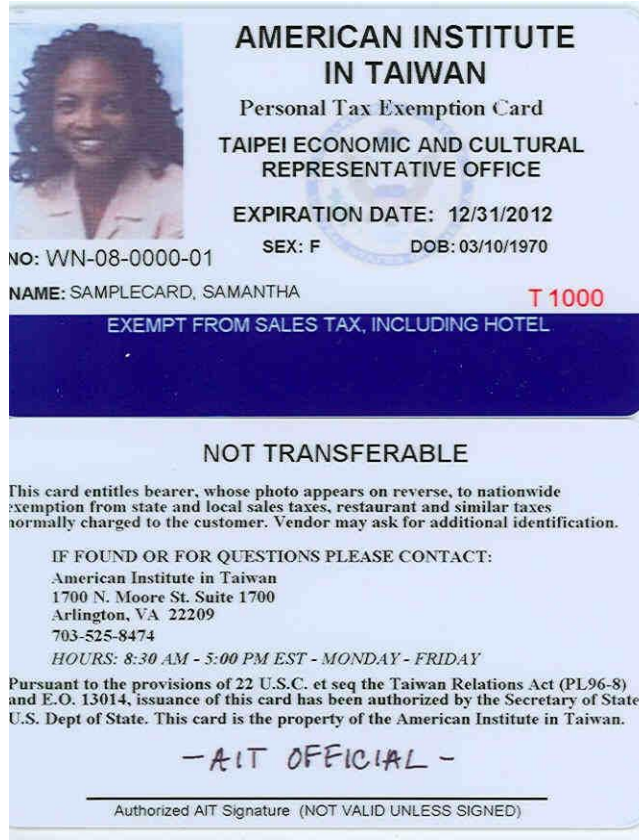


g) Taipei Economic and Cultural Representative Office (TECRO) Cards. Each TECRO card will indicate the cardholder's exemption type (e.g., Mission Tax Exemption Card or Personal Tax Exemption Card) and the exempted taxes (e.g., State and local sales taxes, restaurant and similar taxes). For illustrative purposes only, below are samples of the TECRO exemption cards. It is important to look at the exemption card to determine the precise exemptions to which the cardholder is entitled.

1) Personal Tax Exemption

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2) Official Purchases Only

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	AMERICAN INSTITUTE IN TAIWAN	
	Mission Tax Exemption Card OFFICIAL PURCHASES ONLY	
TAIPEI ECONOMIC AND CULTURAL REPRESENTATIVE OFFICE		
EXPIRATION DATE: 12/31/2012		
NO: WN-08-0000-01	SEX: F	DOB: 03/10/1970
NAME: SAMPLECARD, SAMANTHA		T 1000
EXEMPT FROM SALES TAX, INCLUDING HOTEL		
The person whose name and photo appear on the card need not be present.		
This card entitles bearer, whose photo appears on reverse, to nationwide exemption from state and local sales taxes, restaurant and similar taxes normally charged to the customer. Vendor may ask for additional identification.		
Exemption may only be authorized if payment is made with a mission check or credit card bearing the name of the Mission.		
<i>If found or for inquiries, please contact The American Institute in Taiwan, 1700 N. Moore Street, Suite 1700, Arlington, VA 22209 703-525-8474, HOURS: 8:30 AM - 5:00 PM EST - MONDAY - FRIDAY</i>		
Pursuant to the provisions of 22 U.S.C. et seq the Taiwan Relations Act (PL96-8) and E.O. 13014, issuance of this card has been authorized by the Secretary of State U.S. Dept of State. This card is the property of the American Institute in Taiwa		
-AIT OFFICIAL-		
_____ Authorized Signature (NOT VALID UNLESS SIGNED)		

(Source: Amended at 39 Ill. Reg. 1793, effective January 12, 2015)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of January 6, 2014 through January 12, 2014. The rulemakings are scheduled for review at the Committee's February 17, 2015 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
2/18/15	<u>Department of Public Health</u> , Local Health Protection Grant Rules (77 Ill. Adm. Code 615)	8/1/14 38 Ill. Reg. 16145	2/17/15
2/18/15	<u>Secretary of State</u> , Certificates of Title, Registration of Vehicles (92 Ill. Adm. Code 1010)	10/31/14 38 Ill. Reg. 20619	2/17/15
2/20/15	<u>Department of Revenue</u> , Income Tax (86 Ill. Adm. Code 100)	11/14/14 38 Ill. Reg. 21295	2/17/15
2/20/15	<u>Illinois Gaming Board</u> , Video Gaming (General) (11 Ill. Adm. Code 1800)	10/17/14 38 Ill. Reg. 19901	2/17/15
2/25/15	<u>Department of Human Services</u> , Electronic Prescription Monitoring Program (77 Ill. Adm. Code 2080)	5/30/14 38 Ill. Reg. 11412	2/17/15
2/25/15	<u>Department of Human Services</u> , Electronic Prescription Monitoring Program Long Term Care (77 Ill. Adm. Code 2081)	5/30/14 38 Ill. Reg. 11434	2/17/15

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning proposed changes in methods and standards for establishing medical assistance payment rates for medical services in the *Illinois Register*: 5 ILCS 100/5-70(c)

2. Summary of Information: Home and Community-Based Services (HCBS) Settings Draft Transition Plan Illinois Department of Healthcare and Family Service:

The Illinois Department of Healthcare and Family Services (HFS) gives notice that the DRAFT Statewide Transition Plan, required by the Centers for Medicaid and Medicare Services (CMS) Home and Community-Based Services (HCBS) Rule 42 CFR 441.301(c)(iii), will be available for public review and comment for a period of 30 days beginning on 01/15/2015 and ending on 02/15/2015. HFS is required to submit the final Statewide Transition Plan to CMS no later than 03/17/2015. The Department of Health and Human Services' Centers for Medicare and Medicaid Services (CMS) published regulations in the Federal Register (42 CFR 441.301(c) (4)-(5)) on January 16, 2014, effective March 17, 2014, which further clarifies the definition of home and community-based services (HCBS) residential and non-residential settings for section 1915(c) Medicaid Waivers and approved state plans providing HCBS under section 1915(i). The new rules require states to develop a Statewide Transition Plan identifying the strategies for compliance with the new regulations and allowing up to five years for full compliance.

The DRAFT Statewide Transition Plan covers all nine HCBS waivers and is expected to detail the level of current compliance and the actions the state will take to achieve compliance with the HCBS Setting requirements. Once posted, the DRAFT Statewide Transition Plan can be viewed at the website of the Illinois Department of Healthcare and Family Services (HFS), Medical Programs, Home and Community Based Waiver Programs; <http://www2.illinois.gov/hfs/MedicalPrograms/HCBS/Pages/default.aspx>. Comments may be submitted on this site. Persons who are unable to access the Internet may request a hard copy of the DRAFT Plan by calling HFS at (217) 557-1868.

3. Name and address of person to contact concerning this information:

The Illinois Department of Healthcare and Family Services
Attn: Waiver Management
201 South Grand Ave East, 2nd FL
Springfield IL 62763

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PUBLIC INFORMATION

Public Forums have been scheduled across the state. At these forums, the public will have the opportunity to provide verbal and written comment. A request is made that comments be submitted in written form, as well as voiced, in order to guarantee that they are recorded correctly. Persons who are unable to attend a Public Forum or submit comments using the Internet, may phone in their comments by calling HFS at (217) 557-1868 or mail written feedback to the address listed above.

Public comments are requested from 01/15/2015 through 02/15/2015. Public comments will be summarized and included in the revised Statewide Transition Plan. The public is encouraged to attend one of the forums listed below.

PUBLIC FORUM SCHEDULE		
Thursday January 29, 2015	Parkland College Room W-115 2400 West Bradley Ave Champaign IL 61821	10:30am – Noon
Thursday January 29, 2015	EP!C 1913 West Townline Rd Peoria IL 61612	3:00pm – 4:30pm
Tuesday February 3, 2015	Spring Ridge Senior Housing Community Room 6645 Fincham Dr Rockford IL 61108	1:30pm – 3:00pm
Wednesday February 4, 2015	University of Illinois-Chicago Disability, Health & Social Policy Building Auditorium, Room 166 1640 West Roosevelt Rd Chicago IL 60608	10:30am – Noon
Wednesday February 4, 2015	The ARC 20901 LaGrange Rd, Suite 209 Frankfort IL 60423	2:00pm – 3:30pm
Tuesday February 10, 2015	Rend Lake College Student Center – Private Dining Area 468 North Ken Gray Parkway Ina IL 62846	1:00pm – 2:30pm

PROCLAMATIONS

2014-500**Crime Stoppers of Lake County Month**

WHEREAS, Crime Stoppers of Lake County was formed in 1983 and is a community program comprised of concerned citizens who work closely with police authorities, the news media, and the public in the fight against crime in Lake County and surrounding communities; and,

WHEREAS, Crime Stoppers combats local crime by offering cash rewards to anyone who provides information that leads to the arrest of felony crime offenders or the capture of felony fugitives. Informants always remain anonymous, and cash rewards are funded primarily by private contributions; and,

WHEREAS, thanks to Crime Stoppers, there have been more than 6,500 criminal arrests throughout Lake County, Northern Illinois, and Wisconsin since the program's inception in 1983. Altogether, more than \$28 million worth of contraband and stolen property has been seized; and,

WHEREAS, the success of Crime Stoppers would not be possible without the support of everyone in the community. Consequently, Crime Stoppers also promotes the importance of reporting suspicious behavior and criminal activity; and,

WHEREAS, to support their mission, Crime Stoppers of Lake County will raise money and sponsor events designed to raise awareness during the month of January; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim January 2015 as **CRIME STOPPERS OF LAKE COUNTY MONTH** in Illinois, in recognition of their successful program, and encourage all citizens to help keep their communities safe and free of crime.

Issued by the Governor December 23, 2014

Filed by the Secretary of State January 9, 2015

2015-1**Special Session Proclamation**

WHEREAS, Article IV, Section 5(b) of the Illinois Constitution empowers the President of the Senate and the Speaker of the House to convene special sessions of the General Assembly;

WHEREAS, Article V, Section 2 of the Illinois Constitution provides that elected officers of the Executive Branch hold office beginning on the second Monday in January after their election;

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WHEREAS, in accordance with Article V, Section 7 of the Illinois Constitution, the General Assembly has the power to pass legislation calling for a special election in the case of a vacancy in or failure of an elected officer to qualify for the office of Attorney General, Comptroller, Secretary of State, or Treasurer;

WHEREAS, the person elected Comptroller will not assume the office on January 12, 2015;

WHEREAS, an emergency exists that requires immediate action by the General Assembly;

NOW, THEREFORE, pursuant to Article IV, Section 5(b) of the Illinois Constitution, and in conformity with the Special Session Act, 25 ILCS 15, A SPECIAL SESSION OF THE 98th GENERAL ASSEMBLY IS HEREBY PROCLAIMED AND CALLED AS FOLLOWS:

- a) The Special Session shall convene at 11:00 a.m. on January 8, 2015, at the State Capitol in Springfield, Illinois.
- b) The purpose of the Special Session shall be to consider House Bill 4576 or any other legislation, pending or otherwise, that would provide for a special election in the event of a vacancy in or the failure of an elected officer to qualify for the office of Attorney General, Comptroller, Secretary of State, or Treasurer.
- c) The Secretary of State, the Secretary of the Senate, and the Clerk of the House shall take whatever reasonable steps necessary to notify the members of the purpose, date, and time set for convening this emergency Special Session.

ISSUED January 7, 2015

FILED January 7, 2015

2015-2**Daisaku Ikeda-World Peace Day**

WHEREAS, on January 26, 1975, 158 representatives from 51 countries, including several people from Illinois, participated in the inaugural World Peace Conference, which led to the establishment of Soka Gakkai International, a lay Buddhist association; and,

WHEREAS, Soka Gakkai International, under the leadership of its President Dr. Daisaku Ikeda, has since inspired more than 12 million people in 192 countries and territories to dedicate their lives to sowing the seeds of peace through personal transformation, dialogue, global citizenship, and promoting understanding between different cultures; and,

WHEREAS, Dr. Ikeda has dedicated his life to the quest of realizing peace and human security, based on a steadfast commitment to nonviolence, and has sought to forge bonds of trust between

PROCLAMATIONS

people through citizen diplomacy, submitting annual peace proposals to the United Nations since 1983, and the establishment of numerous peace-related institutions; and,

WHEREAS, close to 10,000 SGI-USA members in the state of Illinois, inspired by Dr. Ikeda and his efforts to champion peace, are today taking responsibility for creating a future where all young people are valued and can live courageous and contributive lives; and,

WHEREAS, events will be held on January 26, 2015, in recognition of Daisaku Ikeda-World Peace Day; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby declare January 12, 2015, as **DAISAKU IKEDA-WORLD PEACE DAY** in Illinois.

Issued by the Governor January 2, 2015
Filed by the Secretary of State January 9, 2015

2015-3**Nick Martini Day**

WHEREAS, Nick Martini is an avid hockey player who enjoys watching hockey, football and his beloved Chicago Cubs; and,

WHEREAS, Nick Martini is the best pet parent to his dog, Maddy, and likes betting on horses and visiting Arlington Race Track; and,

WHEREAS, Nick Martini is great with social media and technology and enjoys playing the stock market; and,

WHEREAS, Nick Martini believes that service to others is the rent we pay to live on this earth, and he has always been a strong supporter of our nation's active duty military members and veterans; and,

WHEREAS, Nick Martini will turn 31 on January 10, 2015; and,

WHEREAS, birthdays are an excellent time to recount the many achievements and memories you have achieved during your lifetime; and,

WHEREAS, Nick Martini has a great deal to celebrate on this occasion. As a long-time friend and loving family member, he has touched many lives by empowering others to achieve to the best of their abilities; and,

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WHEREAS, the citizens of the Land of Lincoln are pleased to wish Nick Martini a very happy 31st birthday and hope that this year finds him in good health and happiness; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim January 10, 2015, as **NICK MARTINI DAY** in Illinois, in honor of his 31st birthday and the contributions he has made to the Land of Lincoln.

Issued by the Governor January 6, 2015

Filed by the Secretary of State January 9, 2015

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2015-3**Pregnancy Discrimination in State Employment**

WHEREAS, the State of Illinois recently enacted legislation (Public Act 098-1050), effective January 1, 2015, to prohibit discrimination by employers against employees who become pregnant; and

WHEREAS, without adequate policies in place, there is the possibility that pregnant women who are temporarily limited in their abilities to perform their work functions because of pregnancy, childbirth, or conditions related to pregnancy or childbirth may be subject to adverse action in the workplace such as being forced to take unpaid leave or even terminated from employment; and

WHEREAS, it is imperative that all State agencies in the executive branch that fully comply with the provisions of the new State law prohibiting discrimination against pregnant women and adhere to the same standards that State law applies to other employers; and

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, pursuant to the executive authority vested in me by Article V of the Constitution of the State of Illinois, do hereby direct as follows:

I. REVISION OF STATE AGENCY PERSONNEL POLICIES TO PROHIBIT DISCRIMINATION AGAINST PREGNANT STATE EMPLOYEES

- a) Within 30 days of the effective date of this executive order, each executive branch State agency that is responsible to the Governor shall conduct a comprehensive review of all laws, rules, regulations, policies, executive and administrative orders, and any other mandate or directive any kind that apply to personnel management and administration at the agency (cumulatively, "personnel policies") to determine whether or not the prohibition on discrimination against pregnant employees that is set forth in Public Act 098-1050 is fully reflected in the agency's personnel policies.
- b) If the prohibition on pregnancy discrimination set forth in Public Act 098-1050 is absent or only partially reflected in the agency's personnel policies, the Director or Secretary of the Agency shall direct appropriate agency staff to revise the agency's personnel policies such that the agency's personnel policies fully reflect the provisions of Public Act 098-1050. This revision must be completed within 60 days of the effective date of this executive order.
- c) Any State agency that makes a revision to its personnel policies in accordance with this Executive Order shall provide on its website and make available for

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public inspection a detailed summary of the revisions to that agency's personnel policies.

II. EFFECTIVE DATE

This Executive Order shall take effect immediately upon its filing with the Secretary of State and shall remain in effect until terminated or modified.

Issued by Governor: January 9, 2015

Filed with Secretary of State: January 9, 2015

2015-4**Executive Order Concerning Medicaid Expansion Implementation
And Affordable Care Act Enrollment**

WHEREAS, the Affordable Care Act ("ACA") provides Americans with greater health security by implementing comprehensive health insurance reforms to expand coverage, lower health care costs, guaranteeing more choice and enhancing the quality of care for all Americans; and

WHEREAS, since the ACA was enacted in March 2010, millions of Americans have enrolled in health plans that they could not afford or obtain through their employer or individually; and

WHEREAS, the ACA includes Medicaid expansion to millions of low-income Americans and improves and increases accessibility to the state's Medicaid and Children's Health Insurance Programs; and

WHEREAS, the state of Illinois enacted Medicaid expansion in July 2013 to include those individuals and families who have income up to 138 percent of the federal poverty line to be eligible for Medicaid or health care coverage and allows up to 600,000 low-income Illinoisans to be eligible for said health care coverage; and

WHEREAS, through Medicaid expansion, the state of Illinois will receive fully matching federal funding until 2017; and

WHEREAS, the State of Illinois, through the Department of Health and Family Services ("HFS"), continues to make Medicaid enrollment accessible and efficient, and assists low-income individuals with disabilities to enroll quickly for health care coverage; and

WHEREAS, the state of Illinois has had significant increases in ACA enrollment and Medicaid coverage enrollment and HFS since the enactment of the Medicaid expansion law; and

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WHEREAS, the electronic movement and sharing of health information among health care providers is important to improving health care quality and outcomes for Medicaid enrollees; and

WHEREAS, the state of Illinois enacted the Illinois Health Information Exchange and Technology Act to implement and oversee a statewide health information exchange (HIE) infrastructure to ensure real time access to patient electronic health records; and

WHEREAS, effectiveness of a statewide health information exchange requires coordination and support from all state agencies for the Illinois Health Information Exchange (ILHIE) as the single state HIE hub; and

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, pursuant to the supreme executive authority vested in me by Article V, Section 8 of the Illinois Constitution, hereby orders as follows:

- a) A summary of data showing enrollment in the federally-facilitated Health Insurance Marketplace ("HIM") and Medicaid expansion programs be made available and published on the HFS website on a weekly basis reflecting the progress achieved by the state of Illinois.
- b) A consistent engagement by HFS with other health care advocates and federal counterparts to continue to ascertain improvements in streamlining application procedures to achieve maximum enrollment and high levels of accessibility to information and assistance for Medicaid and other ACA coverage for all eligible Illinoisans.
- c) A robust plan to increase outreach and awareness by HFS and any of its coordinating partners, including health care advocates and its federal counterparts to promote increased enrollment of low-income and disabled Illinoisans who qualify for Medicaid coverage.
- d) HFS shall undertake all appropriate measures to alleviate any disparity in the prices that Medicaid providers owned by women, minorities and persons with disabilities are compensated for services provided, including, but not limited to, information technology services and prescription drugs and related services, and to prevent any such disparity in the future.
- e) The Illinois Health Information Exchange will be the single state HIE hub model for the state of Illinois and all state agencies.

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- f) ILHIE shall be the health information exchange service provider to all of the State's health and human service agencies, including Medicaid and all its programs.
- g) HFS shall align its policies to support the single state HIE hub model.

I. OVERSIGHT

Oversight of the continued implementation, tracking, monitoring and publication of data involving Medicaid expansion and enrollment identified in this Executive Order shall be provided by a designated liaison within HFS, at the discretion of the agency's management and leadership team.

II. SAVINGS CLAUSE

Nothing in this Executive Order shall be construed to contravene any state or federal law.

III. SEVERABILITY

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

IV. EFFECTIVE DATE

This Executive Order shall take effect immediately upon filing with the Secretary of State.

Issued by Governor: January 9, 2015

Filed with Secretary of State: January 9, 2015

2015-5**Enhanced Ethical Standard for Financial Disclosure**

WHEREAS, the confidence of the people of Illinois in the integrity of their State government is of paramount importance; and

WHEREAS, transparency promotes public confidence in the integrity of State government; and

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WHEREAS, Article XIII, Section 2 of the Illinois Constitution of 1970 expressly provides that "all holders of State offices ... created by this constitution shall file a verified statement of their economic interests, as provided by law" and that this requirement "shall not be construed as limiting the authority of any branch of government to establish and enforce ethical standards for that branch"; and

WHEREAS, the Supreme Court of Illinois upheld an executive order of the Governor requiring certain executive branch appointees and employees to file a statement of income that comprising: "(1) each source of income, (2) the total amount of each source, (3) the nature of the transactions involving the source" and further requiring that "to provide the [aforementioned] information, pertinent portions of federal or state income tax returns shall be made part of the Statement of Economic Interest." 57 Ill.2d 512 (1974); and

THEREFORE, I, Pat Quinn, Governor of Illinois, by virtue of the executive authority vested in me as Governor by Article V and Article XIII, Section 2 of the Illinois constitution of 1970, do hereby order as follows:

I. DISCLOSURE

Each year, the Governor shall file with the Office of the Secretary of State and thereby make available for public inspection his individual income tax returns on or before May 1, which is the deadline specified by law for the filing of the Governor's annual Statement of Economic Interest.

For purposes of this Executive Order "individual income tax returns" includes the Governor's most recent individual income tax returns filed with the Internal Revenue Service (IRS) and with the Illinois Department of Revenue (IDOR), and all supporting documents, forms, schedules, and other addenda or accompanying materials submitted to the IRS or IDOR in connection with the income tax returns.

II. EFFECTIVE DATE

This Executive Order shall take effect immediately upon its filing with the Secretary of State and shall remain in effect until terminated or modified.

Issued by Governor: January 12, 2015

Filed with Secretary of State: January 12, 2015

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WHEREAS, the Open Operating Standards Act, 20 ILCS 45/1 et seq., created the Illinois Open Data open operating standard to ensure maximum flexibility, transparency, innovation, and cost savings in the management of the State's information technology resources;

WHEREAS, Illinois Open Data requires each State agency under the jurisdiction of the Governor to make available to the public data sets of public information in accordance with the Open Operating Standards Act;

WHEREAS, the Open Operating Standards Act provides that the Office of the Governor is authorized to "establish appropriate policies, procedures, and protocols for the coordinated management of the State's information technology resources." 20 ILCS 45/15(b)(1); see also 20 ILCS 45/10(b) ("To implement this Act, the Office of the Governor may, by rule, establish policies, standards, and guidance as required herein."); 20 ILCS 45/15(b) ("Public data sets shall be made available in accordance with technical standards published by the Office of the Governor. The technical standards shall be determined by the Office of the Governor")

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, pursuant to the executive authority vested in me by Article V of the Constitution of the State of Illinois, and pursuant to the terms of the Open Operating Standards Act, 20 ILCS 45/1 et seq., do hereby direct as follows:

I. DEFINITIONS

For the purposes of this Executive Order, and unless the context expressly indicates otherwise, the following definitions apply to this Executive Order:

"Agency Chief Information Officer" or "Agency CIO" means the individual at a State agency who is responsible for the management, operation, governance, policy, and procurement of IT at a State agency.

"Compliance plan" means that plan for making public data sets available online, as described in Section 15(e) of the Open Operating Standards Act, 20 ILCS 45/15(e).

"Cloud computing" has the meaning provided by Special Publication 800-145 issued by the National Institute of Standards and Technology of the United States Department of Commerce.

"CMS" means the Department of Central Management Services.

"Data" means final versions of statistical or factual information: (a) in alphanumeric form reflected in a list, table, graph, chart, or other non-narrative form that can be digitally transmitted or processed; and (b) regularly created or maintained by or on behalf of and

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owned by an agency that records a measurement, transaction, or determination related to the mission of an agency. "Data" does not include information provided to an agency by other governmental entities, nor does it include image files, such as designs, drawings, maps, photos, or scanned copies of original documents, except that it does include statistical or factual information about such image files and shall include geographic information system data. "Data" does not include:

- 1) data to which an agency may deny access pursuant to any provision of a federal, State, or local law, rule, or regulation, including, but not limited to, the Freedom of Information Act, 5 ILCS 140/1 et seq.;
- 2) data that contains a significant amount of information to which an agency may deny access pursuant to any provision of a federal, State, or local law, rule, or regulation;
- 3) data that reflects the internal deliberative process of an agency or agencies, including but not limited to negotiating positions, future procurements, or pending or reasonably anticipated legal or administrative proceedings;
- 4) data stored on an agency-owned personal computing device, or data stored on a portion of a network that has been exclusively assigned to a single agency employee or a single agency owned or controlled computing device;
- 5) materials subject to copyright, patent, trademark, confidentiality agreements, or trade secret protection;
- 6) proprietary applications, computer code, software, operating systems, or similar materials;
- 7) employment records, internal employee-related directories or lists, facilities data, IT, internal service-desk and other data related to internal agency administration; and
- 8) any other data the publication of which is prohibited by law.

"Grant funds" means any public funds dispensed by a grantor agency to any person or entity for obligation, expenditure, or use by that person or entity for a specific purpose or purposes and any funds disbursed by the State Comptroller pursuant to an appropriation made by the General Assembly to a named entity or person. Funds disbursed in accordance with a fee-for-service purchase of care contract are not grant funds for purposes of the Open Operating Standards Act. Neither the method by which funds are

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dispensed, whether by contract, agreement, grant subsidy, letter of credit, or any other method, nor the purpose for which the funds are used can change the character of funds which otherwise would be considered grant funds as defined in this Executive Order.

"Grantee" means the person or entity which may use grant funds.

"Grantor agency" means a State agency that dispenses grant funds. "Illinois Open Data" means an open operating standard for the State of Illinois under which each agency of State government under the jurisdiction of the Governor shall make available public data sets of public information.

"IT" means information technology.

"Open operating standard" means a technical standard developed and maintained by a voluntary consensus standards body that is available to the public without royalty or fee.

"Public data" means all data that is collected by any unit of State or local government in pursuance of that entity's official responsibilities that is otherwise subject to disclosure pursuant to the Freedom of Information Act, 5 ILCS 140/1 et seq., and is not prohibited from disclosure pursuant to any other contravening legal instrument, including, but not limited to, a superseding provision of federal or State law or an injunction from a court of competent jurisdiction.

"State agency" or "agency" has the meaning ascribed to the term "agency" in Section 3.1 of the Executive Reorganization Implementation Act, 15 ILCS 15/1 et seq.

"Strategic enterprise application plan" means a comprehensive program developed by a State agency that articulates both principles and goals related to the application of its services and programs to the current and future needs of enterprise in Illinois.

"Strategic plan" means an organization's evaluation, over a period of up to 5 years, of its strategy and direction, including a framework for decision-making with respect to resource allocation to achieve defined goals.

"Voluntary consensus standards body" means an organization that plans, develops, establishes, or coordinates voluntary consensus standards using agreed-upon procedures. A voluntary consensus standards body has the following attributes: openness; balance of interest; due process; an appeals process; and consensus.

"Web portal" means www.data.illinois.gov or any successor web portal maintained by, or on behalf of, the Governor's Office on which public data sets shall be published.

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II. ILLINOIS OPEN DATA

- a) The open operating standard of the State is Illinois Open Data. Under Illinois Open Data, each agency, or arm, of State government under the jurisdiction of the Governor will undertake best efforts to make available public data sets of public information. Those agencies and arms of the State government include any office, administration, department, division, bureau, board, commission, advisory committee, or other government entity performing a governmental function of the State of Illinois.
- b) To the extent that a State agency regularly maintains or updates its public data sets, such public data sets shall be updated on www.data.illinois.gov, or any other publicly accessible website designated by the State, in order to maintain their usefulness and integrity.
- c) For purposes of prioritizing data sets, State agencies must consider whether the information contained therein:
 - 1) can be used to increase State agency accountability and responsiveness;
 - 2) improves public knowledge of the State agency and its operations;
 - 3) furthers the mission of the State agency;
 - 4) creates economic opportunity;
 - 5) is received via the online forum for inclusion of particular public data sets;
or
 - 6) responds to a need or demand identified by public consultation.
- d) Except as otherwise provided in the Open Operating Standards Act, the State shall make the public data sets available without any registration requirement, license requirement, or restriction on their use.
- e) The Governor's Office shall publish on the web portal the following open data legal policies set forth in the Section 25(c) of the Open Operating Standards Act, 20 ILCS 45/25(c):

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- 1) Public data sets made available on the web portal are provided for informational purposes only. The State does not warrant the completeness, accuracy, content, or fitness for any particular purpose or use of any public data set made available on the web portal, nor are any such warranties to be implied or inferred with respect to the public data sets furnished under the Open Operating Standards Act.
- 2) The State is not liable for any deficiencies in the completeness, accuracy, content, or fitness for any particular purpose or use of any public data set or any third party application utilizing such data set.
- 3) Nothing in the Open Operating Standards Act shall be construed to create a private right of action to enforce its provisions.
- 4) All public data sets shall be entirely in the public domain for purposes of federal copyright law.

III. OPEN DATA STANDARDS AND GUIDELINES

- a) The Office of the Governor shall make all public data sets accessible to State agencies through a single web portal that is linked to www.data.illinois.gov.
- b) The Office of the Governor shall publish a technical standards manual pursuant to which it will make available public data sets. These technical standards shall be developed by the Governor's Office in consultation with:
 - 1) subject matter experts from all State agencies;
 - 2) subject matter experts from units of local government;
 - 3) non-profit organizations that specialize in technology and innovation;
 - 4) the academic community; and
 - 5) other interested groups as designated by the Office of the Governor.
- c) Whenever practicable, the technical standards manual shall use open standards for web publishing and e-government and shall:
 - 1) identify the reason why each technical standard was selected and for which types of data it is applicable;

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- 2) recommend or require that data be published in more than one technical standard;
 - 3) include a plan to adopt or utilize a web application programming interface that permits application programs to request and receive public data sets directly from the web portal; and
 - 4) be updated as necessary.
- d) The Office of the Governor, in consultation with subject matter experts from State agencies, shall establish appropriate policies, procedures, and protocols for the coordinated management of the State's IT resources. Such policies, procedures, and protocols shall be developed in accordance with the following goals:
- 1) increasing government accountability and transparency;
 - 2) creating economic opportunity;
 - 3) maximizing resources; and
 - 4) promoting efficiency and cost-savings, including through a preference for cloud computing solutions for internet technology initiatives or upgrades whenever possible and feasible.

IV. STATE AGENCY COMPLIANCE PLANS

- a) Each State agency shall develop, in collaboration with the Governor's Office, a compliance plan for making public data sets available online. The compliance plan shall include:
- 1) a summary description of public data sets under the control of the State agency on or after the effective date of the Open Operating Standards Act;
 - 2) a prioritization of public data sets for inclusion on the single web portal; and
 - 3) a draft long-term strategic enterprise application plan, containing a summary explanation of how the State agency's plans, charters, budgets, capital expenditures, contracts, and other related documents and information for each IT and telecommunications project it proposes to

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undertake can be utilized to support Illinois Open Data and related savings and efficiencies.

- A) As part of its long-term strategic enterprise application plan, each State agency must evaluate safe, secure cloud computing options before making any new IT or telecommunications investments and, if feasible, must adopt appropriate cloud computing solutions.
 - B) Each State agency must re-evaluate its technology sourcing strategy to include consideration and use of cloud computing solutions as part of the budget process.
- b) The Office of the Governor shall review each compliance plan submitted by the respective State agencies and shall publish a single Statewide protocol based on those plans. The Statewide protocol shall be published and available at www.data.illinois.gov.
 - c) Each State agency shall update its public data sets, or publish new public data sets, as provided in the Statewide protocol.
 - d) Except as otherwise provided in the Open Operating Standards Act, the State shall make the public data sets available without any registration requirement, license requirement, or restriction on their use.

V. INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS PROJECTS

- a) All IT and telecommunications projects initiated by any State agency must be reviewed and approved by the Governor's Office. Before initiating any new IT or telecommunications project, the State agency must provide to the Office of the Governor:
 - 1) a description of the proposed project;
 - 2) the estimated cost of the proposed project;
 - 3) a timeline for the completion of the proposed project;
 - 4) whether the proposed project would be subject to competitive bid;
 - 5) whether the proposed project would include a cloud computing solution;

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- 6) if the proposed project would not include cloud computing solution, the reason therefor; and
 - 7) whether the proposed project would involve any other State agencies.
- b) Effective January 1, 2015, CMS shall not approve or disapprove any IT or telecommunications initiative or procurement of a State agency without the express written approval of the Office of the Governor
 - c) CMS' role in connection with IT and telecommunications initiatives and procurement is strictly advisory and non-binding; effective January 1, 2015, any CMS governance or procurement business case process is suspended and of no further force or effect.
 - d) The Office of the Governor shall work with the State's Chief Procurement Officer for General Services, as appropriate, to procure IT or telecommunications on behalf of the Governor's Office and State agencies.
 - e) The Office of the Governor and all Agency CIOs shall employ and promote a "Cloud First" policy in connection with all IT procurements, and shall evaluate safe, secure cloud computing options before making any new IT or telecommunications investment or upgrading any system currently in use and, if feasible, shall adopt an appropriate cloud computing option.
 - f) Whenever possible and appropriate, prior to seeking approval for an IT or telecommunications procurement, an Agency CIO must explore the possibility for cross-agency collaboration in order to achieve cost-savings and streamline processes.
 - g) CMS must provide to the Governor's Office a list of all IT and telecommunications projects it has undertaken, or has approved a State agency to undertake, since July 1, 2009. The list must include, but is not limited to, the following information:
 - 1) the name of the State agency;
 - 2) the nature of the project;
 - 3) the date of approval;
 - 4) the justification for approval;

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- 5) the cost or estimated cost of the project; and
 - 6) the completion date or estimated completion date of the project.
- h) CMS must provide to the Governor's Office a list of all IT and telecommunications projects it has declined to approve, whether the project would have been undertaken by CMS or by a State agency, since July 1, 2009. The list must include, but is not limited to, the following information:
- 1) the name of the State agency;
 - 2) the nature of the project;
 - 3) the date of disapproval;
 - 4) the justification for disapproval; and
 - 5) the estimated cost of the project.
- i) The information described in paragraphs G and H of this Section must be provided to the Governor's Office no later than 30 days after the effective date of this Executive Order.

VI. SUPERSEDING CONFLICTING, PRECEDING ORDERS AND AGREEMENTS

To the extent that any other Executive Order, Administrative Order, Intergovernmental or Interagency Agreement (to which the State of Illinois or one of its executive branch agencies is a party), or other policy, procedure or protocol conflicts with, contradicts, or is inconsistent with any provision of this Executive Order, any such conflicting, contradicting, or inconsistent order, agreement, policy, procedure, or protocol is hereby expressly revoked, repealed and superseded.

VII. SAVINGS CLAUSE

Nothing in this Executive Order shall be construed to contravene any State or federal law, or any collective bargaining agreement.

VIII. SEVERABILITY

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision

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or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

IX. EFFECTIVE DATE

This Executive Order shall take effect immediately upon its filing with the Secretary of State and shall remain in effect until terminated or modified.

Issued by Governor: January 12, 2015

Filed with Secretary of State: January 12, 2015

2015-7**Minimum Wage Requirements for State Contractors and Subcontractors**

WHEREAS, it is essential that all citizens of the State of Illinois make a living wage; and

WHEREAS, the State's current minimum wage of \$8.25 is insufficient to provide a living wage to its citizens; and

WHEREAS, the citizens of the State of Illinois, in the most recent general election, were asked, as an advisory question, whether they supported increasing the hourly minimum wage to \$10.00 per hour by January 1, 2015; voters responded overwhelmingly in favor of increasing the minimum wage to \$10.00 per hour; and

WHEREAS, in recognition of the importance that the voices of the citizens of the State be heard; and

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, pursuant to the executive authority vested in me by Article V of the Constitution of the State of Illinois, do hereby direct as follows:

I. PAYMENT OF MINIMUM WAGE BY STATE CONTRACTORS AND SUBCONTRACTORS**a) State Solicitations**

- 1) Upon the effective date of this Executive Order, all solicitations issued by any State agency shall include a requirement that prospective vendors and their subcontractors pay a minimum hourly wage of \$10.00 to all employees subject to a minimum wage; provided, however, that if a home rule municipality has a minimum wage in excess of \$10.00, the higher

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minimum wage shall be the applicable wage to be paid by prospective vendors and their subcontractors.

- 2) Upon the effective date of this Executive Order, all pending solicitations issued by any State agency must be amended to include a requirement that prospective vendors and their subcontractors pay a minimum hourly wage of \$10.00 to all employees subject to a minimum wage; provided, however, that if a home rule municipality has a minimum wage in excess of \$10.00, the higher minimum wage shall be the applicable wage to be paid by prospective vendors and their subcontractors.
- 3) In the event that a solicitation that was pending prior the effective date of this Executive Order is withdrawn without a notice of award having been posted, and the solicitation is subsequently re-posted on or after the effective date of this Executive Order, the re-posted solicitation shall include a requirement that prospective vendors and their subcontractors pay a minimum hourly wage of \$10.00 to all employees subject to a minimum wage; provided, however, that if a home rule municipality has a minimum wage in excess of \$10.00, the higher minimum wage shall be the applicable wage to be paid by prospective vendors and their subcontractors.

b) State Contracts

- 1) Upon the effective date of this Executive Order, all contracts arising out of solicitations issued by any State agency shall include a requirement that the awarded vendor and all of its subcontractors pay a minimum hourly wage of \$10.00 to all employees subject to a minimum wage; provided, however, that if a home rule municipality has a minimum wage in excess of \$10.00, the higher minimum wage shall be the applicable wage to be paid by prospective vendors and their subcontractors.
- 2) The provisions of this Executive Order shall not apply to contracts arising out of solicitations in which all proposals have been received by the soliciting State agency as of the effective date of this Executive Order.

II. SAVINGS CLAUSE

Nothing in this Executive Order shall be construed to contravene any State or federal law, or any collective bargaining agreement.

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III. SEVERABILITY

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

IV. EFFECTIVE DATE

This Executive Order shall take effect immediately upon its filing with the Secretary of State and shall remain in effect until terminated or modified.

Issued by Governor: January 12, 2015

Filed with Secretary of State: January 12, 2015

2015-8**Executive Order to Address the State's Fiscal Crisis**

WHEREAS, the State of Illinois faces historic, unprecedented debt obligations, including over \$100 billion in unfunded pension liabilities and \$6.5 billion in unpaid bills; and

WHEREAS, although the Illinois Constitution requires – and the people of Illinois expect – a balanced and honest budget, the State's budget for the current fiscal year ending June 30, 2015, does not fully account for all expected spending or changes in revenue during the remainder of this fiscal year, resulting in a current deficit of approximately \$760 million; and

WHEREAS, the budget for the current fiscal year relies upon borrowing, including \$650 million in inter-fund borrowing; and

WHEREAS, the State is required to pay \$1.4 billion per year to service debt on bonds previously issued to fund the State's pension obligations; and

WHEREAS, on top of the payments for pension-related debt, the State is expected to contribute \$6.6 billion from the General Revenue Fund to the pension systems in the next fiscal year – which includes \$4.6 billion in payments resulting from the State's previous failure to adequately fund its pension obligations; and

WHEREAS, the State's credit rating is currently the lowest among all 50 U.S. states; and

EXECUTIVE ORDERS

WHEREAS, the State's debts diminish the State's ability to attract and retain businesses and residents and are a burden upon the State's ability to serve the critical needs of its people; and

WHEREAS, in order to honestly align spending and revenues, to satisfy the requirements of Section 2 of Article VIII of the Illinois Constitution, and to ensure that our public resources are available for our most critical needs, the Executive Branch must undertake meaningful steps to examine and reduce spending;

THEREFORE, I, Bruce Rauner, Governor of Illinois, by virtue of the executive authority vested in me by Section 8 of Article V of the Constitution of the State of Illinois, do hereby order as follows:

I. DEFINITIONS

As used in this Executive Order:

"CMS" means the Illinois Department of Central Management Services.

"FY 2015" means the fiscal year of the State of Illinois ending on June 30, 2015.

"GOMB" means the Governor's Office of Management and Budget.

"State Agency" means any officer, department, agency, board, commission, or authority of the Executive Branch of the State of Illinois.

"State Funds" means all funds available to a State Agency from whatever source.

II. PROCUREMENT AND PERSONNEL

- a) Review of Procurement and Personnel Decisions. As soon as practicable, every State Agency shall provide a report to GOMB identifying (a) every contract or grant that was let, awarded, or entered into by the State Agency on or after November 1, 2014 and through the date of the report and (b) every decision or action taken by the State Agency to employ or to terminate the employment of any employee of the State Agency on or after November 1, 2014 and through the date of the report.
- a) Contracts and Grants. Until July 1, 2015, no State Agency shall let, award, or enter into any contract or grant, or any amendment or change order to or renewal of any existing contract or grant, that obligates the expenditure of State Funds except as follows:
 - 1) Contracts Required by Law. A State Agency may enter into a contract or grant that is required to comply with applicable law, provided that the

EXECUTIVE ORDERS

State Agency first complies with any applicable guidelines issued by GOMB for verifying that the contract or grant is required by law.

- 2) **Contracts for Emergency Expenditures.** A State Agency may enter into a contract that is required in order to incur an emergency expenditure that, if not incurred, would jeopardize one or more fundamental operations of the State Agency and for which there is not adequate time to permit review and approval by GOMB before entering into the contract for, provided that (i) the contract does not obligate the expenditure of State Funds except as required for the emergency expenditure, and (ii) the State Agency complies with any applicable guidelines issued by GOMB for subsequent review of the contract and expenditure, including of the exigent circumstances that existed.
 - 3) **Contracts for Small Purchases.** A State Agency may enter into a contract that obligates the State to pay less than \$50,000 (including any contingent and conditional payment obligations) during the term of the contract, provided that the State Agency complies with any applicable guidelines issued by GOMB for subsequent review of the contract and expenditure.
 - 4) **Contracts and Grants for Essential Operations.** If the State Agency determines that the contract or grant is needed for its essential operations, but the contract does not otherwise meet the criteria immediately above, the State Agency must first submit the proposed contract or grant to GOMB for review and approval in accordance with any applicable guidelines issued by GOMB, before the State Agency enters into the contract or grant.
- b) **Review of the Major Interstate Construction Projects.** The planning and development of any major construction that has an impact on interstate travel and for which construction has not commenced, as identified by the State Agency or GOMB, shall be suspended in order to allow careful review of the project and its potential costs and benefits.
 - c) **Review and Termination of Non-Essential Contracts.** Every State Agency shall review all contracts that require the expenditure of State Funds that are not essential for the State Agency's operations. As soon as reasonably practicable, every State Agency shall provide a report to GOMB of all such non-essential contracts, together with information about when and under what circumstances such non-essential contracts may be terminated without material penalty to the State of Illinois.

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III. SPENDING

- a) **Managing Existing Resources.** To the extent feasible and without compromising its essential operations, each State Agency shall take all necessary actions to manage its State Funds and other resources to avoid the need for supplemental funding in excess of the State Funds heretofore made available by appropriations or other sources. Each State Agency shall provide a report to GOMB as soon as practicable of such actions taken, or to be taken, by the State Agency.
- b) **Supplemental Funding (Balanced Budget Note Act).** No State Agency shall encumber, obligate, or expend State Funds that have been appropriated pursuant to a "supplemental appropriation bill," as such term is defined in Section 5 of the Balanced Budget Note Act (25 ILCS 80/5), unless (1) such supplemental appropriation bill was accompanied by a Balanced Budget Note as required by the Balanced Budget Note Act or (2) otherwise approved by GOMB.
- c) **Motor Vehicles.** No State Agency shall purchase or lease any motor vehicle except in accordance with any applicable guidelines issued by GOMB.
- d) **Out-of-State Travel.** No State Agency shall expend State Funds for travel by its personnel, contractors, or other persons outside of the State of Illinois except after review and approval by GOMB.
- e) **In-State Travel.** Every State Agency shall make every effort to limit the number of its personnel who travel within the State of Illinois and seek reimbursement for the costs of such travel. Such efforts shall include:
 - 1) **Pre-Approval for Reimbursements.** Every employee must receive express pre-approval from the head of the agency in which the employee is employed, or the designee of such agency head, for any travel costs to be reimbursed by the State.
 - 2) **Review of Travel Vouchers.** Every State Agency must conduct a review of all travel vouchers that have been submitted and paid in order to identify and eliminate excessive, improper, un-approved, or unnecessary reimbursements.
 - 3) **Eliminating Unnecessary Travel.** To the extent feasible, every State Agency shall reduce reimbursements for travel costs by requirement employees to use State-owned vehicles (where such usage results in a net

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savings to the State), to carpool, or to take public transportation whenever possible; and by using teleconferencing and videoconferencing in place of travel whenever possible.

IV. STATE PROPERTY

- a) Surplus Personal Property. At the direction of GOMB, CMS shall identify surplus personal property owned by the State of Illinois and conduct an auction of such property, in compliance with all applicable laws and regulations. CMS shall provide a report to GOMB of all such actions taken by June 30, 2015.
- b) Surplus Real Property. GOMB and CMS shall review all real property owned or leased by the State of Illinois and develop and implement a comprehensive strategy for (1) consolidating offices and other functions into fewer and less costly spaces, (2) re-locating offices and other functions from leased space to space owned by the State of Illinois, and (3) disposing of under-utilized space.
- c) Energy Efficiency and Conservation. Every State Agency shall implement practices to reduce energy consumption and prevent wasteful spending on energy, including reducing heating, air conditioning, and lighting usage when facilities are not in use. The facility manager for each State Agency shall recommend specific measures and practices that may be undertaken by the State Agency.

V. PRIOR EXECUTIVE ORDERS

This Executive Order supersedes any contrary provision of any prior Executive Order.

VI. SAVINGS CLAUSE

This Executive Order does not contravene and shall not be construed to contravene any State or federal law or any collective bargaining agreement.

VII. SEVERABILITY CLAUSE

If any part of this Executive Order is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

VIII. EFFECTIVE DATE

This Executive Order shall take effect immediately upon filing with the Secretary of State.

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Issued by Governor: January 12, 2015

Filed with Secretary of State: January 12, 2015

ILLINOIS ADMINISTRATIVE CODE
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