



## TABLE OF CONTENTS

March 4, 2022 Volume 46, Issue 10

### PROPOSED RULES

ATTORNEY GENERAL, OFFICE OF THE Hospital Financial Assistance under the Fair Patient Billing Act 77 Ill. Adm. Code 4500.....	3478
LABOR, DEPARTMENT OF Health and Safety 56 Ill. Adm. Code 350.....	3482
POLLUTION CONTROL BOARD Air Quality Standards 35 Ill. Adm. Code 243.....	3485
Pretreatment Programs 35 Ill. Adm. Code 310.....	3497
STATE POLICE, ILLINOIS DEPARTMENT OF Testing of Breath, Blood and Urine for Alcohol, Other Drugs, and Intoxicating Compounds 20 Ill. Adm. Code 1286.....	3509

### ADOPTED RULES

LABOR, DEPARTMENT OF Health and Safety 56 Ill. Adm. Code 350.....	3518
STATE POLICE MERIT BOARD, DEPARTMENT OF Procedures for the Department of State Police Merit Board 80 Ill. Adm. Code 150.....	3589

### EMERGENCY RULES

LABOR, DEPARTMENT OF Health and Safety 56 Ill. Adm. Code 350.....	3598
---	------

### JOINT COMMITTEE ON ADMINISTRATIVE RULES STATEMENTS OF SUSPENSION

PUBLIC HEALTH, DEPARTMENT OF Control of Communicable Diseases Code (Objection and Suspension of Emergency Rule) 77 Ill. Adm. Code 690.....	3608
---	------

### SECOND NOTICES RECEIVED

JOINT COMMITTEE ON ADMINISTRATIVE RULES Second Notices Received.....	3609
---	------

### JCAR REVIEW OF EXISTING RULES STATEMENT OF RECOMMENDATIONS

LABOR, DEPARTMENT OF Health and Safety	
---	--

56 Ill. Adm. Code 350.....	3610
<b>JCAR REVIEW OF EXISTING RULES STATEMENT OF OBJECTIONS</b>	
CHILDREN AND FAMILY SERVICES, DEPARTMENT OF	
Licensing Standards for Group Homes	
89 Ill. Adm. Code 403.....	3611
<b>OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE</b>	
<b>ILLINOIS REGISTER</b>	
POLLUTION CONTROL BOARD	
Notice of Public Information.....	3612

## 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 2022

<b>Issue#</b>	<b>Rules Due Date</b>	<b>Date of Issue</b>
1	December 20, 2021	January 3, 2022
2	December 27, 2021	January 7, 2022
3	January 3, 2022	January 14, 2022
4	January 10, 2022	January 21, 2022
5	January 18, 2022	January 28, 2022
6	January 24, 2022	February 4, 2022
7	January 31, 2022	February 14, 2022
8	February 7, 2022	February 18, 2022
9	February 14, 2022	February 25, 2022
10	February 22, 2022	March 4, 2022
11	February 28, 2022	March 11, 2022
12	March 7, 2022	March 18, 2022
13	March 14, 2022	March 25, 2022
14	March 21, 2022	April 1, 2022
15	March 28, 2022	April 8, 2022
16	April 4, 2022	April 15, 2022
17	April 11, 2022	April 22, 2022
18	April 18, 2022	April 29, 2022
19	April 25, 2022	May 6, 2022
20	May 2, 2022	May 13, 2022
21	May 9, 2022	May 20, 2022

22	May 16, 2022	May 27, 2022
23	May 23, 2022	June 3, 2022
24	May 31, 2022	June 10, 2022
25	June 6, 2022	June 17, 2022
26	June 13, 2022	June 24, 2022
27	June 21, 2022	July 1, 2022
28	June 27, 2022	July 8, 2022
29	July 5, 2022	July 15, 2022
30	July 11, 2022	July 22, 2022
31	July 18, 2022	July 29, 2022
32	July 25, 2022	August 5, 2022
33	August 1, 2022	August 12, 2022
34	August 8, 2022	August 19, 2022
35	August 15, 2022	August 26, 2022
36	August 22, 2022	September 2, 2022
37	August 29, 2022	September 9, 2022
38	September 6, 2022	September 16, 2022
39	September 12, 2022	September 23, 2022
40	September 19, 2022	September 30, 2022
41	September 26, 2022	October 7, 2022
42	October 3, 2022	October 14, 2022
43	October 11, 2022	October 21, 2022
44	October 17, 2022	October 28, 2022
45	October 24, 2022	November 4, 2022
46	October 31, 2022	November 14, 2022
47	November 7, 2022	November 18, 2022
48	November 14, 2022	November 28, 2022
49	November 21, 2022	December 2, 2022
50	November 28, 2022	December 9, 2022
51	December 5, 2022	December 16, 2022
52	December 12, 2022	December 27, 2022
53	December 19, 2022	December 30, 2022

## OFFICE OF THE ATTORNEY GENERAL

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Hospital Financial Assistance under the Fair Patient Billing Act
- 2) Code Citation: 77 Ill. Adm. Code 4500
- 3) Section Number: 4500.APPENDIX A      Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 27 of the Fair Patient Billing Act [210 ILCS 88/27].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends Appendix A of the current rules to reflect the 2022 poverty guidelines published by the United States Department of Health and Human Services (DHHS) in the Federal Register on January 21, 2022.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No studies or reports were used to compose this rulemaking.
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following the publication of this Notice. All written comments filed within 45 days after the date of publication of this Notice will be considered. Comments should be submitted to:

Kristin Creel  
Rules Coordinator  
Office of the Attorney General  
500 South Second Street

or

David F. Buysse  
Deputy Chief, Public Interest Division  
Office of the Attorney General  
100 West Randolph Street, 12th Floor

## OFFICE OF THE ATTORNEY GENERAL

## NOTICE OF PROPOSED AMENDMENT

Springfield IL 62701

Chicago IL 60601

217/524-1504

312/814-7236

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking may affect small municipalities and not-for-profit corporations that operate hospitals in Illinois by requiring the modification of their forms to reflect the updated federal poverty income guideline information.
  - B) Reporting, bookkeeping or other procedures required for compliance: None beyond those already required of hospitals.
  - C) Types of professional skills necessary for compliance: None beyond those already required for personnel engaged in hospital billing operations.
- 14) Small Business Impact Analysis: This rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2022

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

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH  
CHAPTER XVIII: OFFICE OF THE ATTORNEY GENERAL

PART 4500  
HOSPITAL FINANCIAL ASSISTANCE  
UNDER THE FAIR PATIENT BILLING ACT

Section

- 4500.10 Definitions
- 4500.20 Referenced Materials
- 4500.30 Hospital Financial Assistance Application Requirements
- 4500.40 Presumptive Eligibility Criteria
- 4500.50 Hospital Financial Assistance Electronic and Information Technology
- 4500.60 Hospital Financial Assistance Reporting Requirements

4500.APPENDIX A ~~2022~~2021 Poverty Income Guidelines

AUTHORITY: Implementing and authorized by Section 27 of the Fair Patient Billing Act [210 ILCS 88].

SOURCE: Adopted at 37 Ill. Reg. 12536, effective July 22, 2013; amended at 38 Ill. Reg. 20263, effective October 10, 2014; amended at 39 Ill. Reg. 10751, effective July 27, 2015; amended at 40 Ill. Reg. 7900, effective May 18, 2016; amended at 41 Ill. Reg. 10653, effective August 4, 2017; amended at 42 Ill. Reg. 13615, effective June 29, 2018; amended at 43 Ill. Reg. 7628, effective June 28, 2019; amended at 44 Ill. Reg. 10869, effective June 12, 2020; amended at 45 Ill. Reg. 10281, effective July 29, 2021; amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## OFFICE OF THE ATTORNEY GENERAL

## NOTICE OF PROPOSED AMENDMENT

**Section 4500.APPENDIX A ~~2022~~2021 Poverty Income Guidelines**2022~~2021~~ HEALTH AND HUMAN SERVICES POVERTY GUIDELINES

Persons in Family	Poverty Guideline
1	\$ <del>13,590</del> <u>12,880</u>
2	\$ <del>18,310</del> <u>17,420</u>
3	\$ <del>23,030</del> <u>21,960</u>
4	\$ <del>27,750</del> <u>26,500</u>
5	\$ <del>32,470</del> <u>31,040</u>
6	\$ <del>37,190</del> <u>35,580</u>
7	\$ <del>41,910</del> <u>40,120</u>
8	\$ <del>46,630</del> <u>44,660</u>
For additional persons, add	\$ <del>4,720</del> <u>4,540</u>

NOTE: See ~~8786~~ Fed. Reg. ~~33157732~~ through ~~33167734~~ (~~January 21, 2022~~February 1, 2021).

(Source: Amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Health and Safety
- 2) Code Citation: 56 Ill. Adm. Code 350
- 3) Section Number: 350.700                      Proposed Action: Amendment
- 4) Statutory Authority: 820 ILCS 219
- 5) Complete Description of the Subjects and Issues Involved: The federal OSHA ETS that required the Department to adopt preemptory rules was withdrawn by the Federal Occupational Safety and Health Administration on January 26, 2022. The department filed an emergency amendment to withdraw this language which lasts for 150 days; however, we must also file this permanent rule to remove the same language that applies to the emergency temporary standard.
- 6) Published studies and reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
350.10	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.20	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.30	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.40	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.50	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.60	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.70	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.80	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.90	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.100	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.110	Amendment	45 Ill. Reg. 11485; September 17, 2021

ILLINOIS DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENT

350.120	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.125	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.130	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.140	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.150	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.170	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.180	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.190	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.200	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.210	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.220	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.250	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.260	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.270	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.310	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.340	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.370	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.375	New Section	45 Ill. Reg. 11485; September 17, 2021
350.390	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.400	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.410	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.420	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.430	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.500	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.700	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.APPENDIX B	Amendment	45 Ill. Reg. 11485; September 17, 2021

- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or enlarge a mandate as described in Section 3(b) of the State Mandates Act.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Anna Koepfel  
 Illinois Department of Labor  
 524 South 2nd St.  
 Springfield, IL 62701

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENT

217-558-1270  
Anna.koeppel@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Small municipalities are subject to enforcement by Illinois OSHA. These proposed amendments will remove an Emergency Temporary Standard that public bodies were required to comply with.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in either of the two most recent Regulatory Agendas because it was not clear this was needed at those times.

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment for this Part, and begins in this issue of the *Illinois Register* on page 3598.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Air Quality Standards
- 2) Code Citation: 35 Ill. Adm. Code 243
- 3) Section Numbers:                      Proposed Actions:  
     243.108                                      Amendment  
     243.122                                      Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 10, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The following briefly describes the subjects and issues involved in this rulemaking. A comprehensive description is contained in the Board's opinion and order of February 17, 2022, proposing amendments in docket R22-8 for public comment, which opinion and order is available from the address below. As is explained in that opinion, the Board will receive public comment on the proposed amendment for 45 days from the date it appears in the *Illinois Register* before proceeding to adopt amendment based on this proposal.

The docket R22-8 proceeding relates to the Illinois ambient air quality requirements in 35 Ill. Adm. Code 243 of the Illinois air pollution control rules. This amendment would update the Illinois ambient air quality requirements to correspond with amendments to the federal National Ambient Air Quality Standards (NAAQSs) that the United States Environmental Protection Agency (USEPA) adopted during the first half of 2020.

The Federal NAAQS are codified at 40 C.F.R. 50. During this period, USEPA amended implementation of its NAAQSs as follows:

March 4, 2021 (86 Fed. Reg. 12682)	USEPA designated a new FRM for sulfur dioxide (SO <sub>2</sub> ) in ambient air. The Board must incorporate this FRM into the Illinois rules.
March 26, 2021 (86 Fed. Reg. 16055)	USEPA issued the Round 4 area designations for the primary 2010 one-hour NAAQS for SO <sub>2</sub> . This action redesignated the Macon County area from nonattainment to attainment/unclassifiable, effective April 30, 2021. USEPA's approval means that the 1971 primary 24-hour and annual average NAAQS for sulfur dioxide no longer applies in Illinois on

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

	April 30, 2022. After that date, the Board can remove that NAAQS from the Illinois rules.
May 26, 2020 (85 Fed. Reg. 31378)	USEPA redesignated the Lemont and Pekin areas from nonattainment to attainment for the 2010 NAAQS for SO <sub>2</sub> . This action does not change applicability of any NAAQS in Illinois. The Board takes note, but this USEPA action requires no Board response.
December 15, 2021	USEPA released an updated version of the <i>List of Designated Reference and Equivalent Methods</i> . The update incorporates the new FRM designated on March 4, 2021. Updating the incorporation by reference for the <i>List</i> to this latest version incorporates that FRM into the Illinois rules.

The Board deviated from the literal text of the USEPA amendment by using incorporation by reference rather than listing the designated methods. The further Board removed two obsolete incorporations by reference, updated incorporations by reference to *Code of Federal Regulations* provisions to the latest version available and made limited grammatical and stylistic corrections.

Tables appear in a document entitled “Identical-in-Substance Rulemaking Addendum (Proposed)” (IIS-RA(P)) that the Board added to docket R22-8 which list the limited revisions that are not based on current federal amendments. The tables contain the deviation from the literal text of the federal actions underlying this amendment, as well as updates to incorporations by reference to the *Code of Federal Regulations* that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the IIS-RA(P) in docket R22-8.

Section 10(H) of the Environmental Protection Act [415 ILCS 5/10(H)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

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

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 7) Does this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does the proposed rule contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R22-8 and be addressed to:

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

The Board will conduct one public hearing on the proposed amendment because it will ultimately result in submission to the United States Environmental Protection Agency of an amendment to the state implementation plan (SIP). Section 110(a)(2) of the Federal Clean Air Act (42 U.S.C. 7410(a)(2) (2019)) requires reasonable notice and hearing before a state undertakes an amendment to the SIP. The public hearing will occur by videoconference at the following time and between the following locations:

11:45 a.m., April 21, 2022  
Room 11-512  
James R. Thompson Center  
100 W. Randolph St.  
Chicago, IL 60601

and

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

Sangamo Building  
Illinois Pollution Control Board Hearing Room  
1021 North Grand Avenue  
Springfield

Comments should reference docket R22-8 and be addressed to:

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

Please direct inquiries to the following person and reference docket R22-8:

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 at 312-814-3620 or download a copy from the Board's Website at <http://www.pcb.illinois.gov>.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities, and not for profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that emit pollutants that could potentially affect ambient air quality in any area of Illinois. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)]
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including emissions monitoring, annual reports, and

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)]

- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)]
- 14) Small Business Impact Analysis: Sections 1-5(c) and 5-30 of the Administrative Procedure Act [5 ILCS 100/1-5(c) and 5-30] provide that small business impact analysis and related requirements under Section 5-30 do not apply to this type of identical-in-substance rulemaking.
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2021

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

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AIR POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER I: AIR QUALITY STANDARDS AND EPISODESPART 243  
AIR QUALITY STANDARDS

## SUBPART A: GENERAL PROVISIONS

## Section

243.101	Definitions
243.102	Scope
243.103	Applicability
243.104	Nondegradation (Repealed)
243.105	Air Quality Monitoring Data Influenced by Exceptional Events
243.106	Monitoring (Repealed)
243.107	Reference Conditions
243.108	Incorporations by Reference

## SUBPART B: STANDARDS AND MEASUREMENT METHODS

## Section

243.120	PM <sub>10</sub> and PM <sub>2.5</sub>
243.121	Particulates (Repealed)
243.122	Sulfur Oxides (Sulfur Dioxide)
243.123	Carbon Monoxide
243.124	Nitrogen Oxides (Nitrogen Dioxide as Indicator)
243.125	Ozone
243.126	Lead
243.APPENDIX A	Rule into Section Table (Repealed)
243.APPENDIX B	Section into Rule Table (Repealed)
243.APPENDIX C	Past Compliance Dates (Repealed)
243.TABLE A	Schedule for Flagging and Documentation Submission for Data Influenced by Exceptional Events for Use in Initial Area Designations (Repealed)

AUTHORITY: Implementing Sections 7.2 and 10 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 10, and 27].

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

SOURCE: Adopted as Chapter 2: Air Pollution, Part III: Air Quality Standards, in R71-23, filed and effective April 14, 1972; amended in R80-11, at 6 Ill. Reg. 5804, effective April 22, 1982; amended in R82-12, at 7 Ill. Reg. 9906, effective August 18, 1983; codified at 7 Ill. Reg. 13630; amended in R91-35 at 16 Ill. Reg. 8185, effective May 15, 1992; amended in R09-19 at 35 Ill. Reg. 18857, effective October 25, 2011; amended in R13-11 at 37 Ill. Reg. 12882, effective July 29, 2013; amended in R14-6 at 37 Ill. Reg. 19848, effective November 27, 2013; amended in R14-16 at 38 Ill. Reg. 12900, effective June 9, 2014; amended in R15-4 at 39 Ill. Reg. 5434, effective March 24, 2015; amended in R16-2 at 40 Ill. Reg. 4906, effective March 3, 2016; amended in R17-1 at 41 Ill. Reg. 1121, effective January 23, 2017; amended in R17-10 at 41 Ill. Reg. 13413, effective October 23, 2017; amended in R18-15 at 42 Ill. Reg. 9308, effective May 29, 2018; amended in R19-6 at 43 Ill. Reg. 3034, effective February 19, 2019; amended in R19-14/R20-3/R20-11 at 44 Ill. Reg. 14223, effective August 18, 2020; amended in R21-1 at 45 Ill. Reg. 337, effective December 17, 2020; amended in R22-8 at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 243.108 Incorporations by Reference**

The following materials are incorporated by reference. These incorporations do not include any later amendments or editions:

Government Printing Office (GPO), Washington, DC 20401, 202-783-3238, [www.govinfo.gov/](http://www.govinfo.gov/). The following documents incorporated by reference are available from this source:

Appendix A-1 to 40 CFR 50 [\(2020\)](#) ~~(2019)~~ (Reference Measurement Principle and Calibration Procedure for the Measurement of Sulfur Dioxide in the Atmosphere (Ultraviolet Fluorescence Method)), referenced in Section 243.122.

Appendix A-2 to 40 CFR 50 [\(2020\)](#) ~~(2019)~~ (Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method)), referenced in Section 243.122.

Appendix B to 40 CFR 50 [\(2020\)](#) ~~(2019)~~ (Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method)), referenced in appendix G to 40 CFR 50 (see below).

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

Appendix C to 40 CFR 50 [\(2020\)](#) ~~(2019)~~-(Reference Measurement Principle and Calibration Procedure for the Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry)), referenced in Section 243.123.

Appendix D to 40 CFR 50 [\(2020\)](#) ~~(2019)~~-(Reference Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere), referenced in Section 243.125.

Appendix F to 40 CFR 50 [\(2020\)](#) ~~(2019)~~-(Reference Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence)), referenced in Section 243.124.

Appendix G to 40 CFR 50 [\(2020\)](#) ~~(2019)~~-(Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air), referenced in Section 243.126.

Appendix J to 40 CFR 50 [\(2020\)](#) ~~(2019)~~-(Reference Method for the Determination of Particulate Matter as PM<sub>10</sub> in the Atmosphere), referenced in Section 243.120.

Appendix K to 40 CFR 50 [\(2020\)](#) ~~(2019)~~-(Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter), referenced in Section 243.120.

Appendix L to 40 CFR 50 [\(2020\)](#) ~~(2019)~~-(Reference Method for the Determination of Fine Particulate Matter as PM<sub>2.5</sub> in the Atmosphere), referenced in Section 243.120.

Appendix N to 40 CFR 50 [\(2020\)](#) ~~(2019)~~-(Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter), referenced in Section 243.120.

Appendix O to 40 CFR 50 [\(2020\)](#) ~~(2019)~~-(Reference Method for the Determination of Coarse Particulate Matter as PM<sub>10-2.5</sub> in the Atmosphere), referenced in appendix Q to 40 CFR 50 and for use in

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

federally required monitoring by the NCore system pursuant to 40 CFR 58.

Appendix P to 40 CFR 50 [\(2020\)](#) ~~(2019)~~ (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Appendix Q to 40 CFR 50 [\(2020\)](#) ~~(2019)~~ (Reference Method for the Determination of Lead in Particulate Matter as PM<sub>10</sub> Collected from Ambient Air), referenced in appendix R to 40 CFR 50.

Appendix R to 40 CFR 50 [\(2020\)](#) ~~(2019)~~ (Interpretation of the National Ambient Air Quality Standards for Lead), referenced in Section 243.126.

Appendix S to 40 CFR 50 [\(2020\)](#) ~~(2019)~~ (Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen (Nitrogen Dioxide)), referenced in Section 243.124.

Appendix T to 40 CFR 50 [\(2020\)](#) ~~(2019)~~ (Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Sulfur (Sulfur Dioxide)), referenced in Section 243.122.

Appendix U to 40 CFR 50 [\(2020\)](#) ~~(2019)~~ (Interpretation of the Primary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Clean Air Act, 42 USC 7401 et seq. [\(2019\)](#) ~~(2018)~~ (for definitions of terms only), referenced in Section 243.101.

BOARD NOTE: Segments of the Code of Federal Regulations and the United States Code are available for free download as PDF documents from the GPO FDsys website: [www.govinfo.gov/](http://www.govinfo.gov/).

USEPA, National Exposure Research Laboratory, Human Exposure & Atmospheric Sciences Division (MD-D205-03), Research Triangle Park, NC 27711. The following documents incorporated by reference are available from this source:

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

"List of Designated Reference and Equivalent Methods" ([December 15, 2021](#)) (~~June 15, 2020~~) (referred to as the "List of Designated Methods" and referenced in Sections 243.101, 243.120, 243.122, 243.123, 243.124, 243.125, and 243.126.

BOARD NOTE: The List of Designated Methods is available for free download as a PDF document from the USEPA, Technology Transfer, Ambient Monitoring Technology Information Center website: <http://www.epa.gov/ttn/amtic/criteria.html>.

(Source: Amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: STANDARDS AND MEASUREMENT METHODS

**Section 243.122 Sulfur Oxides (Sulfur Dioxide)**

- a) ~~1971 Primary Annual Average and 24-Hour NAAQS for Sulfur Oxides (as Sulfur Dioxide (SO<sub>2</sub>))~~
- ~~1) The level of the 1971 primary annual average NAAQS for sulfur oxides is 0.030 ppm, not to be exceeded in a calendar year. The annual arithmetic mean must be rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm must be rounded up).~~
  - ~~2) The level of the 1971 primary 24-hour NAAQS for sulfur oxides is 0.14 ppm, not to be exceeded more than once per calendar year. The 24-hour averages must be determined from successive non-overlapping 24-hour blocks starting at midnight each calendar day and must be rounded to two decimal places (fractional parts equal to or greater than 0.005 ppm must be rounded up).~~
  - ~~3) Sulfur oxides must be measured in the ambient air as SO<sub>2</sub> by the FRM described in appendix A-2 to 40 CFR 50, incorporated by reference in Section 243.108, or by an FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.~~
  - ~~4) To demonstrate attainment, the annual arithmetic mean and the second-highest 24-hour averages must be based upon hourly data that are at least 75 percent complete in each calendar quarter. A 24-hour block average~~

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

~~must be considered valid if at least 75 percent of the hourly averages for the 24-hour period are available. In the event that only 18, 19, 20, 21, 22, or 23-hour averages are available, the 24-hour block average must be computed as the sum of the available hourly averages using the number of hours (i.e., 18, 19, etc.) as the divisor. If less than 18-hour averages are available, but the 24-hour average would exceed the level of the standard when zeros are substituted for the missing values, subject to the rounding rule of subsection (b) of this Section, this must be considered a valid 24-hour average. In this case, the 24-hour block average must be computed as the sum of the available hourly averages divided by 24.~~

- 5) ~~The 1971 primary annual average and 24-hour NAAQS for sulfur oxides set forth in this subsection (a) apply only in Macon County.~~

~~BOARD NOTE: Derived from 40 CFR 50.4. This subsection (a) no longer applies in any area of Illinois outside Macon County. The Board will delete the 1971 primary annual average and 24-hour NAAQS for sulfur oxides set forth in this subsection (a) after 40 CFR 50.4 no longer applies: one year after the effective date of a USEPA area designation for Macon County.~~

ab) 1971 Secondary Three-Hour NAAQS for Sulfur Oxides (as SO<sub>2</sub>)

- 1) The level of the 1971 secondary three-hour NAAQS for sulfur oxides is 0.5 ppm, not to be exceeded more than once per calendar year. The three-hour averages must be determined from successive non-overlapping three-hour blocks starting at midnight each calendar day and must be rounded to one decimal place (fractional parts equal to or greater than 0.05 ppm must be rounded up).
- 2) Sulfur oxides must be measured in the ambient air as SO<sub>2</sub> by the FRM described in appendix A-2 to 40 CFR 50, incorporated by reference in Section 243.108, or by an FEM designated by USEPA and listed in List of Designated Methods, incorporated by reference in Section 243.108.
- 3) To demonstrate attainment, the second-highest three-hour average must be based upon hourly data that are at least 75 percent complete in each calendar quarter. A three-hour block average must be considered valid only if all three hourly averages for the three-hour period are available. If only one or two hourly averages are available, but the three-hour average

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

would exceed the level of the standard when zeros are substituted for the missing values, subject to the rounding rule of subsection (b)(1), this must be considered a valid three-hour average. In all cases, the three-hour block average must be computed as the sum of the hourly averages divided by three.

BOARD NOTE: This subsection (ab) is derived from 40 CFR 50.5.

be) 2010 Primary One-Hour NAAQS for Sulfur Oxides (as SO<sub>2</sub>)

- 1) The level of the 2010 primary one-hour NAAQS for sulfur oxides is 75 ppb, measured in the ambient air as SO<sub>2</sub>.
- 2) The 2010 one-hour primary NAAQS for sulfur oxides is met at an ambient air quality monitoring site when the three-year average of the annual (99<sup>th</sup> percentile) of the daily maximum one-hour average concentrations is less than or equal to 75 ppb, as determined in accordance with appendix T of 40 CFR 50, incorporated by reference in Section 243.108.
- 3) The level of the 2010 one-hour primary NAAQS for sulfur oxides must be measured by an FRM based on appendix A-1 or A-2 of 40 CFR 50, incorporated by reference in Section 243.108, or by an FEM designated by USEPA and listed in List of Designated Methods, incorporated by reference in Section 243.108.

BOARD NOTE: This subsection (be) is derived from 40 CFR 50.17. ~~The 1971 primary NAAQS for SO<sub>2</sub> remains in effect until the federal conditions of 40 CFR 50.4(e) have been fulfilled, as outlined in subsection (a)(5) and the appended Board note.~~

(Source: Amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Pretreatment Programs
- 2) Code Citation: 35 Ill. Adm. Code 310
- 3) Section Number: 310.107                      Proposed Action: Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 13.3, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The following briefly describes the subjects and issues involved in this rulemaking. A comprehensive description is contained in the Board's opinion and order of February 17, 2022 proposing an amendment in docket R22-7 for public comment, which opinion and order is available from the address below. As is explained in that opinion, the Board will receive public comment on the proposed amendment for 45 days from the date it appears in the *Illinois Register* before proceeding to adopt amendment based on this proposal.

The docket R22-7 proceeding relates to the wastewater pretreatment requirements in 35 Ill. Adm. Code 310 of the Illinois water pollution control rules. The amendment implements USEPA's May 19, 2021 updated analytical methods in 40 C.F.R. 136 used for effluent analyses under the Clean Water Act. The Board deviated from the literal text of the USEPA amendment by using incorporation by reference rather than incorporating the text of the NPDES electronic reporting requirements. Thus, updating the incorporations by reference includes the USEPA action.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" (IIS-RA(P)) that the Board added to docket R22-7 which list the limited revisions that are not based on current federal amendments. The tables contain the deviation from the literal text of the federal actions underlying this amendment, as well as updates to incorporations by reference to the *Code of Federal Regulations* that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the IIS-RA(P) in docket R22-7.

Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] 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).

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does the proposed rule contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R22-7 and be addressed to:

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

Please direct inquiries to the following person and reference docket R22-7:

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 at 312-814-3620 or download a copy from the Board's Website at <http://www.pcb.illinois.gov>.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities, and not for profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2020)].
  - B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2020)].
  - C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2020)].
- 14) Small Business Impact Analysis: Sections 1-5(c) and 5-30 of the Administrative Procedure Act [5 ILCS 100/1-5(c) and 5-30] provide that small business impact analysis and related requirements under Section 5-30 do not apply to this type of identical-in-substance rulemaking.
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2021

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE C: WATER POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD

PART 310  
PRETREATMENT PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section	
310.101	Applicability
310.102	Objectives
310.103	Federal Law
310.104	State Law
310.105	Confidentiality
310.106	Electronic Reporting
310.107	Incorporations by Reference
310.110	Definitions
310.111	New Source
310.112	Significant Industrial User

SUBPART B: PRETREATMENT STANDARDS

Section	
310.201	General Prohibitions
310.202	Specific Prohibitions
310.210	Local Limits Developed by POTW
310.211	Status of Local Limits
310.220	Categorical Standards
310.221	Source Category Determination Request
310.222	Deadline for Compliance with Categorical Standards
310.230	Concentration and Mass Limits
310.232	Dilution Prohibited as a Substitute for Treatment
310.233	Combined Waste Stream Formula

SUBPART C: REMOVAL CREDITS

Section	
310.301	Special Definitions

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

310.302	Authority
310.303	Conditions for Authorization to Grant Removal Credits
310.310	Calculation of Revised Discharge Limits
310.311	Demonstration of Consistent Removal
310.312	Provisional Credits
310.320	Compensation for Overflow
310.330	Exception to POTW Pretreatment Program
310.340	Application for Removal Credits Authorization
310.341	Agency Review
310.343	Assistance of POTW
310.350	Continuation of Authorization
310.351	Modification or Withdrawal of Removal Credits

## SUBPART D: PRETREATMENT PERMITS

Section	
310.400	Preamble
310.401	Pretreatment Permits
310.402	Time to Apply
310.403	Imminent Endangerment
310.410	Application
310.411	Certification of Capacity
310.412	Signatures
310.413	Site Visit
310.414	Completeness
310.415	Time Limits
310.420	Standard for Issuance
310.421	Final Action
310.430	Conditions
310.431	Duration of Permits
310.432	Schedules of Compliance
310.441	Effect of a Permit
310.442	Modification
310.443	Revocation
310.444	Appeal

## SUBPART E: POTW PRETREATMENT PROGRAMS

Section

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

310.501	Pretreatment Programs Required
310.502	Deadline for Program Approval
310.503	Incorporation of Approved Programs in Permits
310.504	Incorporation of Compliance Schedules in Permits
310.505	Reissuance or Modification of Permits
310.510	Pretreatment Program Requirements
310.511	Receiving Electronic Documents
310.521	Program Approval
310.522	Contents of Program Submission
310.524	Content of Removal Allowance Submission
310.531	Agency Action
310.532	Defective Submission
310.533	Water Quality Management
310.541	Deadline for Review
310.542	Public Notice and Hearing
310.543	Agency Decision
310.544	USEPA Objection
310.545	Notice of Decision
310.546	Public Access to Submission
310.547	Appeal

## SUBPART F: REPORTING REQUIREMENTS

Section	
310.601	Definition of Control Authority (Repealed)
310.602	Baseline Report
310.603	Compliance Schedule
310.604	Report on Compliance with Deadline
310.605	Periodic Reports on Compliance
310.606	Notice of Potential Problems
310.610	Monitoring and Analysis
310.611	Requirements for Non-Categorical Standard Users
310.612	Annual POTW Reports
310.613	Notification of Changed Discharge
310.621	Compliance Schedule for POTWs
310.631	Signatory Requirements for Industrial User Reports
310.632	Signatory Requirements for POTW Reports
310.633	Fraud and False Statements
310.634	Recordkeeping Requirements
310.635	Notification of Discharge of Hazardous Waste

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

- 310.636 Annual Certification by Non-Significant Categorical Users  
310.637 Receiving Electronic Documents

## SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS

- Section  
310.701 Definition of Requester  
310.702 Purpose and Scope  
310.703 Criteria  
310.704 Fundamentally Different Factors  
310.705 Factors that are Not Fundamentally Different  
310.706 More Stringent State Law  
310.711 Application Deadline  
310.712 Contents of FDF Request  
310.713 Deficient Requests  
310.714 Public Notice  
310.721 Agency Review of FDF Requests  
310.722 USEPA Review of FDF Requests

## SUBPART H: ADJUSTMENTS FOR POLLUTANTS IN INTAKE

- Section  
310.801 Net/Gross Calculation

## SUBPART I: UPSETS

- Section  
310.901 Definition  
310.902 Effect of an Upset  
310.903 Conditions Necessary for an Upset  
310.904 Burden of Proof  
310.905 Reviewability of Claims of Upset  
310.906 User Responsibility in Case of Upset

## SUBPART J: BYPASS

- Section  
310.910 Definitions  
310.911 Bypass Not Violating Applicable Pretreatment Standards or Requirements

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

- 310.912 Notice  
310.913 Prohibition of Bypass

## SUBPART K: MODIFICATION OF POTW PRETREATMENT PROGRAMS

- Section  
310.920 General  
310.921 Substantial Modifications Defined  
310.922 Approval Procedures for Substantial Modifications  
310.923 Approval Procedures for Non-Substantial Modifications  
310.924 Incorporation of Modifications into the Permit

## SUBPART L: FEDERAL PROJECT XL AGREEMENTS

- Section  
310.930 Federally Approved Pretreatment Program Reinvention Pilot Projects Under Project XL (Repealed)

**AUTHORITY:** Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3, and 27].

**SOURCE:** Adopted in R86-44 at 12 Ill. Reg. 2502, effective January 13, 1988; amended in R88-18 at 13 Ill. Reg. 2463, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19243, effective November 27, 1989; amended in R89-12 at 14 Ill. Reg. 7608, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7346, effective April 27, 1992; amended in R95-22 at 20 Ill. Reg. 5533, effective April 1, 1996; amended in R96-12 at 20 Ill. Reg. 10671, effective July 24, 1996; amended in R97-7 at 21 Ill. Reg. 5163, effective April 10, 1997; amended in R98-23 at 22 Ill. Reg. 11465, effective June 22, 1998; amended in R99-17 at 23 Ill. Reg. 8412, effective July 12, 1999; amended in R00-7 at 24 Ill. Reg. 2372, effective January 26, 2000; amended in R00-15 at 24 Ill. Reg. 11633, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1322, effective January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10860, effective August 14, 2001; amended in R02-3 at 26 Ill. Reg. 4008, effective February 28, 2002; amended in R02-9 at 26 Ill. Reg. 4653, effective March 18, 2002; amended in R03-13 at 27 Ill. Reg. 15137, effective September 10, 2003; amended in R04-1 at 28 Ill. Reg. 3390, effective February 6, 2004; amended in R04-18 at 28 Ill. Reg. 10684, effective July 13, 2004; amended in R06-13 at 30 Ill. Reg. 17847, effective October 26, 2006; amended in R08-5/R08-7/R08-13 at 32 Ill. Reg. 19008, effective November 26, 2008; amended in R13-7 at 37 Ill. Reg. 1962, effective February 4, 2013; amended in R15-13 at 39 Ill. Reg. 12357, effective August 24, 2015; amended in R16-9 at 41 Ill. Reg. 1155, effective January 23, 2017; amended in R21-8 at 44 Ill. Reg. 19486, effective December 3, 2020; amended

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

in R21-15 at 45 Ill. Reg. 8061, effective June 21, 2021; amended in R22-7 at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 310.107 Incorporations by Reference**

- a) The following publications are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 307:

Combined Sewer Overflow (CSO) Control Policy (April 1994) (USEPA document number EPA-830-B-94-001), available from National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419, 800-490-9198 or online for download in an electronic format at <http://nepis.epa.gov/EPA/html/pubindex.html>, referenced in Section 310.320.

BOARD NOTE: USEPA published the Combined Sewer Overflow (CSO) Control Policy in the Federal Register at 59 Fed. Reg. 18688 (Apr. 19, 1994).

Standard Industrial Classification Manual (1987) (document no. PB87-100012) (referred to as "1987 SIC Manual"), available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, referenced in 35 Ill. Adm. Code 307.2201, 307.2400, 307.2402 through 307.2407, and 307.3901 and Section 310.602.

BOARD NOTE: The 1987 SIC Manual is available for online search through the U.S. Department of Labor, at [http://www.osha.gov/pls/imis/sic\\_manual.html](http://www.osha.gov/pls/imis/sic_manual.html). In 1997, the federal Office of Management and Budget (OMB) announced that the North American Industry Classification System (NAICS) was replacing the SIC (62 Fed. Reg. 17288 (Apr. 9, 1997)) for statistical purposes. OMB announced adoption of a 2012 edition of NAICS (76 Fed. Reg. 51240 (Aug. 17, 2011)). The 1997 NAICS Manual is available for online search or purchase (as electronic or hard copy) at <http://www.naics.com>. Until USEPA amends its regulations to change references to SIC codes to references to NAICS codes, the Board will continue to use the 1987 SIC codes.

- b) The following provisions of the Code of Federal Regulations are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 307:

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

40 CFR 2.302 (2020) (Special Rules Governing Certain Information Obtained Under the Clean Water Act), referenced in Section 310.105.

40 CFR 3.2 (2020) (How Does This Part Provide for Electronic Reporting?), referenced in Section 310.106.

40 CFR 3.3 (2020) (What Definitions Are Applicable to This Part?), referenced in Section 310.106.

40 CFR 3.10 (2020) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 310.106.

40 CFR 3.2000 (2020) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 310.106.

40 CFR 25 (2020) (Public Participation in Programs Under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act), referenced in Section 310.510.

Tables II (Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GS/MS)) and III (Other Toxic Pollutants (Metals and Cyanide) and Total Phenols) in appendix D to 40 CFR 122 (2020) (NPDES Permit Application Testing Requirements), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 122.23(b) and (c) (2020) (Concentrated Animal Feeding Operations), referenced in 35 Ill. Adm. Code 307.2201.

Appendix A to 40 CFR 127 (2020), as amended at 85 Fed. Reg. 69189 (Nov. 2, 2020) (Minimum Set of NPDES Data), referenced in Sections 310.106 and 310.612.

BOARD NOTE: Only those segments relevant to electronic reporting under the wastewater pretreatment program (NPDES data groups 1, 2, 3, 7, and 8) are intended.

40 CFR 136 (2020) (Guidelines Establishing Test Procedures for the Analysis of Pollutants), [as amended at 86 Fed. Reg. 27226 \(May 19,](#)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

[2021](#)), referenced in 35 Ill. Adm. Code 307.1003 and 307.6500 and Sections 310.605, 310.610, and 310.611.

40 CFR 401.15 (2020) (Toxic Pollutants), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 403 (2020) (General Pretreatment Regulations for Existing and New Sources of Pollution), referenced in Section 310.432.

40 CFR 403.12(b) (2020) (Reporting Requirements for POTWs and Industrial Users), referenced in Section 310.602.

40 CFR 403.15 (2020) (Net/Gross Calculation), referenced in Section 310.801.

Appendix D to 40 CFR 403 (2020) (Selected Industrial Subcategories Considered Dilute for Purposes of the Combined Wastestream Formula), referenced in Section 310.233.

Appendix G to 40 CFR 403 (2020) (Pollutants Eligible for a Removal Credit), referenced in Section 310.303.

40 CFR 503 (2020) (Standards for the Use or Disposal of Sewage Sludge), referenced in Section 310.303.

c) The following federal statutes are incorporated by reference:

Section 1001 of federal Crimes and Criminal Procedure (18 USC 1001 (2019)), referenced in Section 310.633.

The federal Clean Water Act (CWA) (33 USC 1251 et seq. (2019)), referenced in Sections 310.110 and 310.705.

Section 204(b) of the federal Clean Water Act (33 USC 1284(b) (2019)), referenced in Section 310.510.

Section 212(2) of the federal Clean Water Act (33 USC 1292(2) (2019)), referenced in Section 310.110.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

Section 307(b), (c), and (d) of the federal Clean Water Act (33 USC 1317(b), (c), and (d) (2019)), referenced in Section 310.110.

Section 308 of the federal Clean Water Act (33 USC 1318 (2019)), referenced in Section 310.510.

Section 309(c)(4) of the federal Clean Water Act (33 USC 1319(c)(4) (2019)), referenced in Section 310.633.

Section 309(c)(6) of the federal Clean Water Act (33 USC 1319(c)(6) (2019)), referenced in Section 310.633.

Section 405 of the federal Clean Water Act (33 USC 1345 (2019)), referenced in Section 310.510.

Subtitles C and D of the federal Resource Conservation and Recovery Act (42 USC 6921-6939g and 6941-6949a) (2019)), referenced in Section 310.510.

- d) This Part incorporates no future editions or amendments.

**BOARD NOTE:** The Board has located the incorporations by reference for the purposes of this Part and the more general incorporations by reference for the purposes of 35 Ill. Adm. Code 307 in this Section to aid future review and updates. The Board has located the incorporations by reference of the federal categorical standards scattered throughout 35 Ill. Adm. Code 307 at the segments appropriate to each individual categorical standard. This aids future review and updates of the categorical standards.

(Source: Amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS STATE POLICE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Testing of Breath, Blood and Urine for Alcohol, Other Drugs, and Intoxicating Compounds
- 2) Code Citation: 20 Ill. Adm. Code 1286
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1286.100	Amendment
1286.210	Amendment
1286.240	Amendment
- 4) Statutory Authority: Authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15], Section 6-106.1a of the Illinois Vehicle Code [625 ILCS 5/6-106.1a], Section 11-501.2 of the Illinois Vehicle Code [625 ILCS 5/11-501.2], Section 11-501.5 of the Illinois Vehicle Code [625 ILCS 5/11-501.5], Section 11-501.6 of the Illinois Vehicle Code [625 ILCS 5/11-501.6], by Section 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/11-501.8], Section 5-7.5 of the Snowmobile Registration and Safety Act [625 ILCS 40/5-7.5], Section 5-16b of the Boat Registration and Safety Act [625 ILCS 45/5-16b], and Section 6-1 of the Boat Registration and Safety Act [625 ILCS 45/6-1].
- 5) A Complete Description of the Subjects and Issues Involved: These Sections will be proposed in order to remove specific instruments that have become obsolete from the Approved Evidential Instrument List.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The Alcohol and Substance Testing Section (ASTS) is tasked with certifying and maintaining all breath alcohol instruments in Illinois. In addition to this task, Breath Alcohol Instructors provided training to all officers in Illinois so that they can become certified Breath Alcohol Operators (BAO).

## ILLINOIS STATE POLICE

## NOTICE OF PROPOSED AMENDMENTS

Through this change to Administrative Code the ASTS will be able to more efficiently service the agencies throughout Illinois. These changes address old and failing instruments that have been replaced by newer instruments with updated technology and increased automation, making them more user-friendly therefore increasing officer safety. The removal of these instruments also dramatically reduces the amount of supplies required to continue operational support of all the agencies in Illinois. Finally, by eliminating course material covering the obsolete instruments, the ASTS will be able to modify the minimum number of hours required for the BAO course. This will allow the section to provide training to a larger number of officers each year.

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may comment to:

Ms. Maureen B. McCurry  
Chief Legal Counsel  
Illinois State Police  
801 South 7<sup>th</sup> Street, Suite 1000-S  
Springfield, Illinois 62703

217/782-7658

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Small Municipalities who have outdated Breath Alcohol Testing Equipment may be affected.
- B) Reporting, bookkeeping or other procedures required for compliance: Such Municipalities would be required to obtain current equipment; however, the ISP has offered them equipment free of charge to replace what has become obsolete. The majority of all of the local municipal agencies impacted are already taken care of; additionally, the ISP will continue to offer them equipment free of charge to replace what they currently have that is becoming obsolete.
- C) Types of professional skills necessary for compliance: None

- 14) Small Business Impact Analysis: None

- 15) Regulatory Agenda on which this rulemaking was summarized: December 2021

ILLINOIS STATE POLICE

NOTICE OF PROPOSED AMENDMENTS

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

ILLINOIS STATE POLICE

NOTICE OF PROPOSED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT  
CHAPTER II: ILLINOIS STATE POLICE

PART 1286  
TESTING OF BREATH, BLOOD AND URINE  
FOR ALCOHOL, OTHER DRUGS, AND INTOXICATING COMPOUNDS

SUBPART A: GENERAL PROVISIONS

Section	
1286.10	Definitions
1286.20	Grievances
1286.30	Additional Testing
1286.40	Conversion of a Blood Serum or Blood Plasma Alcohol Concentration to a Whole Blood Equivalent
1286.50	Passive Sensors
1286.60	Department Notification
1286.70	Maintenance of Records for Approved Evidentiary Instruments
1286.75	Subpoena Procedure for Evidentiary Instruments
1286.80	Installation of Approved Stationary Evidentiary Instruments, Ethernet Connectivity, and Logbook and Portable Evidentiary Instrument Availability
1286.90	Reporting Laboratory Results

SUBPART B: APPROVAL PROCEDURES FOR PERSONS AND  
LABORATORIES TO PERFORM SPECIFIC FUNCTIONS

Section	
1286.100	Licensing BAOs
1286.110	Renewal of BAO License
1286.120	Revocation and Denial of BAO License
1286.130	Authorization of BATs
1286.140	Revocation and Denial of BAT Authorization
1286.150	Accrediting BAIs
1286.160	Revocation and Denial of BAI Accreditation
1286.170	Certification of Laboratories and Laboratory Technicians
1286.180	Revocation and Denial of Laboratory Certification

SUBPART C: EQUIPMENT

## ILLINOIS STATE POLICE

## NOTICE OF PROPOSED AMENDMENTS

## Section

1286.200	Equipment Approval and Accuracy
1286.210	Evidentiary Instrument Approval
1286.220	Checking Approved Evidentiary Instruments for Accuracy
1286.230	Checking Approved Evidentiary Instruments for Continued Accuracy
1286.240	PBT Approval
1286.250	Checking Approved PBTs for Accuracy
1286.260	Operation of PBTs

## SUBPART D: SAMPLING PROCEDURES

## Section

1286.300	General Sampling Protocol
1286.310	Approved Evidentiary Instrument Operation
1286.320	Blood Collection for Determining the Presence of Alcohol, Other Drugs or Intoxicating Compounds
1286.330	Urine Collection for Determining the Presence of Alcohol, Other Drugs or Intoxicating Compounds
1286.340	Urine Collection for Determining the Concentration of Urine Alcohol (Repealed)
1286.350	Operation of PBTs (Repealed)

**AUTHORITY:** Authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15]. Implementing and authorized by Section 6-106.1a of the Illinois Vehicle Code [625 ILCS 5/6-106.1a]. Implementing and authorized by Section 11-501.2 of the Illinois Vehicle Code [625 ILCS 5/11-501.2]. Implementing Section 11-501.5 of the Illinois Vehicle Code [625 ILCS 5/11-501.5]. Implementing Section 11-501.6 of the Illinois Vehicle Code [625 ILCS 5/11-501.6]. Implementing and authorized by Section 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/11-501.8]. Implementing Section 5-7.5 of the Snowmobile Registration and Safety Act [625 ILCS 40/5-7.5]. Implementing Section 5-16b of the Boat Registration and Safety Act [625 ILCS 45/5-16b]. Implementing and authorized by Section 6-1 of the Boat Registration and Safety Act [625 ILCS 45/6-1].

**SOURCE:** Adopted by emergency rulemaking at 25 Ill. Reg. 239, effective January 1, 2001, for a maximum of 150 days; adopted at 25 Ill. Reg. 3023, effective February 1, 2001; amended at 28 Ill. Reg. 10017, effective June 30, 2004; amended at 31 Ill. Reg. 7305, effective May 1, 2007; emergency amendment at 31 Ill. Reg. 10188, effective July 9, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 15107, effective October 29, 2007; amended at 33 Ill. Reg. 8529, effective June 4, 2009; amended at 35 Ill. Reg. 18897, effective October 31, 2011; amended at

## ILLINOIS STATE POLICE

## NOTICE OF PROPOSED AMENDMENTS

39 Ill. Reg. 11670, effective July 29, 2015; amended at 43 Ill. Reg. 4640, effective April 5, 2019; amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART B: APPROVAL PROCEDURES FOR PERSONS AND  
LABORATORIES TO PERFORM SPECIFIC FUNCTIONS

**Section 1286.100 Licensing BAOs**

The Director or ~~the Director's his/her~~ designee is authorized to license persons to be BAOs subject to the requirements of this Section. BAOs are licensed to perform all appropriate BAO functions described in this Part. Only licensed BAOs may operate evidential breath testing instruments.

- a) To be eligible to be a BAO, the individual must be employed by an agency or an accredited law enforcement training academy. BAO candidates, including those who have previously been licensed as a BAO in another state, must successfully attend the course and pass the written and proficiency examination or successfully complete a computer-based training (CBT) course.
- b) Under the direction and control of a BAI, BAO candidates must:
  - 1) Complete a training curriculum approved by the Department that includes a minimum of ~~8~~<sup>16</sup> hours of instruction, which includes the following:
    - A) Presentation and discussion of the psychological, physiological, and pharmacological effects of alcohol in the human body;
    - B) Demonstration and discussion of instruments and the analytical processes used to measure BrAC;
    - C) Practical application and demonstration in the use of an approved evidentiary instrument; and
    - D) Discussion of current DUI issues, the administrative rules, and case law.
  - 2) Pass the following:
    - A) The standardized written examination for Breath Analysis

## ILLINOIS STATE POLICE

## NOTICE OF PROPOSED AMENDMENTS

Operator provided by the Department with a minimum score of 70 percent; ~~and-~~

- B) A proficiency examination in which the candidate operates approved evidentiary instruments.
- c) A license shall be valid for a period of three years after the printed date of issuance. If the license is not renewed as provided for in Section 1286.110, it shall expire three years after the printed date of issuance.
- d) Licensing classes will be held in locations approved by the Department based upon appropriate lighting, space, heating, and air conditioning conditions. A minimum of 12 students must be in attendance to start and conduct the class.
- e) When the Department approves a new evidentiary instrument (see Section 1286.210) after the BAO's initial licensure, the Department will provide training on the new instrument.

(Source: Amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: EQUIPMENT

**Section 1286.210 Evidentiary Instrument Approval**

Approved evidentiary instruments shall print and display a breath analysis reading. Approved evidentiary instruments can print and display two or three digits to the right of the decimal point. Whether the approved evidentiary instrument prints and displays two or three digits to the right of the decimal point, the breath analysis reading consists of the first two digits to the right of the decimal point.

- a) The Department shall only approve evidentiary instruments enumerated in NHTSA's list. The Department approves the following instruments for obtaining breath analysis readings:
  - ~~1) Intoximeters EC/IR, manufactured by Intoximeters, Inc., may be used until January 1, 2019, at which time the Intoximeters EC/IR will no longer be approved for use in Illinois.~~
  - 12) RBT IV, in conjunction with a printer, manufactured by Intoximeters, Inc.,

## ILLINOIS STATE POLICE

## NOTICE OF PROPOSED AMENDMENTS

may be used until June 1, 2022, at which time the Intoximeters RBT IV will no longer be approved for use in Illinois.

- ~~23~~) Intoximeters EC/IR II, manufactured by Intoximeters, Inc.
  - ~~4~~) ~~Intoxilyzer 8000, manufactured by CMI, Inc., may be used until January 1, 2019, at which time the Intoxilyzer 8000 will no longer be approved for use in Illinois.~~
  - ~~35~~) Intoximeters EC/IR II, with serial numbers 10001 and above, manufactured by Intoximeters, Inc.
  - ~~46~~) Alco-Sensor VXL, in conjunction with a printer, manufactured by Intoximeters, Inc.
- b) Should an instrument in subsection (a) be removed from NHTSA's list, the instrument will remain an approved evidentiary instrument under this Part for a period of 18 months subsequent to removal or until this Section is amended.
  - c) The Department may temporarily approve additional evidential instrumentation from NHTSA's list after conducting a program suitability evaluation. The Department shall maintain a list of evidentiary instruments temporarily approved for breath testing in addition to those provided in subsection (a). Evidentiary instruments may be temporarily approved for a maximum period of 18 months. The list of temporarily approved evidentiary instruments, if any, shall be available to the public upon request to the Alcohol and Substance Testing Section.

(Source: Amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1286.240 PBT Approval**

PBTs shall display a breath analysis reading. PBTs can display two or three digits to the right of the decimal point. Whether the PBT displays two or three digits to the right of the decimal point, the breath analysis reading consists of the first two digits to the right of the decimal point.

- a) The Department shall only approve PBTs enumerated in NHTSA's list. The Department approves the following PBTs for obtaining breath analysis readings:
  - 1) S-D2, manufactured by CMI, Inc., until June 1, 2022, at which time the S-

## ILLINOIS STATE POLICE

## NOTICE OF PROPOSED AMENDMENTS

D2 will no longer be approved for use in Illinois.

- 2) Alcosensor III, manufactured by Intoximeters, Inc., until June 1, 2022, at which time the Alcosensor III will no longer be approved for use in Illinois.
  - 3) Alcosensor III (Enhanced with serial numbers above 1,200,000), manufactured by Intoximeters, Inc., until June 1, 2022, at which time the Alcosensor III (Enhanced with serial numbers above 1,200,000) will no longer be approved for use in Illinois.
  - 4) Alcosensor IV, manufactured by Intoximeters, Inc., until June 1, 2022, at which time the Alcosensor IV will no longer be approved for use in Illinois.
  - 5) Alcosensor FST, manufactured by Intoximeters, Inc.
  - 6) Alco-Sensor VXL, manufactured by Intoximeters, Inc.
  - 7) Intoxilyzer 500, manufactured by CMI, Inc.
- b) The Department may temporarily approve additional PBTs from NHTSA's list after conducting a program suitability evaluation. The Department shall maintain a list of PBTs temporarily approved for screening instrument testing in addition to those provided in subsection (a). PBTs may be temporarily approved for a maximum period of 18 months. The list of temporarily approved PBTs, if any, shall be available to the public upon request to the Alcohol and Substance Testing Section.

(Source: Amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Health and Safety
- 2) Code Citation: 56 Ill. Adm. Code 350
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
350.10	Amendment
350.20	Amendment
350.30	Amendment
350.40	Amendment
350.50	Amendment
350.60	Amendment
350.70	Amendment
350.80	Amendment
350.90	Amendment
350.100	Amendment
350.110	Amendment
350.120	Amendment
350.125	Amendment
350.130	Amendment
350.140	Amendment
350.150	Amendment
350.170	Amendment
350.180	Amendment
350.190	Amendment
350.200	Amendment
350.210	Amendment
350.220	Amendment
350.250	Amendment
350.260	Amendment
350.270	Amendment
350.310	Amendment
350.340	Amendment
350.370	Amendment
350.375	New Section
350.390	Amendment
350.400	Amendment
350.410	Amendment
350.420	Amendment
350.430	Amendment

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

350.500	Amendment
350.700	Amendment
350.APPENDIX B	Amendment

- 4) Statutory Authority: Implementing and authorized by the Occupational Safety and Health Act [820 ILCS 219].
- 5) Effective Date of Rule: February 15, 2022
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. This rulemaking incorporates by reference designated federal occupational safety and health standards which the United States Secretary of Labor has promulgated or modified in accordance with the federal Occupational Safety and Health Act of 1970 (29 USC 651) and that are in effect on January 1, 2015, unless an alternate State standard has been adopted and is listed in subsection (c) of these Rules. These designated standards are located at 29 CFR 1904, 1908, 1910, 1915, 1926 and 1977.
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: 45 Ill. Reg. 11485; September 17, 2021
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between Proposal and Final Version: Grammatical and stylistic changes were made. In Section 350.20, a sentence was deleted describing the ability of the Department to modify policies in specific circumstances. In Section 350.270, language was added clarifying that illnesses resulting from SARS, including but not limited to COVID-19, may be considered work-related if the infection happens at work.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Partially. In addition to the changes listed above, DOL agrees to seek statutory clarification about the Department's obligations in instances where federal OSHA adopts standards that are similar to existing Illinois OSHA standards.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 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 Rule: This amendment to the current rule is to update the Health and Safety Part to reflect statutory updates to the Occupational Health and Safety Act (formerly two separate Acts). This includes updating references to the amended Act, clarifying the inspection and enforcement process for employers, updating application of the Act in “work from home” situations, detailing employer recordkeeping and reporting requirements, requiring certain employers to submit injury/illness/death reports electronically, and incorporation of Federal OSHA standards.
- 16) Information and questions regarding this adopted rule shall be directed to:

Anna Koepfel  
Lincoln Tower Plaza  
Illinois Department of Labor  
524 S. 2<sup>nd</sup> St., Suite 400  
Springfield, IL 62701

217-558-1270  
Anna.Koepfel@illinois.gov

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

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER I: DEPARTMENT OF LABOR  
SUBCHAPTER b: REGULATION OF WORKING CONDITIONSPART 350  
HEALTH AND SAFETY

## SUBPART A: INSPECTIONS AND CITATIONS

Section	
350.10	Definitions
350.20	Purpose and Scope
350.30	Posting of Notice; Availability of the Act, Regulations and Applicable Standards
350.40	Authority for Inspection
350.50	Objection to Inspection
350.60	Entry Not a Waiver
350.70	Advance Notice of Inspections
350.80	Conduct of Inspections
350.90	Representatives of Employers and Employees
350.100	Trade Secrets
350.110	Consultation with Employees
350.120	Complaints by Employees
350.125	Discrimination Prohibited Against Employees
350.130	Inspection not Warranted; Informal Review
350.140	Imminent Danger
350.150	Citations; Policy Regarding Employee Rescue Activities
350.160	Petitions for Modification of Abatement Date
350.170	Proposed Penalties
350.180	Posting of Citations
350.190	Employer and Employee Contests before the Administrative Law Judges of the Hearings Division
350.200	Failure to Correct a Violation for which a Citation has been Issued
350.210	Abatement Verification
350.220	Informal Conferences

## SUBPART B: INJURY/ILLNESS RECORDKEEPING AND REPORTING REQUIREMENTS

Section	
350.250	Purpose, Scope and Definitions

ILLINOIS DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENTS

- 350.260 Recording Criteria
- 350.270 Determination of Work-Relatedness
- 350.280 Determination of New Cases
- 350.290 General Recording Criteria
- 350.300 Recording Criteria for Needlestick and Sharps Injuries
- 350.310 Recording Criteria for Cases Involving Medical Removal under IDOL-Adopted OSHA Standards
- 350.320 Recording Criteria for Cases Involving Occupational Hearing Loss
- 350.330 Recording Criteria for Work-Related Tuberculosis Cases
- 350.340 Forms
- 350.350 Multiple Establishments
- 350.360 Covered Employees
- 350.370 Annual Summary
- [350.375 Electronic Submission of OSHA Form 300A](#)
- 350.380 Retention and Updating
- 350.390 Employee Involvement
- 350.400 Prohibition Against Discrimination
- 350.405 Variance from Recordkeeping Requirements
- 350.410 Reporting Fatalities, Hospitalizations, Amputations and Loss of Eye Incidents to the Illinois Department of Labor
- 350.420 Providing Records to Government Representatives
- 350.430 Requests from the Illinois Department of Public Health/Bureau of Labor Statistics for Data

SUBPART C: VARIANCES FROM STANDARDS

- Section
- 350.500 Petition for Variance from Standards

SUBPART D: CONSULTATION PROGRAM

- Section
- 350.600 Purpose

SUBPART E: ADOPTION OF FEDERAL STANDARDS

- Section
- 350.700 Adoption of Federal Standards

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 350.APPENDIX A Decision Tree  
350.APPENDIX B [Annual Electronic Submission of OSHA Form 300A \(Summary of Work-Related Injuries and Illnesses\) by Establishments With 20 or More Employees but Fewer Than 250 Employees in Designated Industries](#)  
~~Sample Abatement Plan or Progress Report (Non-mandatory)~~

AUTHORITY: Implementing and authorized by the Occupational Safety and Health Act [820 ILCS 219].

SOURCE: Emergency rules adopted at 9 Ill. Reg. 17004, effective October 17, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 8765, effective May 14, 1986; amended at 11 Ill. Reg. 2798, effective January 28, 1987; amended at 12 Ill. Reg. 17086, effective October 11, 1988; amended at 16 Ill. Reg. 8518, effective May 26, 1992; amended at 17 Ill. Reg. 1074, effective January 19, 1993; emergency amendment at 17 Ill. Reg. 7072, effective April 27, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 14724, effective September 15, 1994; amended at 19 Ill. Reg. 11923, effective August 7, 1995; amended at 20 Ill. Reg. 7419, effective May 10, 1996; amended at 21 Ill. Reg. 12850, effective September 4, 1997; amended at 23 Ill. Reg. 3993, effective October 1, 1999; amended at 23 Ill. Reg. 12447, effective October 2, 1999; amended at 24 Ill. Reg. 13693, effective August 23, 2000; amended at 25 Ill. Reg. 860, effective January 5, 2001; amended at 25 Ill. Reg. 10196, effective July 30, 2001; old Part repealed at 30 Ill. Reg. 5531 and new Part adopted at 30 Ill. Reg. 4777, effective March 13, 2006; amended at 34 Ill. Reg. 4793, effective March 16, 2010; old Part repealed at 38 Ill. Reg. 11570, and new Part adopted at 38 Ill. Reg. 11572, effective May 16, 2014; amended at 38 Ill. Reg. 20781, effective October 20, 2014; amended at 39 Ill. Reg. 14176, effective October 19, 2015; preemptory amendment at 46 Ill. Reg. 1668, effective January 7, 2022; recodified at 46 Ill. Reg. 3465; emergency amendment at 46 Ill. Reg. 3598, effective February 15, 2022, for a maximum of 150 days; amended at 46 Ill. Reg. 3518, effective February 15, 2022.

## SUBPART A: INSPECTIONS AND CITATIONS

**Section 350.10 Definitions**

The definitions and interpretations contained in Section ~~504~~ of the [Occupational Safety and Health Act](#) ~~Health and Safety Act and Section .02 of the Safety Inspection and Education Act~~ shall apply when those terms are used in this Part.

~~Act~~~~Acts~~ – the [Occupational Safety and Health Act \[820 ILCS 219\]](#) ~~Health and Safety Act [820 ILCS 225] and Safety Inspection and Education Act [820 ILCS 220]~~.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

Administrative Law Judge or ALJ - an attorney licensed to practice law in the State of Illinois who has been designated by the Director to conduct any hearings governed by this Part, 56 Ill. Adm. Code 120 (Rule of Procedure in Administrative Hearings), and Section 100 of the Act.

Authorized Employee Representative – any person authorized by the employees to represent their interests in collective bargaining and other labor relations matters.

Department or IDOL – the Illinois Department of Labor.

Director – the Director of the Illinois Department of Labor.

Division or Illinois OSHA – the *Division of Occupational Safety and Health within the Illinois Department of Labor.* The Illinois OSHA name will be used in all marketing and outreach efforts~~Illinois Department of Labor Safety Inspection and Education Division.~~

Division Manager – the employee ~~or officer~~ regularly or temporarily in charge of the Division of Occupational Safety and Health~~Safety Inspection and Education Division~~, within the Illinois Department of Labor, or any other person or persons who are authorized to act for that employee on a case-by-case basis~~or officer~~. ~~The latter authorizations may include general delegations of the authority of the Division Manager under this Part to an Enforcement Inspector/Officer or delegations to the officer for more limited purposes, such as the exercise of the Division Manager's duties under Section 350.160.~~

Employee – means every person *in the service of* any of the following entities, regardless of whether the service is by virtue of election, by appointment or contract, or by hire, and regardless of whether the relationship is express or implied or established orally or in writing:

*the State, including members of the General Assembly, members of the Commerce Commission, members of the Workers' Compensation Commission and any all-person in the service of* ~~at~~ the public university universities and~~or college-colleges~~ *in Illinois;*

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

*an Illinois county, including deputy sheriffs and assistant state's attorneys*~~attorney~~; or

*an Illinois city, township, incorporated village*~~villages, incorporated town or school district, body politic, or other municipal corporation; whether by election, under appointment or contract, or hire, express or implied, oral or written.~~

*Public Employer or Employer – the State of Illinois* ~~or~~ *and any*~~all~~ *political subdivisions of the State.* [820 ILCS 219/5]

Enforcement Inspector~~Officer~~ or Inspector – a person authorized by the Division of Occupational Safety and Health within the~~Safety Inspection and Education Division~~, Illinois Department of Labor, to conduct inspections.

Inspection – any inspection of an employer's establishment or other area, workplace or environment where work is performed by an employee of an employer, and includes any inspection conducted pursuant to a complaint filed under Section 350.120(a) and (c), any re-inspection, follow-up inspection, accident investigation or other inspection conducted under Section ~~652~~ of the ~~Safety Inspection and Education~~-Act.

Regional Enforcement Manager or REM – a person authorized, by the Division of Occupational Safety and Health within the Illinois Department of Labor to manage the day-to-day operations of Enforcement Inspectors.

Working Days – Mondays through Fridays, but not including State holidays. In computing 15 working days, the day of receipt of any notice shall not be included, and the last day of the 15 working days shall be included.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

### Section 350.20 Purpose and Scope

The ~~Health and Safety~~ Act requires, in part, that all public employers~~every employer~~ covered under the ~~Act~~Acts furnish to ~~their~~~~his or her~~ employees employment and a place of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm to the employees. The Act also requires that public employers comply with occupational safety and health standards promulgated under the ~~Act~~Acts, and that public

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

employees comply with standards, rules, regulations and orders issued under the ~~Act~~Acts that are applicable to their own actions and conduct. The ~~Safety Inspection and Education Act~~ authorizes Illinois OSHA ~~the Illinois Department of Labor~~ to conduct inspections and to issue citations and proposed penalties for alleged violations. The Act also contains provisions for adjudication of violations, periods prescribed for the abatement of violations, and proposed penalties, if contested by an employer or by an employee or authorized representative of employees, and for judicial review. The purpose of this Subpart A is to prescribe rules and regulations and to set forth general policies for dealing with the inspection of an employer's establishment, enforcement of the inspection, citation, and proposed penalty provisions of the Act~~Acts~~. ~~In situations in which this Subpart A sets forth general enforcement policies rather than substantive or procedural rules, the policies may be modified in specific circumstances in which the Director or his or her designee determines that an alternative course of action would better serve the objectives of the Acts.~~

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.30 Posting of Notice; Availability of the Act~~Acts~~, Regulations and Applicable Standards**

- a) Job Safety and Health Poster. ~~1)~~ Each employer shall post and keep posted a notice or notices, to be furnished by Illinois OSHA ~~the IDOL Safety Inspection and Education Division~~, informing employees of the protections and obligations provided for in the Act~~Acts~~, and that, for assistance and information, including copies of the Act~~Acts~~ and of specific safety and health standards, employees should contact the employer or ~~the nearest Illinois OSHA IDOL office~~. The notice or notices shall be posted by the employer in each establishment (see subsection (b)) in a conspicuous place or places where notices to employees are customarily posted. Each employer shall take steps to ensure that the notices are not altered, defaced or covered by other material.
  - ~~2) Reproductions or facsimiles of State posters shall constitute compliance with the posting requirements of Section 2.5 of the Safety Inspection and Education Act if the reproductions or facsimiles are at least 8½ by 11 inches and the font size at least 10 point.~~
- b) Establishment means a single physical location where business is conducted or where services or operations are performed. (For example: An office, warehouse or central administrative office.) When distinctly separate activities are performed at a single physical location, each activity shall be treated as a separate

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

physical establishment, and a separate notice or notices shall be posted in each establishment, to the extent that the notices have been made available by the [Illinois OSHA](#) ~~Safety Inspection and Education Division~~. When employers are engaged in activities that are physically dispersed, such as construction, transportation, and electric, gas and sanitary services, the notice or notices required by this Section shall be posted at the location to which employees report each day. When employees do not usually work at, or report to, a single establishment (such as technicians, engineers, etc.), the notice or notices shall be posted at the location from which the employees operate to carry out their activities. In all cases, the notice or notices shall be posted in accordance with the requirements of subsection (a).

- c) Copies of the ~~Act~~[Acts](#), all regulations published in this Chapter, and all applicable standards will be available at all ~~Illinois OSHA~~[IDOL](#) offices and on the ~~Division's~~[IDOL](#) website at ~~OSHA.illinois.gov~~[labor.illinois.gov](#). If an employer has obtained copies of these materials, ~~the employer~~[he or she](#) shall make them available upon request to any employee or the employee's authorized representative for review in the establishment where the employee is employed on the same day the request is made, or at the earliest time mutually convenient to the employee or ~~their~~[his or her](#) authorized representative and the employer.
- d) Any employer failing to comply with the provisions of this Section shall be subject to citation and penalty in accordance with the provisions of [Sections 80 and 85](#) ~~Section 2.6~~ of the ~~Safety Inspection and Education~~ Act.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.40 Authority for Inspection**

- a) Enforcement ~~Inspectors~~[Inspector/IDOL Officers](#) are authorized to enter without delay and at reasonable times any establishment, construction site, or other area, workplace or environment where work is performed by an employee of a public employer; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials in the place of employment; to question privately any employer, owner, operator, agent or employee; and to review records required by the ~~Act~~[Acts](#), regulations and other records that are directly related to the purpose of the inspection.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- b) Prior to inspecting areas containing information deemed classified by a State agency in the interest of national and/or State security, Inspectors shall have obtained the appropriate security clearance.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.50 Objection to Inspection**

- a) Upon a refusal to permit the Enforcement Inspector/~~Officer~~, in exercise of ~~their~~<sup>his</sup> ~~or her~~ official duties, to enter without delay and at reasonable times any place of employment or any area within the place of employment to inspect, to review records, or to question any employer, owner, operator, agent or employee, in accordance with Section 350.40, or upon a refusal to permit a representative of employees to accompany the Inspector during the physical inspection of any workplace, in accordance with Section 350.90, the Inspector shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records or interviews concerning which no objection is raised. The Inspector shall endeavor to ascertain the reason for the refusal and shall immediately report the refusal and the reason for the refusal to the Regional Enforcement ~~Manager~~<sup>Supervisor</sup>. The ~~REM Enforcement Supervisor~~ shall consult with the Division Manager and Chief Legal Counsel, who shall take appropriate action, including compulsory process, if necessary.
- b) Compulsory process shall be sought in advance of an attempted inspection or investigation if, in the judgment of the Division Manager and Chief Legal Counsel, circumstances exist that make the pre-inspection process desirable or necessary. Some examples of circumstances in which it may be desirable or necessary to seek compulsory process in advance of an attempt to inspect or investigate include, but are not limited to:
- 1) When the employer's past practice either implicitly or explicitly puts the Director on notice that a warrantless inspection will not be allowed;
  - 2) When an inspection is scheduled far from the local office and procuring a warrant prior to leaving to conduct the inspection would avoid, in case of refusal of entry, the expenditure of significant time and resources to return to the office, obtain a warrant and return to the worksite;

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 3) When an inspection includes the use of special equipment or when the presence of an expert or experts is needed in order to properly conduct the inspection, and procuring a warrant prior to an attempt to inspect would alleviate the difficulties or costs encountered in coordinating the availability of the equipment or expert.
- c) With the approval of the Division Manager and Chief Legal Counsel, compulsory process may also be obtained by the REM Enforcement Supervisor or the REM's his or her designee.
- d) For purposes of this Section, the term compulsory process shall mean the institution of any appropriate action, including ex parte application for an inspection warrant or its equivalent. Ex parte inspection warrants shall be the preferred form of compulsory process in all circumstances in which compulsory process is relied upon to seek entry to a workplace under this Section.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.60 Entry Not a Waiver**

Any permission to enter, inspect, review records, or question any person shall not imply or be conditioned upon a waiver of any cause of action, citation or penalty under the Act~~Aets~~. Enforcement Inspectors/~~Officers~~ are not authorized to grant a waiver.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.70 Advance Notice of Inspections**

- a) Advance notice of inspections may not be given, except in the following situations:
  - 1) In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible;
  - 2) In circumstances in which the inspection can most effectively be conducted after regular business hours or when special preparations are necessary for an inspection;

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 3) When necessary to assure the presence of representatives of the employer and employees or the appropriate personnel needed to aid in the inspection and in other circumstances in which the Division Manager determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.
- b) In the situations described in subsection (a), advance notice of inspections may be given only if authorized by the Division Manager, except that, in cases of apparent imminent danger, advance notice may be given by the Enforcement Inspector/~~Officer~~ without such authorization if the Division Manager or Regional Enforcement Manager is not immediately available. When advance notice is given, it shall be the employer's responsibility to promptly~~to~~ notify the authorized representative of employees of the inspection, if the identity of ~~the~~such representative is known to the employer. Upon the request of the employer, the Inspector will inform the authorized representative of employees of the inspection, provided that the employer furnishes the Inspector with the identity of the representative and with other information as is necessary to enable the Inspector~~him or her~~ to promptly~~to~~ inform the representative of the inspection. An employer who fails to comply with their~~his or her~~ obligation to~~under this subsection~~ promptly ~~to~~ inform the authorized representative of employees of the inspection, or to furnish information necessary to enable the Inspector to promptly inform the representative of the inspection, may be subject to citation and penalty. Advance notice in any of the situations described in subsection (a) shall not be given more than 24 hours before the inspection is scheduled to be conducted, except in apparent, imminently dangerous~~imminent danger~~ situations and in other unusual circumstances.
- c) Section 1202.6 of the ~~Safety Inspection and Education~~ Act provides that any person who gives advance notice of any inspection to be conducted under the Act, without authority from the Director or their~~his or her~~ designees, shall have committed a Class B misdemeanor and shall be subject to all repercussions, if convicted.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.80 Conduct of Inspections**

- a) Subject to Section 350.40, inspections shall take place at such times and in such places of employment as the Division Manager, Regional Enforcement Manager

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

or the Inspector may direct. At the beginning of an inspection, Inspectors shall present their credentials to the owner, operator or agent in charge at the establishment; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records they wish to review. However, the designation of records shall not preclude access to additional records specified in Section 350.40.

- b) Inspectors shall have authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately any employer, owner, operator, agent or employee of an establishment. (See Section 350.100, Trade Secrets.) As used in this subsection, "employ other reasonable investigative techniques" includes, but is not limited to, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devices by employees in order to monitor their exposures.
- c) In taking photographs and samples, Inspectors shall take reasonable precautions to ensure that actions with flash, spark-producing or other equipment would not be hazardous. Inspectors shall comply with all employer safety and health rules and practices at the establishment being inspected, and ~~they~~ shall wear and use appropriate protective clothing and equipment.
- d) Inspections~~The conduct of inspections~~ shall be conducted in a manner that avoids such as to preclude unreasonable disruption of the operations of the employer's establishment.
- e) At the conclusion of an inspection, the Inspector shall confer with the employer or the employer's~~his or her~~ representative and informally advise the employer of any apparent safety or health violations disclosed by the inspection. During the conference, the employer shall be afforded an opportunity to bring to the attention of the Inspector any pertinent information regarding conditions in the workplace.
- f) Inspections shall be conducted in accordance with this Part.
- g) If needed in order to make a proper inspection, the Inspector may~~can~~ initiate the process to compel attendance and testimony of witnesses and the production of evidence under oath under the Director's authority ~~to do so~~.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.90 Representatives of Employers and Employees**

- a) Enforcement Inspectors/~~Officers~~ shall be in charge of inspections and questioning of persons. A representative of the employer and a representative authorized by the employees shall be given an opportunity to accompany the Inspector during the physical inspection of any workplace for the purpose of aiding the inspection. ~~Inspectors~~~~An Inspector~~ may permit additional employer representatives and additional representatives authorized by employees to accompany ~~them~~~~him or her~~ when ~~they determine~~~~he or she determines~~ that additional representatives will further aid the inspection. A different employer and employee representative may accompany the Inspector during each different phase of an inspection if this will not interfere with the conduct of the inspection.
- b) Inspectors shall have authority to resolve all disputes concerning the identity of~~as to who is~~ the representative authorized by the employer and employees for the purpose of this Section. If there is no authorized representative of employees, or if the Inspector is unable to determine with reasonable certainty who is the representative, the Inspector~~he or she~~ shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.
- c) The representatives authorized by employees shall be employees of the employer. However, if, in the judgment of the Inspector, good cause has been shown why accompaniment by a third party who is not an employee of the employer (such as an industrial hygienist or a safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, ~~the~~~~such~~ third party may accompany the Inspector during the inspection.
- d) Inspectors are authorized to deny the right of accompaniment under this Section to any person whose conduct interferes with a fair and orderly inspection. The right of accompaniment in areas containing trade secrets shall be subject to the provisions of Section 350.100. With regard to information classified by an agency of State government~~Government~~ in the interest of homeland security, only persons authorized to have access to the information may accompany an Inspector in areas containing the information.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

**Section 350.100 Trade Secrets**

- a) *All information reported to or otherwise obtained by the Director of Labor or the Director's~~his or her~~ representative in connection with any inspection or proceeding under the Act or any standard, rule, regulation, or order adopted or issued under the Act which~~the Acts that~~ contains or might reveal a trade secret shall be considered confidential, except that such information may be disclosed confidentially to other officers or employees concerned with carrying out the Act or when relevant to any proceeding under the Act ~~the Acts~~. In any such proceeding, the Director ~~of Labor~~ or the court shall issue such orders as may be appropriate, including the impoundment of files, or portions of files, to protect the confidentiality of trade secrets. (Sec. 125 of the Act)~~[820 ILCS 225/22]~~*
- b) *Any person who discloses a trade secret in violation of Section 125 of the Act and this Section ~~violates the confidentiality of trade secrets~~ commits a Class B misdemeanor. (Sec. 125 of the Act)~~[820 ILCS 225/22]~~*
- c) At the commencement of an inspection, the employer may identify areas in the establishment that contain or might reveal a trade secret. If the Enforcement Inspector/~~Officer~~ has no clear reason to question the identification, information obtained in those areas, including all negatives and prints of photographs and environmental samples, shall be labeled "Confidential – Trade Secret" and shall not be disclosed.
- d) Upon the request of an employer, any authorized representative of employees in an area containing trade secrets shall be an employee in that area or an employee authorized by the employer to enter that area. When there is no such representative or employee, the Inspector shall consult with a reasonable number of employees who work in that area concerning matters of safety and health.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.110 Consultation with Employees**

Enforcement Inspectors/~~Officers~~ may consult with employees concerning matters of occupational safety and health to the extent they deem necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee shall be afforded an opportunity to bring any violation of the Act~~Acts~~ that the employee~~he or she~~ has reason to believe exists in the workplace to the attention of the Inspector.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.120 Complaints by Employees**

- a) Any employee or representative of employees who believes that a violation of the ~~Act~~Acts exists in any workplace where the employee is employed may request an inspection of the workplace by giving notice of the alleged violation to the Division Manager, Regional Enforcement Manager or to an Enforcement Inspector/~~Officer~~. ~~Notice~~Any such notice shall be ~~in~~reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees. A copy shall be provided to the employer or ~~the employer's~~his or her agent by the Inspector no later than at the time of inspection, except that, upon the request of the person giving the notice, ~~that person's~~that person's name and the names of individual employees referred to in the notice shall not appear in the copy or on any record published, released or made available by Illinois OSHA~~IDOL~~.
- b) If, upon receipt of the notification required by subsection (a), the ~~REM~~Enforcement Supervisor determines that the complaint meets the requirements set forth in subsection (a) and that there are reasonable grounds to believe that the alleged violation exists, the ~~REM~~Enforcement Supervisor shall cause an inspection to be made as soon as practicable to determine if the alleged violation exists. Inspections under this Section shall not be limited to matters referred to in the complaint.
- c) Prior to or during any inspection of a workplace, any employee or representative of employees employed in the workplace may notify the Inspector, in writing, of any violation of the ~~Act~~Acts that ~~the employee or representative~~he or she has reason to believe exists in the workplace. The notice shall comply with the requirements of subsection (a).
- d) *A person may not discharge or in any way discriminate against ~~an~~any employee because the employee has:*
- 1) filed a complaint or instituted or caused to be instituted any proceeding under the Act;*

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 2) ~~or related to the Acts; has~~ testified or is about to testify in any such proceeding under the Act; or
- 3) exercised on their own behalf or on behalf of another person, any right afforded by the Act, ~~on behalf of himself or herself or others, exercises any right afforded by the Acts. (Sec. 110 of the Act) [820 ILCS 220/2.2]~~

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.125 Discrimination Prohibited Against Employees**

- a) Basic Requirement  
Section 1102.2 of the ~~Safety Inspection and Education~~ Act provides in general that no person shall discharge or in any manner discriminate against any employee because the employee has:
  - 1) Filed any complaint under the Act~~Acts~~ or related to the Act~~Acts~~;
  - 2) Instituted or caused to be instituted any proceeding under the Act~~Acts~~ or related to the Act~~Acts~~;
  - 3) Testified or is about to testify in any proceeding under the Act~~Acts~~ or related to the Act~~Acts~~; or
  - 4) Exercised on the employee's~~his or her~~ own behalf or on behalf of another any right afforded by the Act~~Acts~~.
- b) Any employee who believes that they have~~he or she~~ has been discriminated against in violation of Section 1102.2 may, within 30 calendar days after the violation occurs, lodge a written complaint with the Division alleging the violation.
- c) The Division shall then cause appropriate investigation to be made. If, as a result of the investigation, it is determined that the provisions of Section 1102.2 have been violated, civil action may be instituted in any appropriate court to restrain violations of Section 1102.2 and to obtain appropriate relief, including rehiring or reinstatement of the employee to their~~his or her~~ former position with back pay.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- d) Section [1102.2](#) of the ~~Safety Inspection and Education~~ Act further provides for notification of complainants by the Division of determinations made pursuant to their complaints.
- e) Section [1102.2](#) does not limit the actions to employers against employees. A person may be chargeable with discriminatory action against an employee of another person. It would extend to such entities as organizations representing employees for collective bargaining purposes or any other person in a position to discriminate against an employee.
- f) All public employees are afforded the full protection of Section [1102.2](#). The Act does not define the term "employ"; however, the broad remedial nature of the ~~Act~~[Acts](#) demonstrates a clear intent that the existence of an employment relationship is to be based upon economic realities rather than upon common law doctrines and concepts.
- g) Actions taken by an employer, or others, that adversely affect an employee may be predicated upon non-discriminatory grounds. The proscriptions of Section [1102.2](#) apply when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in activities protected by the ~~Act~~[Acts](#) does not automatically render ~~that employee~~[him or her](#) immune from discharge or discipline for legitimate reasons, or from adverse action dictated by non-prohibited considerations.
- h) At the same time, to establish a violation of Section [1102.2](#), the employee's engagement in a protected activity need not be the sole consideration behind discharge or other adverse action. If a protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place but for engagement in a protected activity, Section [1102.2](#) has been violated. Ultimately, the issue as to whether a discharge was because of a protected activity will have to be determined on the basis of the facts in the particular case.
- i) Complaints Under or Related to the ~~Act~~[Acts](#)
- 1) Discharge or discrimination against an employee because the employee has filed *any complaint under or related to the ~~Act~~[Acts](#) [810 ILCS 220/2.2(a)]* is prohibited by Section [1102.2](#). ([Sec. 110\(a\) of the Act](#)) An example of a complaint made under the ~~Act~~[Acts](#) would be an employee

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

request for inspection pursuant to Section ~~702.1~~ of the ~~Safety Inspection and Education~~ Act. However, this would not be the only type of complaint protected by Section ~~1102.2~~.

- 2) The salutary principles of the ~~Act~~~~Acts~~ would be seriously undermined if employees were discouraged from lodging complaints about occupational safety and health matters with their employers. These complaints to employers, if made in good faith, therefore would be related to the Acts, and an employee would be protected against discharge or discrimination caused by a complaint to the employer.
- j) Proceedings Under or Related to the ~~Act~~~~Acts~~
- 1) Discharge or discrimination against an employee because the employee has *instituted or caused to be instituted any proceeding under the Act*~~or related to the Acts~~ [810 ILCS 220/2.2(a)] is also prohibited by Section ~~1102.2~~. (Sec. 110(a) of the Act) Examples of proceedings that could arise specifically under the ~~Act~~ include~~Acts would be~~ inspection of worksites under Section ~~652~~ of the ~~Safety Inspection and Education~~ Act, employee contest of abatement date under Section ~~952.4~~ of ~~the~~~~that~~ Act, employee initiation of proceeding for promulgation of an occupational safety and health standard under Section ~~254.1~~ of the ~~Health and Safety~~ Act, and employee application for modification or revocation of a variance under Section ~~504.2~~ of the ~~Health and Safety~~ Act.
  - 2) An employee need not ~~himself or herself~~ directly institute the proceedings ~~to be protected by the anti-discrimination provisions of this Section~~. It is sufficient if ~~the employee~~~~he or she~~ sets into motion activities of others that result in proceedings under or related to the ~~Act~~~~Acts~~.
- k) Testimony
- 1) Discharge or discrimination against an employee because the employee has *testified or is about to testify in any proceedings* [810 ILCS ~~220/2.2(a)~~] under or related to the ~~Act~~~~Acts~~ is also prohibited under Section ~~1102.2~~. (Sec. 110(a) of the Act) This protection would not be limited to testimony in proceedings instituted or caused to be instituted by the employee, but would extend to any statements given in the course of judicial, quasi-judicial and administrative proceedings, including

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

inspections, investigations and administrative rulemaking or adjudicative functions.

- 2) If the employee is giving or is about to give testimony in any proceeding under or related to the ActAets, the employee is~~he or she would be~~ protected against discrimination resulting from that testimony.
- 1) Exercise of Any Right Afforded by the ActAets
  - 1) Section 1102.2 also protects employees from discrimination occurring because of the exercise of any right afforded by the ActAets. Certain rights are explicitly provided in the ActAets; for example, there is a right to participate as a party in enforcement proceedings. Certain other rights exist by necessary implication. For example, employees may request information from the ~~Safety Inspection and Education~~ Division; these requests would constitute the exercise of a right afforded by the ActAets. Likewise, employees interviewed by agents of the Department in the course of inspections or investigations could not be subsequently discriminated against because of their cooperation.
  - 2) As a general matter, there is no right afforded by the ActAets that entitles employees to walk off the job because of potential unsafe conditions at the workplace, ~~because hazardous.~~ ~~Hazardous~~ conditions that may be a violation~~violative~~ of the ActAets will ordinarily be corrected by the employer, once brought to ~~their~~~~his or her~~ attention. Under these circumstances, an employer would not ordinarily be in violation of Section 110 by taking action to discipline an employee for refusing to perform normal job activities because of alleged safety or health hazards. Notwithstanding the above, if~~if~~ corrections are not accomplished, or if there is dispute about the existence of a hazard, the employee will normally have the opportunity to request inspection of the workplace. In no circumstance shall an employee be subject to discipline solely because the employee files, or plans to file, a complaint with Illinois OSHA. ~~Under these circumstances, an employer would not ordinarily be in violation of Section 1102.2 by taking action to discipline an employee for refusing to perform normal job activities because of alleged safety or health hazards.~~
  - 3) An employee may be confronted with a choice between performing assigned tasks or risking~~subjecting himself or herself to~~ serious injury or

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

death arising from a hazardous condition in the workplace. If the employee, with no reasonable alternative, refuses in good faith to ~~be exposed~~~~expose himself or herself~~ to the dangerous condition, ~~the employee~~~~he or she~~ would be protected against subsequent discrimination. The condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury and that there is insufficient time, due to the urgency of the situation, to eliminate the danger through resort to regular statutory enforcement channels. In addition, in such circumstances, the employee, when possible, must also have sought from ~~the~~~~his or her~~ employer, and been unable to obtain, a correction of the dangerous condition.

- m) Filing of a Discrimination Complaint
- 1) A complaint of Section ~~1102.2~~ discrimination may be filed by the employee or by an authorized representative of the employee.
    - A) Nature of Filing. The complaint must be received in a verbal or written form by the employee or authorized representative of the employee.
    - B) Place of Filing. A complaint should be filed ~~with in the local Illinois OSHA Department office responsible for enforcement activities in the geographical area where the employee resides or is employed.~~
    - C) Time for Filing. Section ~~1102.2~~ provides that an employee who believes that ~~discrimination has occurred~~~~he or she has been discriminated against~~ may, within 30 *calendar* days after the violation occurs, ~~{810 ILCS 220/2.2(b)}~~ file a complaint with ~~the Illinois OSHA Division.~~ (Sec. 110(b) of the Act)
    - D) ~~Circumstances~~~~There may be circumstances~~ that would justify tolling of the ~~30-calendar-day~~~~30-day~~ period on recognized equitable principles or because of strongly extenuating circumstances ~~include, e.g.,~~ but are not limited to, e.g., when the employer has concealed the nature of, or misled the employee

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

regarding the grounds for, discharge or other adverse action; or when the discrimination is in the nature of a continuing violation. The pendency of grievance-arbitration proceedings or filing with another agency, among others, are circumstances that do not justify tolling the ~~30-calendar-day~~30-day period. In the absence of circumstances justifying tolling of the ~~30-calendar-day~~30-day period, untimely complaints will not be processed.

- n) Notification of the Division's Determination. The complainant ~~shall~~will be notified of the Division's determination in a timely manner.
- o) Withdrawal of Complaint. Attempts by an employee to withdraw a previously filed complaint will not necessarily result in termination of the investigation. The Division's jurisdiction cannot be foreclosed as a matter of law by unilateral action of the employee. However, a voluntary and uncoerced request from a complainant to withdraw ~~the~~his or her complaint will be given careful consideration and substantial weight as a matter of policy and sound enforcement procedure.
- p) Arbitration or Other Agency Proceedings. The Division's jurisdiction to entertain Section ~~1102.2~~ complaints, to investigate, and to determine whether discrimination has occurred is independent of the jurisdiction of other agencies or bodies. Due deference may be paid to the jurisdiction of other forums established to resolve disputes that may also be related to Section ~~1102.2~~ complaints. Postponement of the Division's determination, and deferral to the results of the proceedings of another jurisdiction, may be warranted.
  - 1) Postponement of Determination. Postponement of determination would be justified when the rights asserted in other proceedings are substantially the same as rights under Section ~~1102.2~~, and those proceedings are not likely to violate the rights guaranteed under Section ~~1102.2~~. The factual issues in such proceedings must be substantially the same as those raised by the Section ~~1102.2~~ complaint, and the forum hearing the matter must have the power to determine the ultimate issue of discrimination.
  - 2) Deferral to Outcome of Other Proceedings. A determination to defer to the outcome of other proceedings initiated by a complainant must necessarily be made on a case-by-case basis, after careful scrutiny of all available information. Before deferring to the results of other

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

proceedings, it must be clear that those proceedings dealt adequately with all factual issues, that the proceedings were fair, regular and free of procedural infirmities, and that the outcome of the proceedings ~~was~~ were not repugnant to the purpose and policy of the ~~Act~~ Acts. In this regard, if the other actions initiated by a complainant are dismissed without adjudicatory hearing, that dismissal will not ordinarily be regarded as determinative of the Section ~~1102.2~~ complaint.

- q) Employee Refusal to Comply with Safety Rules. Employees who refuse to comply with occupational safety and health standards or valid safety rules implemented by the employer in furtherance of the ~~Act~~ Acts are not exercising any rights afforded by the ~~Act~~ Acts. Disciplinary measures taken by an employer solely in response to an ~~employee's~~ employee refusal to comply with appropriate safety rules and regulations will not ordinarily be regarded as discriminatory action prohibited by Section ~~1102.2~~. This situation should be distinguished from refusals to work as discussed in subsection ~~(k)~~.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.130 Inspection not Warranted; Informal Review**

- a) If the ~~Regional~~ Enforcement ~~Manager~~ Supervisor determines that an inspection is not warranted because there are no reasonable grounds to believe that a violation or danger exists with respect to a complaint under Section 350.120, ~~the REM~~ ~~he or she~~ shall notify the complaining party in writing of that determination. The complaining party may obtain review of the determination by submitting a written statement of position to the Division Manager and, at the same time, providing the employer with a copy of the statement by certified mail. The employer may submit an opposing written statement of position with the Division Manager and, at the same time, provide the complaining party with a copy of such statement by certified mail. Upon the request of the complaining party or the employer, the Division Manager ~~has discretion to, at his or her discretion, may~~ hold an informal conference in which the complaining party and the employer may orally present their views. After considering all written and oral views presented, the Division Manager shall affirm, modify or reverse the determination of the ~~REM~~ Enforcement Supervisor and furnish the complaining party and the employer written notification of this decision and the reasons for the decision. The decision of the Division Manager shall be final and not subject to further review.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- b) If the ~~REM Enforcement Supervisor~~ determines that an inspection is not warranted because the requirements of Section 350.120(a) have not been met, ~~the REM~~ he or she shall notify the complaining party in writing of that determination. The determination shall be without prejudice to the filing of a new complaint meeting the requirements of Section 350.120(a).

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.140 Imminent Danger**

Whenever, and as soon as, an Enforcement Inspector ~~Officer~~ concludes on the basis of an inspection that conditions or practices exist in any place of employment that could reasonably be expected to immediately cause death or serious physical harm or before the imminence of the danger can be eliminated through the enforcement procedures otherwise provided by the ~~Act~~ Acts, ~~the Inspector~~ he or she shall inform the affected employees and employers of the danger and inform them that ~~the Inspector~~ he or she is recommending a civil action to restrain the conditions or practices and for other appropriate relief in accordance with the provisions of Section ~~1152(b)(7)~~ of the ~~Safety Inspection and Education~~ Act. Appropriate citations and notices of proposed penalties may be issued with respect to an imminent danger even though, after being informed of the danger by the Inspector, the employer immediately eliminates the imminence of the danger and initiates steps to abate the danger.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.150 Citations; Policy Regarding Employee Rescue Activities**

- a) The Regional Enforcement ~~Manager~~ Supervisor, on behalf of the Division Manager, shall review the inspection report of the Enforcement Inspector ~~Officer~~. If, on the basis of the report, the ~~REM Enforcement Supervisor~~ believes that the employer has violated a requirement of Section ~~203~~ of the ~~Health and Safety~~ Act, of any standard, rule or order promulgated pursuant to ~~Section 20~~ section 3 of the ~~Health and Safety~~ Act, or of this Chapter, ~~the REM~~ he or she shall, if appropriate, consult with the Chief Legal Counsel and ~~shall~~ issue to the employer a citation on behalf of the Division Manager. An appropriate citation shall be issued even if though, after being informed of an alleged violation by the Inspector, the employer immediately abates, or initiates steps to abate, the alleged violation. Any citation shall be issued with reasonable promptness after completion or termination of the inspection. No citation may be issued under this Section after the expiration of 6 months following the occurrence of any alleged violation.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- b) Any citation shall describe with particularity the nature of the alleged violation, including a reference to the provisions of the Act, standard, rule, regulation or order alleged to have been violated. Any citation shall also fix a reasonable time or times for the abatement of the alleged violation.
- c) If a citation is issued for a violation alleged in a request for inspection under Section 350.120(a) or a notification of violation under Section 350.120(c), a copy of the citation shall also be sent to the employee or representative of employees who made the request or notification.
- d) After an inspection, if the ~~REM Enforcement Supervisor~~ determines that a citation is not warranted with respect to a danger or violation alleged to exist in a request for inspection under Section 350.120(a) or a notification of violation under Section 350.120(c), the informal review procedures prescribed in Section 350.130 shall be applicable. After considering all views presented, the Division Manager shall affirm the determination of the ~~REM Enforcement Supervisor~~, order a re-inspection, or issue a citation if the Division Manager ~~he or she~~ believes that the inspection disclosed a violation. The Division Manager shall furnish the complaining party and the employer with written notification of ~~this~~ his or her determination and the reasons for ~~the~~ that determination. The determination of the Division Manager shall be final and not subject to review.
- e) Every citation shall state that the issuance of a citation does not constitute a finding that a violation of the ~~Act~~ Acts has occurred unless there is a failure to contest as provided for in the ~~Act~~ Acts or, if contested, unless the citation is affirmed by the Administrative Law Judge.
- f) No citation may be issued to an employer because of a rescue activity undertaken by an employee of that employer with respect to an individual in imminent danger unless:
- 1) the employee is designated or assigned by the employer to have responsibility to perform or assist in rescue operations, and the employer fails to provide protection of the safety and health of the employee, including failing to provide appropriate training and rescue equipment; ~~or~~
  - 2) the employee is directed by the employer to perform rescue activities in the course of carrying out the employee's job duties, and the employer

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

fails to provide protection of the safety and health of the employee, including failing to provide appropriate training and rescue equipment; or

- 3) the employee:
  - A) is employed in a workplace that requires the employee to carry out duties that are directly related to a workplace operation where the likelihood of life-threatening accidents is foreseeable, such as a workplace operation where employees are located in confined spaces or trenches, handle hazardous waste, respond to emergency situations, perform excavations, or perform construction over water; ~~and~~
  - B) the employee has not been designated or assigned to perform or assist in rescue operations and voluntarily elects to rescue such an individual; and
  - C) the employer has failed to instruct employees not designated or assigned to perform or assist in rescue operations of the arrangements for rescue and not to attempt rescue, and to instruct employees of the hazards of attempting rescue without adequate training or equipment.
- g) For purposes of this Section, the term imminent danger means the existence of any condition or practice that could reasonably be expected to cause death or serious physical harm before the condition or practice can be abated.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.170 Proposed Penalties**

- a) After, or concurrent with, the issuance of a citation, and within a reasonable time after the termination of the inspection, the Division Manager shall notify the employer by certified mail or by personal service by the Enforcement Inspector/~~Officer~~ of the proposed penalty under Section ~~852.3(b)~~ of the ~~Safety Inspection and Education~~ Act or that no penalty is being proposed. Any notice of proposed penalty shall state that the proposed penalty is the final order of the Director of Labor and not subject to review by any court or agency unless, within 15 working days from the date of receipt of the notice, the employer notifies the

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

Division Manager in writing ~~of the employer's intention that he or she intends~~ to contest the citation or the notification of proposed penalty before an Administrative Law Judge.

- b) The Division Manager shall determine the amount of any proposed penalty, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations, in accordance with Section ~~852.3(b)~~ of the ~~Safety Inspection and Education~~ Act.
- c) Appropriate penalties may be proposed with respect to an alleged violation even though, after being informed of the alleged violation by the Inspector, the employer immediately abates, or initiates steps to abate, the alleged violation.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.180 Posting of Citations**

- a) Upon receipt of any citation under the ~~Act~~~~Acts~~, the employer shall immediately post the citation, or a copy of the citation, unedited, at or near each place an alleged violation referred to in the citation occurred, except as provided in this subsection. ~~When~~~~Where~~, because of the nature of the employer's operations, it is not practicable to post the citation at or near each place of alleged violation, the citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, when employers are engaged in activities that are physically dispersed (see Section 350.30(b)), the citation may be posted at the location to which employees report each day. When employees do not primarily work at or report to a single location, the citation may be posted at the location from which the employees operate to carry out their activities. The employer shall take steps to ensure that the citation is not altered, defaced or covered by other material.
- b) Each citation, or a copy, shall remain posted until the violation has been abated, or for 3 working days, whichever is later. The filing by the employer of a notice of intention to contest under Section 350.190 shall not affect the posting responsibility under this Section unless and until the Administrative Law Judge issues a final order vacating the citation.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- c) An employer to whom a citation has been issued may post a notice in the same location where the citation is posted indicating that the citation is being contested before an ~~ALJ Administrative Law Judge~~, the notice may explain the reasons for the contest. The employer may also indicate that specified steps have been taken to abate the violation.
- d) Any employer failing to comply with the provisions of subsections (a) and (b) shall be subject to citation and penalty in accordance with provisions of Sections 80 and 85~~Section 2.3(b)~~ of the ~~Safety Inspection and Education~~ Act.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.190 Employer and Employee Contests before the Administrative Law Judges of the Hearings Division**

- a) Any employer to whom a citation or notice of proposed penalty has been issued may, under Section ~~1002.4~~ of the ~~Safety Inspection and Education~~ Act, notify the Division Manager in writing that ~~the employer~~~~he or she~~ intends to contest the citation or proposed penalty before an Administrative Law Judge. The notice of intention to contest shall be postmarked within 15 working days after receipt by the employer of the notice of proposed penalty. Every notice of intention to contest shall specify whether it is directed to the citation or to the proposed penalty, or both. The Division Manager shall immediately transmit the notice to the Chief ~~ALJ Administrative Law Judge~~ in accordance with IDOL's Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120).
- b) Any employee or representative of employees of an employer to whom a citation has been issued may, under Section ~~952.4~~ of the ~~Safety Inspection and Education~~ Act, file a written notice with the Division Manager alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable. The notice shall be postmarked within 15 working days after the receipt by the employer of the notice of proposed penalty or notice that no penalty is being proposed. The Division Manager shall immediately transmit the notice to the Chief ~~ALJ Administrative Law Judge~~ in accordance with 56 Ill. Adm. Code 120.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.200 Failure to Correct a Violation for which a Citation has been Issued**

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- a) If an inspection discloses that an employer has failed to correct an alleged violation for which a citation has been issued within the period permitted for its correction, the Division Manager shall, if appropriate, consult with the Chief Legal Counsel, and ~~he or she shall~~ notify the employer by certified mail or by personal service by the Enforcement Inspector/~~Officer~~ of that failure and of the penalty proposed to be assessed under Section ~~852.3~~ of the ~~Safety Inspection and Education~~-Act. The period for the correction of a violation for which a citation has been issued shall not begin to run until the entry of a final order of the Administrative Law Judge in the case of any review proceedings initiated by the employer in good faith and not solely for delay or avoidance of penalties.
- b) Any employer receiving a notification of failure to correct a violation and of proposed additional penalty may, under Section ~~952.3~~ of the ~~Safety Inspection and Education~~-Act, notify the Division Manager in writing that ~~the employer~~~~he or she~~ intends to contest the notification or proposed additional penalty before an ~~ALJ~~~~Administrative Law Judge~~. The notice of intention to contest shall be postmarked within 15 working days after the receipt by the employer of the notification of failure to correct a violation and of the proposed additional penalty. The Division Manager shall immediately transmit the notice to the Chief ~~ALJ~~~~Administrative Law Judge~~ in accordance with 56 Ill. Adm. Code 120.
- c) Each notification of failure to correct a violation and of proposed additional penalty shall state that it is the final order of the ~~ALJ~~~~Administrative Law Judge~~ and not subject to review by any court or agency unless, within 15 working days from the date of receipt of the notification, the employer notifies the Division Manager in writing that ~~the employer~~~~he or she~~ intends to contest the notification or the proposed additional penalty before an ~~ALJ~~~~Administrative Law Judge~~.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.210 Abatement Verification**

~~Illinois OSHA~~~~IDOL~~ inspections are intended to result in the abatement of violations of the ~~Act~~~~Aets~~. This Section sets forth the procedures the Division will use to ensure abatement. These procedures are tailored to the nature of the violation and the employer's abatement actions.

- a) **Scope and Application**  
This Section applies to employers who receive a citation for a violation of the ~~Act~~~~Aets~~.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- b) Definitions
- 1) Abatement means action by an employer to comply with a cited standard or regulation or to eliminate a recognized hazard identified by the Division during an inspection.
  - 2) Abatement date means:
    - A) For an uncontested citation item, the later of:
      - i) The date in the citation for abatement of the violation;
      - ii) The date approved by the Division or established in litigation as a result of a petition for modification of the abatement date (PMA); or
      - iii) The date established in a citation by an informal settlement agreement.
    - B) For a contested citation item for which the Administrative Law Judge has issued a final order affirming the violation, the later of:
      - i) The date identified in the final order for abatement; or
      - ii) The date computed by adding the period allowed in the citation for abatement to the final order date;
      - iii) The date established by a formal settlement agreement.
  - 3) Affected employees means those employees who are exposed to the hazards identified as violations in a citation.
  - 4) Final order date means:
    - A) For an uncontested citation item, the 15<sup>th</sup> working day after the employer's receipt of the citation;
    - B) For a contested citation item:

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- i) The 30<sup>th</sup> ~~calendar~~ day after the date on which a decision or order of an ~~ALJ Administrative Law Judge~~ has been docketed; or
  - ii) When review has been directed, the 30<sup>th</sup> ~~calendar~~ ~~thirtieth~~ day after the date on which the ~~ALJ Administrative Law Judge~~ issues ~~this or her decision~~ or order disposing of all or pertinent parts of a case; or
  - iii) The date on which an appeals court issues a decision affirming the violation in a case in which a final order of an ~~ALJ Administrative Law Judge~~ has been stayed.
- 5) Movable equipment means a hand-held or non-hand-held machine or device, powered or unpowered, that is used to do work and is moved within or between worksites.
- c) Abatement Certification
  - 1) Within 10 calendar days after the abatement date, the employer must certify to the Division Manager that each cited violation has been abated, except as provided in subsection (c)(2).
  - 2) The employer is not required to certify abatement if the Enforcement Inspector ~~Officer~~, during the on-site portion of the inspection:
    - A) Observes, within 24 hours after a violation is identified, that abatement has occurred; and
    - B) Notes in the citation that abatement has occurred.
  - 3) The employer's certification that abatement is complete must include, for each cited violation, in addition to the information required by subsection (h), the date and method of abatement and a statement that affected employees and their representatives have been informed of the abatement.
- d) Abatement Documentation

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 1) The employer must submit to the Division Manager, along with the information on abatement certification required by subsection (c)(3), documents demonstrating that abatement is complete for each willful or repeat violation and for any serious violation for which the Division Manager indicates in the citation that abatement documentation is required.
  - 2) Documents demonstrating that abatement is complete may include, but are not limited to, evidence of the purchase or repair of equipment, photographic or video evidence of abatement, or other written records.
- e) Abatement Plans
- 1) The Division Manager may require an employer to submit an abatement plan for each cited violation when the time permitted for abatement is more than 90 calendar days. If an abatement plan is required, the citation must so indicate.
  - 2) The employer must submit an abatement plan for each cited violation within 25 calendar days from the final order date when the citation indicates that a plan is required. The abatement plan must identify the violation and the steps to be taken to achieve abatement, including a schedule for completing abatement and, when necessary, how employees will be protected from exposure to the violative condition in the interim until abatement is complete. ~~(See Appendix B—Sample Abatement Plan.)~~
- f) Progress Reports
- 1) An employer who is required to submit an abatement plan may also be required to submit periodic progress reports for each cited violation. The citation must indicate:
    - A) That periodic progress reports are required and the citation items for which they are required;
    - B) The date on which an initial progress report must be submitted, which may be no sooner than 30 calendar days after submission of an abatement plan;

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- C) Whether additional progress reports are required; and
  - D) The dates on which additional progress reports must be submitted.
- 2) For each violation, the progress report must identify, in a single sentence if possible, the action taken to achieve abatement and the date the action was taken.
- g) Employee Notification
- 1) The employer must inform affected employees and their representatives about abatement activities covered by this Section by posting a copy of each document submitted to the Division Manager or a summary of the document near the place where the violation occurred.
  - 2) When the posting does not effectively inform employees and their representatives about abatement activities (e.g. for example, for employers who have mobile work operations), the employer must:
    - A) Post each document or a summary of the document in a location where it will be readily observable by affected employees and their representatives; or
    - B) Take other steps to communicate fully to affected employees and their representatives about abatement activities.
  - 3) The employer must inform employees and their representatives of their right to examine and copy all abatement documents submitted to the Division Manager.
    - A) An employee or an employee representative must submit a request to examine and copy abatement documents within 3 working days after receiving notice that the documents have been submitted.
    - B) The employer must comply with an employee's or employee representative's request to examine and copy abatement documents within 5 working days after receiving the request.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 4) The employer must ensure that notice to employees and employee representatives is provided at the same time or before the information is provided to the Division Manager and that abatement documents are:
  - A) Not altered, defaced or covered by other material; and
  - B) Remain posted for 3 working days after submission to the Division Manager.
  
- h) Transmitting Abatement Documents
  - 1) The employer must include, in each submission required by this Section, the following information:
    - A) The employer's name and address;
    - B) The inspection number to which the submission relates;
    - C) The citation and item numbers to which the submission relates;
    - D) A statement that the information submitted is accurate; and
    - E) The signature of the employer or the employer's authorized representative.
  - 2) The date of postmark is the date of submission for mailed documents. For documents transmitted by other means, the date the Division Manager receives the document is the date of submission.
  
- i) Movable Equipment
  - 1) For serious, repeat and willful violations involving movable equipment, the employer must attach a warning tag or a copy of the citation to the operating controls or to the cited component of equipment that is moved within the worksite or between worksites. Attaching a copy of the citation to the equipment is deemed to meet the tagging requirement of this Section, as well as the posting requirements of Section 350.180.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 2) The employer must use a warning tag that properly warns employees about the nature of the violation involving the equipment and identifies the location of the citation issued.
- 3) If the violation has not already been abated, a warning tag or copy of the citation must be attached to the equipment:
  - A) For hand-held equipment, immediately after the employer receives the citation; or
  - B) For non-hand-held equipment, prior to moving the equipment within or between worksites.
- 4) For the construction industry, a tag that is designed and used in accordance with 29 CFR 1926.20(b)(3) and 1926.200(h) is deemed to meet the requirements of this Section when the information required by subsection (i)(2) is included on the tag.
- 5) The employer must assure that the tag or copy of the citation attached to movable equipment is not altered, defaced or covered by other material.
- 6) The employer must assure that the tag or copy of the citation attached to movable equipment remains attached until:
  - A) The violation has been abated and all abatement verification documents required by this Section have been submitted to the Division Manager;
  - B) The cited equipment has been permanently removed from service or is no longer within the employer's control; or
  - C) The ~~ALJ Administrative Law Judge~~ issues a final order vacating the citation.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.220 Informal Conferences**

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

At the request of an affected employer, employee or representative of employees, the Division Manager or designee may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, notice of proposed penalty, or notice of intention to contest. The settlement of any issue at the conference shall be subject to 56 Ill. Adm. Code 120. If the conference is requested by the employer, an affected employee or ~~their~~his or her representative shall be afforded an opportunity to participate, at the discretion of the Division Manager or designee. If the conference is requested by an employee or representative of employees, the employer shall be afforded an opportunity to participate, at the discretion of the Division Manager or designee. Any party may be represented by counsel at the conference. No conference or request for a conference shall operate as a stay of any 15-working-day period for filing a notice of intention to contest as prescribed in Section 350.190.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

## SUBPART B: INJURY/ILLNESS RECORDKEEPING AND REPORTING REQUIREMENTS

**Section 350.250 Purpose, Scope and Definitions**

- a) Purpose  
The purpose of this Subpart B is to require employers to record and report work-related fatalities, injuries and illnesses. Recording or reporting a work-related injury, illness or fatality does not mean that the employer or employee was at fault, that a standard or rule has been violated, or that the employee is eligible for workers' compensation or other benefits.
- b) Scope. All public employers are required to maintain records of work-related injuries and illnesses under this Subpart B.
- c) Definitions  
For purposes of this Subpart B, the following terms have the meanings ascribed in this subsection:  
  
Establishment – a single physical location where business is conducted or where services or industrial operations are performed. For activities in which employees do not work at a single physical location, such as construction, transportation, and electric, gas and sanitary services, and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc., that either supervise those activities or are the base from which personnel carry out those activities.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

One location contains two or more establishments if:

Each group represents a distinctly separate function (i.e., police, fire); or

Each establishment is engaged in different economic activity;

No one [NAICS \(North American Industry Classification System\) Code](#)~~SIC (Standard Industrial Classification)~~ applies to the joint activities; or

Separate reports are routinely prepared for each group on the number of employees and/or wages.

An establishment can include more than one physical location if:

The employer operates the locations as a single operation under common management;

The locations are all located in close proximity to each other; and

The employer keeps one set of records for the locations, such as records on the number of employees, their wages and salaries and other kinds of business information. For example, one establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

When an employee telecommutes from home, the employee's home is not a business establishment and a separate OSHA [Form 300](#) Log (Log of Work-Related Injuries and Illnesses) is not required. Employees who telecommute must be linked to one establishment.

Forms – the required forms for documenting work-related deaths, injuries and illnesses are the OSHA [Form 300](#) (Log of [Work-Related Injuries and Illnesses](#)~~Injuries/Illnesses~~), the OSHA 300A (Summary of Injuries/Illnesses) and the OSHA 301 (Injury/Illness Incident Form). The [Illinois Workers' Compensation Commission IWCC](#)~~IWCC~~ Form 45 ([Employer's First Report of](#)

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

Injury) may be substituted for the OSHA Form 301 as long as the information is equivalent.

Injury or Illness – an abnormal condition or disorder. Injuries include, but are but not limited to, a cut, fracture, sprain or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder or poisoning. Injuries and illnesses are recordable only if they are new, work-related cases that meet one or more of this Subpart's recording criteria.

Physician or Other Licensed Health Care Professional – an individual whose legally permitted scope of practice (i.e., license, registration or certification) allows the individual~~him or her~~ to independently perform, or be delegated the responsibility to perform, the activities described by this Subpart.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.260 Recording Criteria**

- a) **Basic Requirement**

Every public employer that is required by this Part to keep records of fatalities, injuries and illnesses must record each fatality, injury and illness that:

  - 1) is work-related;
  - 2) is a new case; and
  - 3) meets one or more of the general recording criteria of Section 350.290 or ~~or~~ the recording criteria applying to specific cases in Sections 350.300 through 350.330.
- b) **Implementation**
  - 1) **Criteria for Recording Work-Related Injuries and Illnesses**

The criteria for recording work-related injuries and illnesses are found in various Sections of this Part as follows:

    - A) Determination of work-relatedness: Section 350.270.
    - B) Determination of a new case: Section 350.280.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- C) General recording criteria: Section 350.290.
  - D) Additional criteria (needlestick and sharps injury cases, tuberculosis cases, hearing loss cases, medical removal cases, and musculoskeletal disorder cases): Sections 350.300 through 350.330.
- 2) Appendix A includes a decision tree to assist reporters in determining what particular injuries or illnesses are recordable.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.270 Determination of Work-Relatedness**

- a) **Basic Requirement**

An injury or illness is work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in subsection (b)(2) specifically applies.
- b) **Implementation**
  - 1) **Work Environment**

The work environment is defined as the establishment and other locations where one or more employees are working or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of ~~his or her~~ work.
  - 2) **Exceptions**

An injury or illness occurring in the work environment that falls under one or more of the following exceptions is not work-related and, therefore, is not recordable:

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- A) At the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee.
- B) The injury or illness involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment.
- C) The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball or baseball.
- D) The injury or illness is solely the result of an employee eating, drinking or preparing food or drink for personal consumption (whether bought on the employer's premises or brought in).  
EXAMPLE: if the employee is injured by choking on a sandwich while in the employer's establishment, the case would not be considered work-related. However, if the employee is made ill by ingesting food contaminated by workplace contaminants (such as lead), or gets food poisoning from food supplied by the employer, the case would be considered work-related.
- E) The injury or illness is solely the result of an employee doing personal tasks (unrelated to the employment) at the establishment outside of the employer's assigned working hours.
- F) The injury or illness is solely the result of personal grooming, self-medication~~self-medication~~ for a non-work-related condition, or intentionally self-inflicted.
- G) The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.
- H) The illness is the common cold or flu. Contagious diseases such as tuberculosis, brucellosis, hepatitis A, illness resulting from variants of SARS-CoV (including COVID-19), or plague are considered work-related if the employee is infected at work.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- I) The illness is a mental illness. Mental illness will not be considered work-related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience (psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a mental illness that is work-related.
- 3) **Determining whether the Precipitating Event Occurred in the Work Environment**  
If it is not obvious whether the precipitating event or exposure occurred in the work environment, the employer must evaluate the employee's work duties and environment to decide whether one or more events or exposures in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing condition.
- 4) **Aggravating Pre-Existing Conditions**  
A pre-existing injury or illness has been significantly aggravated, for purposes of injury and illness recordkeeping, when an event or exposure in the work environment results in any of the following:
  - A) Death, provided that the pre-existing injury or illness would likely not have resulted in death but for the occupational event or exposure.
  - B) Loss of consciousness, provided that the pre-existing injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.
  - C) One or more days away from work, or days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.
  - D) Medical treatment in a case in which no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure.
- 5) **Pre-existing Conditions**

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

An injury or illness is a pre-existing condition if it resulted solely from a non-work-related event or exposure that occurred outside the work environment.

- 6) **Travel Status**  
Injuries and illnesses that occur while an employee is on travel status are work-related if, at the time of the injury or illness, the employee was engaged in work activities in the interest of the employer. Examples of these activities include travel to and from customer contacts, conducting job tasks, and entertaining or being entertained to transact, discuss or promote business (work-related entertainment includes only entertainment activities being engaged in at the direction of the employer). Injuries or illnesses that occur when the employee is on travel status do not have to be recorded if they meet one of the following exceptions:
- A) When a traveling employee checks into a hotel or motel, or other temporary residence, ~~the employee~~~~he or she~~ establishes a home away from home. The employee's activities after ~~the employee~~~~he or she~~ checks into the temporary residence must be evaluated by the employer for work-relatedness in the same manner as the employer evaluates the activities of a non-traveling employee. When the employee checks into the temporary residence, ~~the employee~~~~he or she~~ is considered to have left the work environment. When the employee begins work each day, ~~the employee~~~~he or she~~ re-enters the work environment. If the employee has established a home away from home and is reporting to a fixed worksite each day, injuries or illnesses are not work-related if they occur while the employee is commuting between the temporary residence and the job location.
- B) Injuries or illnesses are not considered work-related if they occur while the employee is on a personal detour from a reasonably direct route of travel (e.g., has taken a side trip for personal reasons).
- 7) **Work at Home**  
Injuries and illnesses that occur while an employee is working at home, including work in a home office, will be considered work-related if the injury or illness occurs while the employee is performing work for pay or

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

compensation in the home, and the injury or illness is directly related to the performance of work rather than to the general home environment or setting. EXAMPLE: If an employee drops a box of work documents and injures ~~their~~ his or her foot, the case is considered work-related. ~~If an employee's fingernail is punctured by a needle from a sewing machine used to perform garment work at home, becomes infected and requires medical treatment, the injury is considered work-related.~~ If an employee is injured because ~~the employee~~ he or she trips on the family dog while rushing to answer a work phone call, the case is not considered work-related. If an employee working at home is electrocuted because of faulty home wiring, the injury is not considered work-related.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.310 Recording Criteria for Cases Involving Medical Removal under IDOL-Adopted OSHA Standards**

- a) Basic requirement  
If an employee is medically removed under the medical surveillance requirements of an OSHA standard, record the case on the OSHA Form 300-Log.
- b) Implementation
  - 1) Enter each medical removal case on the OSHA Form 300-Log as either a case involving days away from work or a case involving restricted work activity, depending on how the employer decides to comply with the medical removal requirement. If the medical removal is the result of a chemical exposure, enter the case on the OSHA Form 300-Log by checking the poisoning column.
  - 2) Some OSHA standards, such as the standards covering bloodborne pathogens and noise, do not have medical removal provisions. Many OSHA standards that cover specific chemical substances have medical removal provisions. These standards include, but are not limited to, lead, cadmium~~cadium~~, methylene chloride, formaldehyde~~formaldahyde~~ and benzene.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 3) When the employer voluntarily removes the employee from exposure before the medical removal criteria in an OSHA standard are met, the case does not need to be recorded on the OSHA [Form 300-Log](#).

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.340 Forms**

- a) Basic Requirement  
Use the OSHA [Form 300](#) (Log of Work-Related Injuries and Illnesses), ~~300A~~~~300-A~~ (Summary of Work-Related Injuries and Illnesses) and 301 (Injury and Illness Incident Report) ~~forms~~, or equivalent forms for recorded injuries or illnesses.
- b) Implementation
  - 1) Enter information about the employer's business at the top of the OSHA [Form 300-Log](#), enter a one or two line description for each recordable injury or illness, and summarize this information on the OSHA [Form 300A~~300-A~~ at the end of the year.](#)
  - 2) Complete an OSHA [Form 301](#) ([Injury and Illness Incident Report](#)) ~~form~~, or an equivalent form (i.e., [IWCC Form 45](#) ~~for Illinois Workers Compensation Commission~~); for each recordable injury or illness entered on the OSHA [Form 300-Log](#).
  - 3) Enter each recordable injury or illness on the OSHA [Form 300-Log](#) and [OSHA Form 301](#) ([Injury and Illness Incident Report](#)) within 7 calendar days after receiving information that a recordable injury or illness has occurred.
  - 4) An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Many employers use an insurance form instead of the OSHA [Form 301](#) ([Injury and Illness Incident Report](#)) or supplement an insurance form by adding any additional information required.
  - 5) Records may be kept on a computer if the computer can produce equivalent forms when they are needed, as described under Sections 350.390 and 350.420.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 6) If there are privacy concerns, do not enter the employee's name on the OSHA [Form 300-Log](#). Instead, enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the OSHA [Form 300-Log](#) under Section 350.390(b)(2). Keep a separate, confidential list of the case numbers and employee names for ~~your~~ privacy concern cases so the cases can be updated and provide the information to the government if asked to do so.
- 7) Consider only the following injuries or illnesses to be privacy concern cases:
- A) An injury or illness to an intimate body part or the reproductive system;
  - B) An injury or illness resulting from a sexual assault;
  - C) Mental illnesses;
  - D) HIV infection, hepatitis, or tuberculosis;
  - E) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material; and
  - F) Other illnesses, if the employee voluntarily requests that [the employee's](#)~~his or her~~ name not be entered on the log.
- 8) If the employer has a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, [the employer](#)~~he or she~~ may use discretion in describing the injury or illness on both the OSHA 300 and 301 forms. Enter enough information to identify the cause of the incident and the general severity of the injury or illness, but do not include details of an intimate or private nature. EXAMPLE: A sexual assault case could be described as "injury from assault", or an injury to a reproductive organ could be described as "lower abdominal injury".

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 9) If the employer decides to voluntarily disclose the OSHA forms to persons other than government representatives, employees, former employees or authorized representatives, remove or hide the employees' names and other personally identifying information, except in the following instances. Disclose the forms with personally identifying information only to:
- A) an auditor or consultant hired by the employer to evaluate the safety and health program;
  - B) the extent necessary for processing a claim for workers' compensation or other insurance benefits; or
  - C) a public health authority or law enforcement agency for uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information (45 CFR 164.512).

c) Log of Injuries and Illnesses – OSHA Form 300

- 1) Each employer shall maintain in each workplace an OSHA Form 300 of all recordable occupational injuries and illnesses for that workplace. The name of the establishment, the city and state where the establishment is located, and the year must be designated at the top of the log. Within 7 calendar days after receiving information about a case, the employer shall:
- A) Decide if the case is recordable under the recordkeeping provisions of Section 350.220.
  - B) Determine whether the incident is a new case or a recurrence of an existing one.
  - C) Establish whether the case was work-related.
  - E) Decide which form to fill out as the injury/illness incident report form required under Section 350.340(a), OSHA Form 301 (Injury and Illness Incident Report), IWCC Form 45, or a suitable substitute that contains the same information as either of those two

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

forms.

- 2) The OSHA Form 300 shall contain the following information for each recordable injury and illness:
- A) A unique case number assigned by the employer to this specific illness or injury to facilitate comparisons with the supplementary record of the illness or injury;
  - B) The name of the affected employee, unless protected as a privacy case due to the nature of the injury or illness;
  - C) The job title of the employee;
  - D) The date of the injury or onset of illness;
  - E) Location where the event occurred;
  - F) A description of the injury or illness, parts of the body affected, and object or substance that directly injured or made the person ill (e.g., second degree burns on right forearm from acetylene torch);
  - G) The most serious result from each case:
    - i) Death;
    - ii) Days away from work;
    - iii) Remained at work; job transfer or restriction (see federal form);
    - iv) Remained at work; other recordable cases (see federal form);
  - H) The designation of injury or the type of illness (e.g., skin disorder, respiratory condition, poisoning, hearing loss, all other illnesses);
  - I) The number of days the injured or ill worker was either on job transfer or restriction or away from work.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 3) The OSHA Form 300 and its supplementary information must be retained by the employer for five years.
- d) Injury and Illness Incident Report – OSHA Form 301
  - 1) In addition to the OSHA Form 300 of injuries and illnesses, each employer shall maintain in each workplace a supplementary record of each recordable occupational injury and illness for that workplace. The employer shall complete the incident report and make it available as early as practicable, but no later than 7 calendar days after receiving information that a recordable injury or illness has occurred. The OSHA Form 301, IWCC Form 45, or a suitable substitute that contains the same information as either of those two forms may be used as the supplementary record. Records shall be available to any agency requesting them pursuant to Section 60 of the Act.
  - 2) The OSHA Form 301 (Injury and Illness Incident Report) shall contain the following information for each recordable injury and illness:
    - A) Information about the employee:
      - i) Full name and address.
      - ii) Date of birth and date of hire.
      - iii) Gender.
    - B) Information about the physician or other health care professional:
      - i) Name of physician or health care professional.
      - ii) Location where treatment was administered.
      - iii) If an emergency room was visited or if the employee was hospitalized overnight as an in-patient.
    - C) Information about the case:

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- i) Case number corresponding to the Log of Injuries/Illnesses.
  - ii) Date of Injury or Illness.
  - iii) Time employee began work and time of event, if known.
  - iv) What the employee was doing just before the incident occurred.
  - v) What happened.
  - vi) What was the injury or the illness.
  - vii) What object or substance directly harmed the employee.
  - viii) If the employee died, date of death.
- 3) The name and title of the individual who completed the form, along with the telephone number and the date of completion.
  - 4) This form must be kept on file for 5 years following the year to which it pertains. The Incident Report Form has to be completed within 7 calendar days after notice of the injury or illness. These forms shall be maintained for at least 5 years.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.370 Annual Summary**

- a) Basic ~~Requirements~~**Requirement**  
At the end of each calendar year:
  - 1) Review the OSHA ~~Form 300-Log~~ to verify that the entries are complete and accurate, and correct any deficiencies identified;
  - 2) Create an annual summary of injuries and illnesses recorded on the OSHA ~~Form 300-Log~~;
  - 3) Certify the summary; ~~and~~

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 4) Post the annual summary; and
  - 5) File such report electronically if required by Section 350.375
- b) Implementation
- 1) The employer must review the entries as extensively as necessary to make sure that they are complete and correct.
  - 2) To complete the annual summary:
    - A) Total the columns on the OSHA Form 300-Log (if no recordable cases, enter zeros for each column total);
    - B) Enter the calendar year covered, the employer's name, establishment name, establishment address, annual average number of employees covered by the OSHA Form 300-Log, and the total hours worked by all employees covered by the OSHA Form 300-Log; and
    - C) If using an equivalent form other than the OSHA Form 300A (Summary of Work-Related Injuries and Illnesses)~~300-A-Summary~~ form, the summary used must also include the employee access and employer penalty statements found on the OSHA Form 300A~~300-A-Summary~~ form.
  - 3) A management executive must certify that the management executive~~he or she~~ has examined the OSHA 300 Log and ~~that he or she~~ reasonably believes, based on the management executive's~~his or her~~ knowledge of the process by which the information was recorded, that the annual summary is correct and complete.
  - 4) The management executive who certifies the log must be:
    - A) The highest-ranking management official working at the establishment; or

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- B) The highest-ranking supervisor at the establishment who has signature authority for the highest-ranking management official.
- 5) Post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted and. ~~You must ensure that~~ the posted annual summary is not altered, defaced or covered by other material.
- 6) Post the summary no later than February 1 of the year following the year covered by the records and keep the posting in place until April 30.
- 7) Electronically report no later than March 2<sup>nd</sup> for the prior calendar year.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.375 Electronic Submission of OSHA Form 300A**a) Basic Requirement

- 1) Annual electronic submission of OSHA Form 300A (Summary of Work-Related Injuries and Illnesses).
- A) If the establishment had 250 or more employees at any time during the previous calendar year, then the establishment must electronically submit information from OSHA Form 300A (Summary of Work-Related Injuries and Illnesses) to Illinois OSHA or Illinois OSHA's designee. The establishment must submit the information once a year, no later than March 2<sup>nd</sup> of the year after the calendar year covered by the form (e.g., 2020 for the 2019 form).
- B) If the establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and the establishment is classified in an industry listed in Appendix B, then the establishment must electronically submit information from OSHA Form 300A (Summary of Work-Related Injuries and Illnesses) to Illinois OSHA or Illinois OSHA's designee. The establishment must submit the information once a year, no later

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

than March 2<sup>nd</sup> of the year after the calendar year covered by the form.

- C) Upon notification by Illinois OSHA, additional establishments and/or industries may be subject to these reporting requirements and must electronically submit information to Illinois OSHA or Illinois OSHA's designee.
- D) Establishments subject to these reporting requirements must provide the Employer Identification Number (EIN) used by the establishment.

b) Implementation

- 1) Each individual employed in the establishment at any time during the calendar year counts as one employee, including full-time, part-time, seasonal, and temporary workers.
- 2) Establishments required to submit information will notified by email. Illinois OSHA will also announce individual data collections through press releases and announcements on the IDOL website.
- 3) Establishments required to submit information must submit the information once a year by March 2<sup>nd</sup>.
- 4) Illinois OSHA shall provide a secure website for the electronic submission of information.

(Source: Added at 46 Ill. Reg. 3518, effective February 15, 2022)

### **Section 350.390 Employee Involvement**

- a) Basic Requirement  
Employees and their representatives must be involved in the recordkeeping system in several ways.
  - 1) The employer must inform~~Inform~~ each employee of how ~~he or she is~~ to report an injury or illness to the employer.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 2) The employer must provide limited access to its injury and illness records for its employees and their representatives.
- b) Implementation
- 1) The employer must establish a process ~~set up a way~~ for employees to report work-related injuries and illnesses promptly and must inform ~~tell~~ each employee regarding the process to ~~how to~~ report work-related injuries and illnesses.
  - 2) The employer must give its employees and their representatives access to the OSHA injury and illness records. Employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the injury and illness records, with the limitations provided in this subsection (b).
  - 3) An authorized employee representative means ~~is~~ an authorized collective bargaining agent of employees.
  - 4) A personal representative is:
    - A) Any person that the employee or former employee designates as such, in writing; or
    - B) The legal representative of a deceased or legally incapacitated employee or former employee.
  - 5) When an employee, former employee, personal representative, or authorized employee representative asks for copies of the current or stored OSHA Form 300 ~~300 Logs~~ for an establishment; the employee or former employee has worked in, the employer must give the requester a copy of the relevant OSHA Form 300s ~~300 Logs~~ by the end of the next business day.
  - 6) Privacy
    - A) The employer shall not remove the names of the employees or any other information from the OSHA Form 300 ~~Log~~ before giving copies to an employee, former employee, personal representative,

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

or employee representative. However, to protect the privacy of injured and ill employees, the employer shall not record the employee's name on the OSHA [Form 300-Log](#) for privacy concern cases (see Section 350.340(b)).

- B) When an employee, former employee, or personal representative asks for a copy of the OSHA [Form 301 \(Injury and Illness Incident Report\)](#) describing an injury or illness to the employee or former employee, the employer shall give the requester a copy of the OSHA [Form 301 \(Injury and Illness Incident Report\)](#)~~301 Incident Report~~ containing that information by the end of the next business day. When an authorized employee representative asks for copies of the OSHA [Form 301s \(Injury and Illness Incident Report\)](#)~~301 Incident Reports~~ for an establishment where the authorized employee representative~~agent~~ represents employees under a collective bargaining agreement, the employer shall give copies of those forms to the authorized employee representative within 7 calendar days. The employer is only required to give the authorized employee representative information from the OSHA 301 [\(Injury and Illness Incident Report\)](#) section titled "Tell us about the case". The employer shall remove~~Remove~~ all other information from the copy of the OSHA [Form 301 \(Injury and Illness Incident Report\)](#) or the equivalent substitute form given to the authorized employee representative.
- 7) The employer shall not charge for copies of OSHA reports the first time they are provided. However, if one of the designated persons asks for additional copies, the employer may assess a reasonable charge for retrieving and copying the records.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.400 Prohibition Against Discrimination**

Section ~~1102.2~~ of the ~~Safety Inspection and Education~~ Act prohibits employers from discriminating against an employee for reporting a work-related fatality, injury or illness. That provision of the Act also protects the employee who files a safety and health complaint, asks for access to the Subpart B records, or otherwise exercises any right afforded by the ~~Act~~Acts.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.410 Reporting Fatalities, Hospitalizations, Amputations and Loss of Eye Incidents to the Illinois Department of Labor**

- a) Basic ~~Requirements~~**Requirement**
- 1) All public sector employers must report:
    - A) All work-related fatalities within 8 hours; and
    - B) All work-related inpatient hospitalizations, all amputations, and all losses of an eye within 24 hours.
  - 2) Employers must orally report by calling Illinois OSHA's 24/7 confidential number at (217)-782-7860.~~Within 8 hours after the death of any employee from a work-related incident, the employer shall orally report the fatality by telephone 24/7 Notification — (800) 782-7860 or (217) 782-7860. Within 24 hours after the in-patient hospitalization of one or more employees, or an employee's amputation, or an employee's loss of an eye, as a result of a work-related incident, the employer shall report the in-patient hospitalization, amputation or loss of an eye.~~
- b) Implementation
- 1) The reporter must give the following information for each fatality, ~~or~~ hospitalization, amputation, or loss of an eye incident:
    - A) The establishment name;
    - B) The location of the incident;
    - C) The time of the incident;
    - D) The number of fatalities or hospitalized employees;
    - E) The names of any injured employees;
    - F) The reporter's contact person and his or her phone number; and

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- G) A brief description of the incident.
- 2) Every fatality or hospitalization incident resulting from a motor vehicle accident must be reported.
- 3) ~~Fatalities~~~~Report a fatality~~ caused by a heart attack at work must be reported. The Division Manager or designee will decide whether to investigate the incident, depending on the circumstances of the heart attack.
- ~~4) Only report fatalities or hospitalizations that occur within 30 days after an incident.~~
- ~~45)~~ If the employer does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under this Section, the employer shall make the report within 8 hours after the incident is reported to the employer or any agent or employee of the employer.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

**Section 350.420 Providing Records to Government Representatives**

- a) Basic Requirement  
When an authorized government representative asks for the records kept under this Subpart B, the employer shall provide copies of the records within 4 business hours.
- b) Implementation Authorized representatives~~The following government representatives have the right to get copies of injury and illness records: 1) A representative of the IDOL Director conducting an inspection or investigation under the Act have the right to obtain copies of injury and illness records Acts.~~
- ~~2) A representative of the Secretary of Health and Human Services representing the National Institute for Occupational Safety and Health conducting an inspection under section 20(b) of the federal Occupational Safety and Health Administration Act (OSHA Act) (29 USC 669(b)).~~

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

**Section 350.430 Requests from the Illinois Department of Public Health/Bureau of Labor Statistics for Data**

- a) **Basic Requirement**  
If the Illinois Department of Public Health submits to the employer a Survey of Occupational Injuries and Illnesses Form ~~on behalf of~~ for the Bureau of Labor Statistics, ~~the employer shall~~ promptly complete the form, and return it following the instructions contained on the survey form.
- b) **Implementation**  
Each year, injury and illness survey forms are sent to randomly selected employers and the Bureau of Labor Statistics uses that information to ~~publish statistics on~~ ~~create the U.S.~~ occupational ~~injuries and illnesses in the United States~~ ~~injury and illness statistics~~. In any year, some employers will receive a survey form and others will not. Employers do not have to send injury and illness data to the Illinois Department of Public Health unless they receive a survey form.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

## SUBPART C: FEDERAL STANDARDS

**Section 350.500 Petition for Variance from Standards**

- a) **General**  
*The Director ~~may~~ grant ~~a~~ ~~either~~ temporary or permanent ~~variance~~ ~~variances~~ from any ~~of the State~~ ~~occupational safety and health standard~~ ~~standards~~ upon application by a public employer. (Sec. 40 of the Act) ~~[820 ILCS 225/4.2(a)]~~ The petition shall be filed by the employer as soon as practicable when ~~the employer~~ ~~he or she~~ finds that compliance ~~is unable to~~ ~~has not been,~~ ~~or will not~~ be achieved. Any variance from State health and safety standards may only have future effect.*
- b) The petition for a variance from a standard shall be granted if it meets the requirements of this Section and establishes:
- 1) The reasons for the employer's inability to achieve compliance by the required date, such as the unavailability of necessary professional or technical personnel or of materials and equipment, or because necessary

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

construction or alteration of facilities cannot be completed by the effective date;

- 2) A description of interim steps being taken to safeguard the employees against the hazard during the period of noncompliance;
  - 3) The details of an effective program for coming into compliance as quickly as practicable; and
  - 4) A statement certifying that the employees have been notified of the petition and that a copy of the petition has been posted in a conspicuous location in the workplace for a period of at least 10 working days. This statement must summarize the application, specify where a copy may be examined, and describe how the employees were informed and their rights to petition the Director for a hearing.
- c) Affected employees or their authorized representatives may participate in the hearing on the petition by filing a request to participate with the Department within 10 working days after the date of the posting of the petition or the service of the petition.
- d) Within 15 working days after receipt of the petition, the Department shall schedule a hearing on the petition, appoint an impartial hearing officer to conduct the hearing, and serve notice of the time and location of the hearing on the employer and any employees and employee representatives who have filed a request to participate in the hearing. The hearing shall be held within 45 calendar days after receipt of the petition.
- e) The Department shall fully consider the petition and any testimony presented by the employer, employees, and employee representatives.
- 1) The requested variance shall be granted when the Department finds that:
    - A) the employer has made and is making a good faith effort to achieve compliance (e.g., such as ordering necessary materials and designing, planning and scheduling alterations);
    - B) that the health and safety of the employees is being safeguarded during the noncompliance period (such as by the use of barriers,

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

prohibition of access to the hazardous area, or posting of warning notices);~~5~~ and

- C) that the noncompliant condition is due to circumstances beyond the control of the employer.
- 2) If the Department finds that the conditions of ~~this~~ subsection (e)(1) have not been met, the variance shall be denied.
- f) If the employees or their authorized representatives do not file a request to participate or otherwise raise objections to the petition and the Department finds that the information contained in the request for a~~requested~~ variance meets the conditions set forth in subsection (e), the Department shall issue the requested variance without holding a hearing.
- g) No order for a temporary variance may be in effect for longer than the period needed by the employer to achieve compliance or one year, whichever is shorter, except that such a variance may be renewed not more than twice, so long as the requirements of this Section are met and if an application for renewal is filed at least 90 calendar days prior to the expiration date of the variance. No interim renewal of a variance may remain in effect for longer than 180 calendar days.
- h) Application. An application for a temporary order shall contain:
- 1) The name and address of the applicant;
  - 2) The address of the affected establishments;
  - 3) A statement establishing that the applicant;
    - Ai) is unable to comply with a standard by its effective date because of:
      - i) the unavailability of professional or technical personnel;~~2~~~~or~~
      - ii) the unavailability of materials and equipment needed to come into compliance with the standard;~~2~~ or



## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 2) The order may be modified or revoked upon application by an affected employer or affected employee~~party~~ at any time after 6 months following its issuance.
- j) Modification or Revocation
- 1) An affected employer or an affected employee may apply in writing to the Director for a modification or revocation of a rule or order. The application shall contain:
    - A) The name and address of the applicant;
    - B) A description of the relief sought;
    - C) A statement setting forth with particularity the grounds for relief;
    - D) If the applicant is an employer, a certification that the applicant has informed ~~his or her~~ affected employees of the application by:
      - i) Giving a copy of the application to the authorized employee representative;
      - ii) Posting, at the place or places where the notices to employees are normally posted, a statement giving a summary of the application and specifying where a copy of the full application may be examined (or, in lieu of the summary, posting the application itself); and
      - iii) Other appropriate means.
    - E) If the applicant is an affected employee, a certification that a copy of the application has been furnished to the employer; and
    - F) Any request for a hearing, as provided in this Part.
- k) The Director, ~~on his or her own motion~~, may proceed to modify or revoke a rule, in accordance with the Illinois Administrative Procedure Act [5 ILCS 100], or to modify or revoke an order issued under Section 404.2 of the ~~Illinois Health and Safety~~ Act. In that event, the Director shall cause to be published in the Illinois

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

Register a notice of ~~this~~~~is~~~~or~~~~her~~ intention, affording interested persons an opportunity to submit written data, views or arguments regarding the proposal and informing the affected employer and employees of their right to request a hearing, and shall take ~~such~~ other appropriate action ~~as may be appropriate~~ to notify~~give~~ ~~actual notice to~~ affected employees. Any request for a hearing shall include a short and plain statement of:

- 1) how the proposed modification or revocation would affect the requesting party; and
  - 2) what the requesting party would seek to show on the subjects or issues involved.
- l) Defective Applications
- 1) If an application for variance does not conform to the applicable portions of this Section, the Director may deny the application.
  - 2) Prompt notice of denial of an application shall be given to the applicant.
  - 3) A notice of denial shall include, or be accompanied by, a brief statement of the grounds for the denial.
  - 4) A denial of an application pursuant to this subsection (l) shall be without prejudice to the filing of another application.
- m) Adequate Applications
- 1) If an application has not been denied pursuant to subsection (l), the Director shall cause to be published in the Illinois Register a notice of the filing of the application.
  - 2) A notice of the filing of an application shall include:
    - A) The terms or an accurate summary of the application;
    - B) A reference to the Section of the Act~~Aets~~ under which the application has been filed;

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- C) An invitation to interested persons to submit, within a stated period of time, written data, views, or arguments regarding the application; and
  - D) Information to affected employers and employees covered in the application of any right to request a hearing on the application.
- n) Request for Hearings on Applications
- 1) Within the time allowed by a notice of the filing of an application, any affected employer or employee may file with the Director a request for a hearing on the application.
  - 2) Contents of a Request for a Hearing. A request for a hearing filed pursuant to this Section shall include:
    - A) A concise statement of facts showing how the employer or employee would be affected by the relief applied for;
    - B) A specification of any statement or representation in the application that is denied and a concise summary of the evidence that would be adduced in support of each denial; and
    - C) Any views or arguments on any issue of fact or law presented.
  - 3) All hearings held pursuant to this Section will abide by IDOL's Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120).

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

## SUBPART E: ADOPTION OF FEDERAL STANDARDS

**Section 350.700 Adoption of Federal Standards**

- a) State Standards and Rulemaking. Section ~~254.1~~ of the ~~Health and Safety~~ Act outlines the Director's authority to promulgate, amend and revoke State standards. Any promulgation, ~~amendment or revocation~~ ~~amending or revoking~~ of State standards will be done in accordance with the Illinois Administrative Procedure Act [\[5 ILCS 100\]](#).

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- b) Incorporation of Federal Regulations
- 1) Pursuant to Section ~~254~~ of the ~~Health and Safety~~ Act, the Department hereby incorporates by reference designated federal occupational safety and health standards which the United States Secretary of Labor has promulgated or modified in accordance with the federal Occupational Safety and Health Act of 1970 (29 U.S.C. 651) and that are in effect on January 1, 2015, unless an alternate State standard has been adopted and is listed in subsection (c).~~the general health and safety standards and special maritime and construction industry standards adopted by the federal Occupational Safety and Health Administration, effective January 9, 2014.~~ These designated standards are located at 29 CFR 1904, 1908, 1910, 1915, ~~and~~ 1926 and 1977. All materials incorporated by this Section are incorporated as of the date specified and do not include any later amendments or editions.
- 2) Pursuant to Section 25 of the Act, all amendments, after January 1, 2015, to the federal occupational safety and health standards in subsection (1) shall become rules of the Department within 6 months after their federal promulgation date, unless:
- A) There is a current alternate State standard in effect; or
- B) Within 45 calendar days of the federal promulgation date, the State files first notice with the Secretary of State to amend section (c) with an alternate State standard. (Sec. 25(b) of the Act)
- 2) ~~The Department hereby adopts as a rule of the Department, through incorporation by reference, 29 CFR 1910.1030, Occupational Exposure to Bloodborne Pathogens (1991). The dates listed in subsection (i) of 29 CFR 1910.1030 are not applicable to Illinois public sector employers. The effective date (subsection (i)(1) of the adopted standard) for the Illinois public sector shall be January 19, 1993. The compliance date for subsection (i)(2) of the adopted standard shall be February 18, 1993, the date for subsection (i)(3) shall be March 20, 1993 and the date for subsection (i)(4) shall be April 19, 1993.~~
- c) Incorporation of Interpretations of Federal Regulations

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 1) The following interpretations of 29 CFR 1910.134, Respiratory Protection Standard (1998) are incorporated into this Part. Copies of the federal Occupational Safety and Health Administration material may also be obtained at <http://www.osha-slc.gov/SLTC/respiratoryprotection/index.html>.

Preamble: Respiratory Protection; Final Rule, 63 Fed. Reg. 1152 (Jan. 8, 1998)

Questions & Answers on the Respiratory Protection Standard, OSHA Memorandum (Aug. 17, 1998)

Inspection Procedure for the Respiratory Protection Standard, CPL 2-0.120 (Sept. 18, 1998)

Small Entity Compliance Guide for the Revised Respiratory Protection Standard, OSHA Directorate of Health Standards Programs (Sept. 30, 1998)

~~Illinois Fire Chiefs Association — A Guideline on OSHA's 1998 Update of Its 1971 Respiratory Protection Standard (Mar. 9, 1999)~~

- 2) The following interpretation of 29 CFR 1910 and 1926, Standards Improvement (Miscellaneous Changes) for General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic (1998); 29 CFR 1915 and 1926, Occupational Exposure to Asbestos (1998); 29 CFR 1910, Methylene Chloride (1998); 29 CFR 1910, Permit-Required Confined Spaces (1998); and 29 CFR 1910, 1915, 1917, 1918 and 1926, Powered Industrial Truck Operator Training (1999) are incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at <http://www.osha.gov/comp-links.html>.

Preamble: Standards Improvement (Miscellaneous Changes) for General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic; Final Rule, 63 Fed. Reg. 33450 (June 18, 1998)

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

Preamble: Occupational Exposure to Asbestos; 63 Fed. Reg. 35137 (June 29, 1998)

Preamble: Methylene Chloride; Final Rule, 63 Fed. Reg. 50711 (Sept. 22, 1998)

Preamble: Permit-Required Confined Spaces; Final Rule, 63 Fed. Reg. 66018 (Dec. 1, 1998)

Preamble: Powered Industrial Truck Operator Training; Final Rule, 63 Fed. Reg. 66238 (Dec. 1, 1998)

- 3) The following interpretation of 29 CFR 1910, Dipping and Coating Operations (1999) is incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at <http://www.osha.gov/comp-links.html>.

Preamble: Dipping and Coating Operations; Final Rule, 64 Fed. Reg. 13897 (Mar. 23, 1999)

- 4) The following interpretation of 29 CFR 1926, Safety Standards for Steel Erection (2001), and 29 CFR 1910, Occupational Exposure to Bloodborne Pathogens; Needlesticks and Other Sharps Injuries (2001), are incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at <http://www.osha.gov/comp-links.html>.

Preamble: Safety Standards for Steel Erection; Final Rule, 66 Fed. Reg. 5196 (Jan. 18, 2001)

Preamble: Occupational Exposure to Bloodborne Pathogens; Needlesticks and Other Sharps Injuries; Final Rule, 66 Fed. Reg. 5318 (Jan. 18, 2001)

- 5) The following interpretation of 29 CFR 1910.36, 1910.37, 1910.38 and 1910.39, Exit Routes, Emergency Action Plans and Fire Prevention Plans, Final Rule (Nov. 11, 2002); 29 CFR 1904, Occupational Injury and Illness Recording and Reporting, Final Rule (July 1, 2002 and Dec. 17, 2002 update); 29 CFR 1910.139, Termination of Rulemaking Respiratory

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

Protection for M. Tuberculosis, Final Rule (Dec. 31, 2003); 29 CFR 1915.52, Fire Protection in Shipyard Employment, Final Rule (Sept. 15, 2004); and 29 CFR 1910 et al., Standards Improvement Project – Phase II (Jan. 5, 2005) are incorporated into this Part. Copies are available at any of the Department's offices. Copies may also be obtained at <http://www.osha.gov>.

- 6) The following interpretations of 29 CFR 1910, 1915 and 1926, Assigned Protection Factors, Final Rule (Aug. 24, 2006); 29 CFR 1926, Roll-Over Protective Structure, Final Rule (Dec. 29, 2005, corrected July 20, 2006); 29 CFR 1910.1026, Occupational Exposure to Hexavalent Chromium, Final Rule (Feb. 28, 2006, corrected June 23, 2006); 29 CFR 1926, Steel Erection: Slip Resistance of Skeletal Structural Steel, Final Rule (Jan. 18, 2006); 29 CFR 1910, 1915 and 1926, Electrical Installation Requirements, subpart S, Final Rule (Feb. 14, 2007, corrected Oct. 29, 2008); 29 CFR 1915, Updating National Consensus Standards in OSHA Standard for Fire Protection in Shipyard Employment, Final Rule (Jan. 3, 2007); 29 CFR 1910, Employer Payment for Personal Protective Equipment, Final Rule (Nov. 15, 2007, clarified Dec. 12, 2008); and 29 CFR 1910, Updating OSHA Standards Based on National Consensus Standards, Final Rule (Mar. 14, 2008, Dec. 14, 2007, Sept. 9, 2009) are incorporated into this Part. Copies are available at any of the Department's offices, on the Department website at [www.state.il.us/agency/idol](http://www.state.il.us/agency/idol) or the OSHA website at <http://www.osha.gov>.
- 7) The following interpretations of 29 CFR 1910, 1915 and 1926 as appropriate, Standards Improvement Project, Phase III (June 8, 2011); Cranes and Derricks in Construction (Aug. 9, 2010); Technical Amendment concerning Safety Standards for Steel Erection (May 17, 2010); 29 CFR Revising the Notification Requirements in the Exposure Determination Provisions of the Hexavalent Chromium Standards (May 14, 2010); Revising Standards Referenced in the Acetylene Standard (Nov. 10, 2009);
- d) Clarification of Effective Dates  
The effective dates for 29 CFR 1910.119(e)(1)(i), (ii), (iii), and (iv), which establish timelines for hazard analyses for hazardous materials, are ~~one~~, 2, 3 and 4 years, respectively, after August 1, 1994.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- e) **Conformity with Federal Regulations**  
The Department shall consider any subsequent amendments to the health and safety standards adopted by the federal Occupational Safety and Health Administration. Those amendments will be incorporated by reference or substitute provisions that provide equivalent protection will be adopted. Amendments will be adopted in accordance with the Illinois Administrative Procedure Act.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)



ILLINOIS DEPARTMENT OF LABOR  
NOTICE OF ADOPTED AMENDMENTS

Date required for final abatement: \_\_\_\_\_

I attest that the information contained in this document is accurate.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

Name of primary point of contact for questions (optional): \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Abatement plans or progress reports for more than one citation item may be combined in a single abatement plan or progress report if the abatement actions, proposed completion date, and actual completion dates (for progress reports only) are the same for each of the citation items.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Procedures for the Department of State Police Merit Board
- 2) Code Citation: 80 Ill. Adm. Code 150
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
150.410	Amendment
150.430	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 10 of the Illinois State Police Act [20 ILCS 2610/10].
- 5) Effective Date of Rule: February 17, 2022
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the *Illinois Register*: 45 Ill. Reg. 11555, September 17, 2021
- 10) Has JCAR issued a Statement of Objection to this rule? No
- 11) Difference between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? 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 Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
150.250	New Section	46 Ill. Reg. 2607; February 14, 2022
- 15) Summary and Purpose of Rulemaking: The Adopted Amendment changes Section 150.410 to delete language related to the promotion testing process for the rank of Major.

## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF ADOPTED AMENDMENTS

The Adopted Amendment changes Section 150.430 to add an assessment exercise component to the Sergeant promotional examination. The Adopted Amendment changes Section 150.430 to change the listed regional accrediting agencies for the bachelor's degree requirement for the ranks of Lieutenant and Captain to reflect the current names of the regional accrediting agencies.

- 16) Information and questions regarding these adopted rules shall be directed to:

Daniel Dykstra  
Chief Legal Counsel  
Illinois State Police Merit Board  
531 Sangamon Avenue East  
Springfield IL 62702

fax: 217/786-0181  
ddykstra@ispmeritboard.org

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

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE A: MERIT EMPLOYMENT SYSTEMS  
CHAPTER IV: DEPARTMENT OF STATE POLICE MERIT BOARD

PART 150  
PROCEDURES OF THE DEPARTMENT OF STATE POLICE MERIT BOARD

SUBPART A: DEFINITIONS

Section  
150.10           Definitions

SUBPART B: CERTIFICATION FOR APPOINTMENT

Section  
150.210          Qualifications  
150.220          Selection Procedures  
150.230          Recertification  
150.240          Probationary Period

SUBPART C: CLASSIFICATION OF RANKS

Section  
150.310          Ranks  
150.320          Interdivisional Transfers

SUBPART D: CERTIFICATION FOR PROMOTION

Section  
150.410          Board Responsibilities  
150.420          Eligibility  
150.430          Procedures  
150.440          Promotion Probationary Period (Repealed)

SUBPART E: DISCIPLINARY ACTION

Section  
150.510          Merit Board Jurisdiction  
150.520          Discipline Afforded the Deputy Director

## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF ADOPTED AMENDMENTS

150.530	Notification to Suspended Officer
150.540	Petition for Review
150.550	Form and Content of Petition for Review
150.560	Filing Procedures
150.565	Procedure for Processing Petition for Review
150.570	Director's Review
150.575	Discipline Afforded the Director
150.580	Complaint Procedures
150.585	Scheduling the Hearing
150.590	Notification to Officer

## SUBPART F: HEARINGS

Section	
150.610	Board Docket
150.620	Hearing Officer
150.630	Pre-hearing Conferences
150.640	Motions
150.650	Subpoenas
150.655	Request for Witnesses or Documents
150.660	Evidence Depositions
150.665	Hearing Procedures
150.670	Continuances and Extensions of Time
150.675	Computation of Time
150.680	Decisions of the Board
150.685	Service and Form of Papers

150.APPENDIX A Vision Standards (Repealed)

150.APPENDIX B Physical Fitness Standards

AUTHORITY: Implementing Sections 3 through 14 and authorized by Section 8 of the State Police Act [20 ILCS 2610].

SOURCE: Emergency rule adopted at 2 Ill. Reg. 10, p. 206, effective February 24, 1978, for a maximum of 150 days; emergency amendment at 2 Ill. Reg. 32, p. 37, effective July 27, 1978, for a maximum of 150 days; emergency amendment at 2 Ill. Reg. 51, p. 100, effective December 7, 1978, for a maximum of 150 days; adopted at 2 Ill. Reg. 52, p. 422, effective December 25, 1978; amended at 3 Ill. Reg. 47, p. 86, effective November 12, 1979; emergency amendment at 4 Ill. Reg. 6, p. 284, effective February 1, 1980, for a maximum of 150 days; amended at 5 Ill.

## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF ADOPTED AMENDMENTS

Reg. 2739, effective March 2, 1981; amended at 6 Ill. Reg. 10954, effective August 31, 1982; codified at 7 Ill. Reg. 9900; amended at 7 Ill. Reg. 15018, effective November 2, 1983; emergency amendment at 8 Ill. Reg. 379, effective December 27, 1983, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 3038, effective February 23, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7894, effective May 23, 1984; amended at 9 Ill. Reg. 3721, effective March 13, 1985; amended at 9 Ill. Reg. 14328, effective September 6, 1985; recodified from the Department of Law Enforcement Merit Board to the Department of State Police Merit Board pursuant to Executive Order 85-3, effective July 1, 1985, at 10 Ill. Reg. 3283; amended at 10 Ill. Reg. 17752, effective October 1, 1986; amended at 11 Ill. Reg. 7760, effective April 14, 1987; amended at 11 Ill. Reg. 18303, effective October 26, 1987; amended at 12 Ill. Reg. 1118, effective December 24, 1987; amended at 12 Ill. Reg. 10736, effective June 13, 1988; amended at 13 Ill. Reg. 5201, effective April 3, 1989; emergency amendment at 13 Ill. Reg. 16607, effective September 29, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 19592, effective December 1, 1989; amended at 14 Ill. Reg. 3679, effective February 23, 1990; amended at 15 Ill. Reg. 11007, effective July 15, 1991; amended at 16 Ill. Reg. 11835, effective July 13, 1992; emergency amendment at 16 Ill. Reg. 17372, effective October 29, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 9716, effective June 10, 1993; expedited correction at 17 Ill. Reg. 14684, effective June 10, 1993; amended at 17 Ill. Reg. 21079, effective November 22, 1993; amended at 19 Ill. Reg. 6679, effective May 1, 1995; amended at 19 Ill. Reg. 7970, effective June 1, 1995; amended at 20 Ill. Reg. 404, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 8062, effective June 4, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 13663, effective October 3, 1996; amended at 20 Ill. Reg. 14640, effective October 25, 1996; amended at 21 Ill. Reg. 14262, effective October 17, 1997; amended at 22 Ill. Reg. 5092, effective February 26, 1998; amended 22 Ill. Reg. 18076, effective September 28, 1998; amended at 24 Ill. Reg. 1276, effective January 5, 2000; emergency amendment at 24 Ill. Reg. 16103, effective October 12, 2000, for a maximum of 150 days; emergency expired March 11, 2001; amended at 25 Ill. Reg. 10853, effective August 10, 2001; amended at 26 Ill. Reg. 9968, effective June 19, 2002; amended at 26 Ill. Reg. 14694, effective September 23, 2002; amended at 27 Ill. Reg. 19038, effective December 3, 2003; amended at 29 Ill. Reg. 6084, effective April 15, 2005; amended at 30 Ill. Reg. 10609, effective June 2, 2006; amended at 30 Ill. Reg. 19727, effective December 15, 2006; amended at 31 Ill. Reg. 15296, effective November 5, 2007; amended at 36 Ill. Reg. 4419, effective March 12, 2012; amended at 44 Ill. Reg. 2576, effective January 24, 2020; emergency amendment at 46 Ill. Reg. 2768, effective January 28, 2022; amended at 46 Ill. Reg. 3589, effective February 17, 2022.

## SUBPART D: CERTIFICATION FOR PROMOTION

**Section 150.410 Board Responsibilities**

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF ADOPTED AMENDMENTS

The Board shall make certifications for promotion on the basis of job performance measurement, seniority, education, and written and/or oral examination. Examinations for promotion will be given every 24 months for the ranks of Sergeant, Master Sergeant, Lieutenant and Captain with notification of time and location to be provided in the promotional announcement. ~~The promotion process for the rank of Major will be initiated when the Illinois State Police makes written request nominating a candidate for that rank.~~

(Source: Amended at 46 Ill. Reg. 3589, effective February 17, 2022)

Section 150.430 Procedures

- a) The Board will provide each officer with official notification announcing the examination and requesting a written response respecting the officer's intention to participate.
- b) Candidates for promotion must complete examinations at the time designated by the Board in the official notification. No exceptions will be allowed.
- c) Candidates must have taken the most recent examination offered by the Board to be eligible for certification for promotion. All candidates taking the examination for each rank will be advised of their total promotional score and standing.
- d) Promotional Process Components  
The total promotional score will consist of combined standardized scores or respective percentage weights of the components designated for each rank:

Components

~~Sergeant:~~

<del>Job Knowledge Test</del>	<del>50%</del>
<del>Performance Appraisal</del>	<del>45%</del>
<del>Seniority in Rank</del>	<del>Up to 5 points</del>

Sergeant, Master Sergeant, Lieutenant and Captain:

Job Knowledge Test, Performance Appraisal and Assessment	95%
--	-----



## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF ADOPTED AMENDMENTS

Any officer whose rank on the list is equal to or less than that number shall be considered certified for promotion.

- g) There will be a statewide certification list for the rank of Captain. The certification lists for Sergeant and Master Sergeant will be according to Districts and the certification lists for Lieutenant will be according to Regions, as defined jointly by the Illinois State Police and the Illinois State Police Merit Board for promotional purposes.
- h) The top 10 candidates on each certification list for all ranks are equally eligible for promotion by the Director; however, in the event of a tied score, all candidates obtaining such score shall be equally eligible for promotional consideration. The Director may promote accordingly any one of the eligible candidates in accordance with Equal Employment Opportunity Commission regulations (29 CFR 1600 et seq. (July 1, 2010)) and Illinois Department of Human Rights guidelines.
  - 1) As promotions are accepted or waived, that candidate with the next highest total promotional score on the list becomes equally eligible for promotion; however, in the event of a tied score, all candidates obtaining such score shall be equally eligible for promotional consideration;
  - 2) Eligible candidates on the certification list may decline an offer of promotion without losing position on the certification list. In the event of declination, that candidate with the next highest total promotional score becomes equally eligible for promotion; however, in the event of a tied score, all candidates obtaining such score shall be equally eligible for promotional consideration.
- i) Upon written notification from the Department to the Board that a candidate on the certification list has been suspended, is on leave of absence, or has applied for disability benefits, the Board will remove the candidate's name from the certification list. The candidate's name will be restored on the list in a position in proper relation to the total promotional scores remaining when the suspension or leave of absence terminates or the disability is removed.
- j) The certification list shall remain in force until the new certification list has been established; however, in the event that a certification list becomes exhausted, the Director will file a written request with the Board asking for the certification of

---

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF ADOPTED AMENDMENTS

additional names on any one list if necessary to fill vacant positions.

(Source: Amended at 46 Ill. Reg. 3589, effective February 17, 2022)

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Health and Safety
- 2) Code Citation: 56 Ill. Adm. Code 350
- 3) Section Number: 350.700                      Emergency Action:  
Amendment
- 4) Statutory Authority: Implementing and authorized by the Occupational Safety and Health Act [820 ILCS 219]
- 5) Effective Date of Rule: February 15, 2022
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment will expire at the end of the 150-day period.
- 7) Date Filed with the Index Department: February 15, 2022
- 8) A copy of the amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Reason for Emergency: On January 7, 2022, the Department of Labor filed a Peremptory Rule, as required by federal and state law, to adopt the COVID-19 Vaccination and Testing Emergency Temporary Standard promulgated by the Federal Occupational Safety and Health Administration. Due to the Federal Occupational Safety and Health Administration withdrawing its rule on the federal Emergency Temporary Standard, the Department now files an emergency amendment to strike its Peremptory adoption of the Standard.
- 10) A Complete Description of the Subjects and Issues Involved: The Department's Peremptory Rule filed January 7, 2022, implemented the federal Occupational Safety and Health Administration's Emergency Temporary Standard regarding COVID-19 vaccination and testing for employers with more than 100 employees. Because the Federal Occupational Safety and Health Administration has now withdrawn the federal Emergency Temporary Standard, the Department now files an emergency amendment to strike its Peremptory adoption of that Standard.
- 11) Are there any proposed rulemakings pending to this Part? Yes

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF EMERGENCY AMENDMENT

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
350.10	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.20	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.30	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.40	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.50	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.60	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.70	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.80	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.90	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.100	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.110	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.120	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.125	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.130	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.140	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.150	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.170	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.180	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.190	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.200	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.210	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.220	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.250	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.260	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.270	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.310	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.340	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.370	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.375	New Section	45 Ill. Reg. 11485; September 17, 2021
350.390	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.400	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.410	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.420	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.430	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.500	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.700	Amendment	45 Ill. Reg. 11485; September 17, 2021
350.APPENDIX B	Amendment	45 Ill. Reg. 11485; September 17, 2021

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF EMERGENCY AMENDMENT

- 12) Statement of Statewide Policy Objectives: The policy purpose of this emergency amendment is to comply with the Department's policy of being timely in mirroring federal OSHA's adoption and withdrawal of the Emergency Temporary Standard.
- 13) Information and questions regarding this emergency amendment shall be directed to:

Anna Koepfel  
Illinois Department of Labor  
Lincoln Tower Plaza  
524 S. 2<sup>nd</sup> St., Suite 400  
Springfield, IL 62701

217-558-1270  
Anna.Koepfel@illinois.gov

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

ILLINOIS DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENT

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER I: DEPARTMENT OF LABOR  
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

PART 350  
HEALTH AND SAFETY

SUBPART A: INSPECTIONS AND CITATIONS

Section	
350.10	Definitions
350.20	Purpose and Scope
350.30	Posting of Notice; Availability of the Acts, Regulations and Applicable Standards
350.40	Authority for Inspection
350.50	Objection to Inspection
350.60	Entry Not a Waiver
350.70	Advance Notice of Inspections
350.80	Conduct of Inspections
350.90	Representatives of Employers and Employees
350.100	Trade Secrets
350.110	Consultation with Employees
350.120	Complaints by Employees
350.125	Discrimination Prohibited Against Employees
350.130	Inspection not Warranted; Informal Review
350.140	Imminent Danger
350.150	Citations; Policy Regarding Employee Rescue Activities
350.160	Petitions for Modification of Abatement Date
350.170	Proposed Penalties
350.180	Posting of Citations
350.190	Employer and Employee Contests before the Administrative Law Judges of the Hearings Division
350.200	Failure to Correct a Violation for which a Citation has been Issued
350.210	Abatement Verification
350.220	Informal Conferences

SUBPART B: INJURY/ILLNESS RECORDKEEPING REQUIREMENTS

Section	
350.250	Purpose, Scope and Definitions

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF EMERGENCY AMENDMENT

350.260	Recording Criteria
350.270	Determination of Work-Relatedness
350.280	Determination of New Cases
350.290	General Recording Criteria
350.300	Recording Criteria for Needlestick and Sharps Injuries
350.310	Recording Criteria for Cases Involving Medical Removal under IDOL-Adopted OSHA Standards
350.320	Recording Criteria for Cases Involving Occupational Hearing Loss
350.330	Recording Criteria for Work-Related Tuberculosis Cases
350.340	Forms
350.350	Multiple Establishments
350.360	Covered Employees
350.370	Annual Summary
350.380	Retention and Updating
350.390	Employee Involvement
350.400	Prohibition Against Discrimination
350.405	Variance from Recordkeeping Requirements
350.410	Reporting Fatalities, Hospitalizations, Amputations and Loss of Eye Incidents to the Illinois Department of Labor
350.420	Providing Records to Government Representatives
350.430	Requests from the Illinois Department of Public Health/Bureau of Labor Statistics for Data

## SUBPART C: VARIANCES FROM STANDARDS

Section	
350.500	Petition for Variance from Standards

## SUBPART D: CONSULTATION PROGRAM

Section	
350.600	Purpose

## SUBPART E: ADOPTION OF FEDERAL STANDARDS

Section	
350.700	Adoption of Federal Standards

[EMERGENCY](#)

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF EMERGENCY AMENDMENT

- 350.APPENDIX A Decision Tree  
350.APPENDIX B Sample Abatement Plan or Progress Report (Non-mandatory)

**AUTHORITY:** Implementing and authorized by the Occupational Health and Safety Act [820 ILCS 219].

**SOURCE:** Emergency rules adopted at 9 Ill. Reg. 17004, effective October 17, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 8765, effective May 14, 1986; amended at 11 Ill. Reg. 2798, effective January 28, 1987; amended at 12 Ill. Reg. 17086, effective October 11, 1988; amended at 16 Ill. Reg. 8518, effective May 26, 1992; amended at 17 Ill. Reg. 1074, effective January 19, 1993; emergency amendment at 17 Ill. Reg. 7072, effective April 27, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 14724, effective September 15, 1994; amended at 19 Ill. Reg. 11923, effective August 7, 1995; amended at 20 Ill. Reg. 7419, effective May 10, 1996; amended at 21 Ill. Reg. 12850, effective September 4, 1997; amended at 23 Ill. Reg. 3993, effective October 1, 1999; amended at 23 Ill. Reg. 12447, effective October 2, 1999; amended at 24 Ill. Reg. 13693, effective August 23, 2000; amended at 25 Ill. Reg. 860, effective January 5, 2001; amended at 25 Ill. Reg. 10196, effective July 30, 2001; old Part repealed at 30 Ill. Reg. 5531 and new Part adopted at 30 Ill. Reg. 4777, effective March 13, 2006; amended at 34 Ill. Reg. 4793, effective March 16, 2010; old Part repealed at 38 Ill. Reg. 11570, and new Part adopted at 38 Ill. Reg. 11572, effective May 16, 2014; amended at 38 Ill. Reg. 20781, effective October 20, 2014; amended at 39 Ill. Reg. 14176, effective October 19, 2015; preemptory amendment at 46 Ill. Reg. 1668, effective January 7, 2022; recodified at 46 Ill. Reg. 3465; emergency amendment at 46 Ill. Reg. 3598, effective February 15, 2022, for a maximum of 150 days.

## SUBPART E: ADOPTION OF FEDERAL STANDARDS

**Section 350.700 Adoption of Federal Standards****EMERGENCY**

- a) State Standards and Rulemaking. Section 4.1 of the Health and Safety Act outlines the Director's authority to promulgate, amend and revoke State standards. Any promulgation, amending or revoking of State standards will be done in accordance with the Illinois Administrative Procedure Act.
- b) Incorporation of Federal Regulations
  - 1) Pursuant to Section 4 of the Health and Safety Act, the Department hereby incorporates by reference the general health and safety standards and

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF EMERGENCY AMENDMENT

special maritime and construction industry standards adopted by the federal Occupational Safety and Health Administration, effective January 9, 2014. These standards are located at 29 CFR 1904, 1908, 1910, 1915 and 1926. All materials incorporated by this Section are incorporated as of the date specified and do not include any later amendments or editions.

- 2) The Department hereby adopts as a rule of the Department, through incorporation by reference, 29 CFR 1910.1030, Occupational Exposure to Bloodborne Pathogens (1991). The dates listed in subsection (i) of 29 CFR 1910.1030 are not applicable to Illinois public sector employers. The effective date (subsection (i)(1) of the adopted standard) for the Illinois public sector shall be January 19, 1993. The compliance date for subsection (i)(2) of the adopted standard shall be February 18, 1993, the date for subsection (i)(3) shall be March 20, 1993 and the date for subsection (i)(4) shall be April 19, 1993.

- ~~3) The Department hereby adopts as a rule of the Department, through incorporation by reference, the amendments to 29 CFR 1910, 1915, 1917, 1918, 1926, and 1928 found in 86 FR 61402, published November 5, 2021, titled COVID-19 Vaccination and Testing; Emergency Temporary Standard. The effective date for this Standard shall be January 24, 2022, and the Standard shall expire on July 24, 2022.~~

c) Incorporation of Interpretations of Federal Regulations

- 1) The following interpretations of 29 CFR 1910.134, Respiratory Protection Standard (1998) are incorporated into this Part. Copies of the federal Occupational Safety and Health Administration material may also be obtained at <http://www.osha-slc.gov/SLTC/respiratoryprotection/index.html>.

Preamble: Respiratory Protection; Final Rule, 63 Fed. Reg. 1152 (Jan. 8, 1998)

Questions & Answers on the Respiratory Protection Standard, OSHA Memorandum (Aug. 17, 1998)

Inspection Procedure for the Respiratory Protection Standard, CPL 2-0.120 (Sept. 18, 1998)

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF EMERGENCY AMENDMENT

Small Entity Compliance Guide for the Revised Respiratory Protection Standard, OSHA Directorate of Health Standards Programs (Sept. 30, 1998)

Illinois Fire Chiefs Association – A Guideline on OSHA's 1998 Update of Its 1971 Respiratory Protection Standard (Mar. 9, 1999)

- 2) The following interpretation of 29 CFR 1910 and 1926, Standards Improvement (Miscellaneous Changes) for General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic (1998); 29 CFR 1915 and 1926, Occupational Exposure to Asbestos (1998); 29 CFR 1910, Methylene Chloride (1998); 29 CFR 1910, Permit-Required Confined Spaces (1998); and 29 CFR 1910, 1915, 1917, 1918 and 1926, Powered Industrial Truck Operator Training (1999) are incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at <http://www.osha.gov/comp-links.html>.

Preamble: Standards Improvement (Miscellaneous Changes) for General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic; Final Rule, 63 Fed. Reg. 33450 (June 18, 1998)

Preamble: Occupational Exposure to Asbestos; 63 Fed. Reg. 35137 (June 29, 1998)

Preamble: Methylene Chloride; Final Rule, 63 Fed. Reg. 50711 (Sept. 22, 1998)

Preamble: Permit-Required Confined Spaces; Final Rule, 63 Fed. Reg. 66018 (Dec. 1, 1998)

Preamble: Powered Industrial Truck Operator Training; Final Rule, 63 Fed. Reg. 66238 (Dec. 1, 1998)

- 3) The following interpretation of 29 CFR 1910, Dipping and Coating Operations (1999) is incorporated into this Part. Copies are available at

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF EMERGENCY AMENDMENT

the Department's Chicago office. Copies may also be obtained at <http://www.osha.gov/comp-links.html>.

Preamble: Dipping and Coating Operations; Final Rule, 64 Fed. Reg. 13897 (Mar. 23, 1999)

- 4) The following interpretation of 29 CFR 1926, Safety Standards for Steel Erection (2001), and 29 CFR 1910, Occupational Exposure to Bloodborne Pathogens; Needlesticks and Other Sharps Injuries (2001), are incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at <http://www.osha.gov/comp-links.html>.

Preamble: Safety Standards for Steel Erection; Final Rule, 66 Fed. Reg. 5196 (Jan. 18, 2001)

Preamble: Occupational Exposure to Bloodborne Pathogens; Needlesticks and Other Sharps Injuries; Final Rule, 66 Fed. Reg. 5318 (Jan. 18, 2001)

- 5) The following interpretation of 29 CFR 1910.36, 1910.37, 1910.38 and 1910.39, Exit Routes, Emergency Action Plans and Fire Prevention Plans, Final Rule (Nov. 11, 2002); 29 CFR 1904, Occupational Injury and Illness Recording and Reporting, Final Rule (July 1, 2002 and Dec. 17, 2002 update); 29 CFR 1910.139, Termination of Rulemaking Respiratory Protection for M. Tuberculosis, Final Rule (Dec. 31, 2003); 29 CFR 1915.52, Fire Protection in Shipyard Employment, Final Rule (Sept. 15, 2004); and 29 CFR 1910 et al., Standards Improvement Project – Phase II (Jan. 5, 2005) are incorporated into this Part. Copies are available at any of the Department's offices. Copies may also be obtained at <http://www.osha.gov>.
- 6) The following interpretations of 29 CFR 1910, 1915 and 1926, Assigned Protection Factors, Final Rule (Aug. 24, 2006); 29 CFR 1926, Roll-Over Protective Structure, Final Rule (Dec. 29, 2005, corrected July 20, 2006); 29 CFR 1910.1026, Occupational Exposure to Hexavalent Chromium, Final Rule (Feb. 28, 2006, corrected June 23, 2006); 29 CFR 1926, Steel Erection: Slip Resistance of Skeletal Structural Steel, Final Rule (Jan. 18, 2006); 29 CFR 1910, 1915 and 1926, Electrical Installation Requirements,

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF EMERGENCY AMENDMENT

subpart S, Final Rule (Feb. 14, 2007, corrected Oct. 29, 2008); 29 CFR 1915, Updating National Consensus Standards in OSHA Standard for Fire Protection in Shipyard Employment, Final Rule (Jan. 3, 2007); 29 CFR 1910, Employer Payment for Personal Protective Equipment, Final Rule (Nov. 15, 2007, clarified Dec. 12, 2008); and 29 CFR 1910, Updating OSHA Standards Based on National Consensus Standards, Final Rule (Mar. 14, 2008, Dec. 14, 2007, Sept. 9, 2009) are incorporated into this Part. Copies are available at any of the Department's offices, on the Department website at [www.state.il.us/agency/idol](http://www.state.il.us/agency/idol) or the OSHA website at <http://www.osha.gov>.

- 7) The following interpretations of 29 CFR 1910, 1915 and 1926 as appropriate, Standards Improvement Project, Phase III (June 8, 2011); Cranes and Derricks in Construction (Aug. 9, 2010); Technical Amendment concerning Safety Standards for Steel Erection (May 17, 2010); 29 CFR Revising the Notification Requirements in the Exposure Determination Provisions of the Hexavalent Chromium Standards (May 14, 2010); Revising Standards Referenced in the Acetylene Standard (Nov. 10, 2009);
- d) **Clarification of Effective Dates**  
The effective dates for 29 CFR 1910.119(e)(1)(i), (ii), (iii), and (iv), which establish timelines for hazard analyses for hazardous materials, are one, 2, 3 and 4 years, respectively, after August 1, 1994.
- e) **Conformity with Federal Regulations**  
The Department shall consider any subsequent amendments to the health and safety standards adopted by the federal Occupational Safety and Health Administration. Those amendments will be incorporated by reference or substitute provisions that provide equivalent protection will be adopted. Amendments will be adopted in accordance with the Illinois Administrative Procedure Act.

(Source: Emergency amendment at 46 Ill. Reg. 3598, effective February 15, 2022, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLYOBJECTION TO AND SUSPENSION OF EMERGENCY RULE

## DEPARTMENT OF PUBLIC HEALTH

Heading of the Part: Control of Communicable Diseases Code

Code Citation: 77 Ill. Adm. Code 690

Section Numbers: 690.10            690.1380  
690.361            690.1385

Date Emergency Rule Published in the *Illinois Register*: Filed and effective 2/14/22

At its meeting on February 15, 2022, the Joint Committee on Administrative Rules voted to object to and suspend the above-referenced emergency rule titled Control of Communicable Diseases Code (77 Ill. Adm. Code 690; filed and effective 2/14/22) and to notify the Secretary of State of the Suspension of the emergency rule. The reasons for the Suspension are as follows:

JCAR object to and suspend the Department of Public Health's emergency amendments to Control of Communicable Diseases Code (77 Ill. Adm. Code 690) that were filed and effective February 14, 2022, because they do not meet the criteria for emergency rulemaking in 1 Ill. Adm. Code 230.400 (a)(1)(E) and (G) and the rulemaking meets the criteria for emergency rule suspension in 1 Ill. Adm. Code 230.550(a)(1)(C). DPH has not taken steps to make this rule known to the parties directly affected by it. After reviewing the text of the emergency rule, the accompanying notice page, which notes the Department's initial emergency rule on this Part is subject to review in the consolidated appellate case *Graves v. Pritzker*, (No. 4-22-0090, 4-22-0092, 4-22-0093, and 4-22-0094), and the Temporary Restraining Order subject to review in the consolidated appellate cases, DPH failed to clearly state whether this rule is intended to apply to all K-12 schools in Illinois, or only to schools and school districts that were not parties to that legal action. DPH has not clarified this point either in the rule itself or in the Notice of Emergency Rulemaking. JCAR finds that this unlawfully inhibits the equitable free exercise of the rights of citizens of this State and poses a serious threat to the public interest.

The suspended emergency rule may not be enforced by the Department of Public Health for any reason, nor may the Department file with the Secretary of State any rule having substantially the same purpose and effect as the suspended rule, for as long as the Suspension remains in effect.

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## SECOND NOTICES RECEIVED

The following second notices were received during the period of February 15, 2022 through February 22, 2022. These rulemakings are scheduled for the March 22, 2022 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
4/1/22	<u>Department of Natural Resources</u> , Conservation Reserve Enhancement Program (CREP) (17 Ill. Adm. Code 1515)	12/17/21 45 Ill. Reg. 15938	3/22/22
4/2/22	<u>Department of Revenue</u> , Tobacco Products Tax Act of 1995 (86 Ill. Adm. Code 660)	12/17/21 45 Ill. Reg. 15985	3/22/22
4/3/22	<u>Department of Human Services</u> , Supplemental Nutrition Assistance Program (SNAP) (89 Ill. Adm. Code 121)	12/17/21 45 Ill. Reg. 15932	3/22/22

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION  
TO PEREMPTORY RULEMAKING

## DEPARTMENT OF LABOR

Heading of the Part: Health and Safety

Code Citation: 56 Ill. Adm. Code 350

Section Numbers: 350.700

Date Originally Published in the *Illinois Register*: 1/21/22  
46 Ill. Reg. 1668

At its meeting on February 15, 2022, the Joint Committee on Administrative Rules considered the above-cited preemptory rule and recommended that, with respect to the Department of Labor rulemaking titled Health and Safety (56 Ill. Adm. Code 350; 46 Ill. Reg. 1668), that DOL take care to use preemptory rulemaking only in instances when it is clear that the agency's exercise of discretion was completely precluded by the federal requirement as to the content of the rule it was required to adopt. Sec. 5-50 of the IAPA [5 ILCS 100] explicitly states that preemptory rulemaking means rulemakings that are required as a result of federal law, federal rules and regulations, an order of a court, or a collective bargaining agreement and those rules must be filed within 30 days after a change in rules is required. It was not clear that preemptory rulemaking is appropriate in this case because USDOL gave states the discretion to accept the federal standard or propose their own equally protective standard and the requirement to adopt the standard by the January 7, 2022 date was provided in guidance, not regulation.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION  
TO EMERGENCY RULEMAKING

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Licensing Standards for Group Homes

Code Citation: 89 Ill. Adm. Code 403

Section Numbers: 403.17            403.33  
403.30            403.34  
403.31            403.35  
403.32            403.36

Date Originally Published in the *Illinois Register*: 1/7/22  
46 Ill. Reg. 1120

At its meeting on February 15, 2022, the Joint Committee on Administrative Rules objected to the Department of Children and Family Services's use of emergency rulemaking to adopt rules titled Licensing Standards for Group Homes (89 Ill. Adm. Code 403; 46 Ill. Reg. 1120 - 1/7/22) because DCFS' refusal to respond to requests for clarification of certain group home staffing requirements in the emergency rulemaking titled Licensing Standards for Group Homes (89 Ill. Adm. Code 403; 46 Ill. Reg. 1120). DCFS justified its refusal to respond based on Sec. 5-165 of the IAPA, which sets requirements governing *ex parte* communications in the rulemaking process. However, Sec. 5-165 does not prohibit such communication. It simply requires that it be reported and made part of the official record. DCFS states that it will not respond to comments concerning this emergency rulemaking until the First Notice period for the companion proposed rulemaking (46 Ill. Reg. 657) has ended. However, the emergency rule has been in effect since December 22, 2021 and affected parties have a right to know whether they are in compliance. It is unlikely that the intent of Sec. 5-165 was to allow agencies to use concerns about *ex parte* communications to avoid talking to the public and it is even more improbable that the intent was to enable an agency to avoid clarifying compliance requirements for an emergency rule it enacted to address a threat to the public health, safety or welfare.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENTS

NOTICE OF PUBLIC HEARING AND COMMENT PERIOD  
PURSUANT TO 415 ILCS 5/10(H) and 1 ILCS 100/5-70(b)Notice of Public Comment Period and Public Hearing  
for State Implementation Plan (SIP) Submittals  
for National Ambient Air Quality Standards (NAAQS)

The Pollution Control Board (Board) is accepting public comments and will conduct a public hearing on a prospective NAAQS SIP submittal to the U.S. Environmental Protection Agency (USEPA). The Board will accept written comments on the proposed rule that will form the basis for the SIP proposal until 45 days after the Notice of Proposed Amendments appears in the *Illinois Register*. A public hearing will occur by videoconference between Chicago and Springfield on April 21, 2022. The Board presently anticipates adoption of amendments to the Illinois ambient air quality standards before June 1, 2022.

Section 10(H) of the Environmental Protection Act (Act) [415 ILCS 5/10(H)] requires the Board to do as follows:

[T]he Board shall adopt ambient air quality standards specifying the maximum permissible short-term and long-term concentrations of various contaminants in the atmosphere, those standards shall be identical in substance to the national ambient air quality standards promulgated by the Administrator of the United States Environmental Protection Agency in accordance with Section 109 of the Clean Air Act [(42 U.S.C. § 7409 (2019))].

The USEPA NAAQS are codified at 40 C.F.R. § 50. The Board is required to adopt those exemptions using the “identical in substance” rulemaking procedure of Section 7.2 of the Act [415 ILCS 5/7.2]. The Illinois listing of these compounds is codified at 35 Ill. Adm. Code 243.

On February 17, 2022, the Board adopted a proposal for public comment in docket R22-8 to initiate adoption of the latest USEPA amendments to and actions affecting the federal NAAQS during the first half of 2021.

- On March 4, 2021 (86 Fed. Reg. 12682), USEPA designated a new federal reference method (FRM) for sulfur dioxide (SO<sub>2</sub>) in ambient air.
- On March 26, 2021 (86 Fed. Reg. 16055), USEPA issued the Round 4 area designations for the primary 2010 one-hour NAAQS for SO<sub>2</sub>.

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENTS

- On December 15, 2021, USEPA updated the *List of Designated Reference and Equivalent Methods*. This update included the FRM that USEPA designated on March 4, 2021 (86 Fed. Reg. 12682).

The Board submitted this Notice of Public Hearing and Public Comment together with a Notice of Proposed Amendments to appear in the *Illinois Register* relative to the docket R22-8 proposal.

The Board expects that the Illinois Environmental Protection Agency (Agency) will submit the present amendments to USEPA to be included in or to revise the Illinois SIP pertaining to one or more ambient air quality priority pollutants (carbon monoxide, lead nitrogen oxides, ozone, particulate matter, and sulfur dioxide) pursuant to section 110 of the federal Clean Air Act (42 U.S.C. § 7410(a) (2019)) and the implementing USEPA regulations. See 40 C.F.R. § 51.102 and appendix V (2021).

As USEPA will require the State to have conducted a hearing on the amendments to the Illinois NAAQS rules involved in this proceeding pursuant to 42 U.S.C. § 4210(a) and 40 C.F.R. § 51.102.

The Board scheduled a public hearing to allow the public to comment on the proposed amendments and the anticipated SIP revision. The Board will conduct that hearing by videoconference between the Board's offices in Chicago and Springfield, as follows:

11:45 a.m., Thursday, April 21, 2022

James R. Thompson Center  
Illinois Pollution Control Board Hearing Room  
100 West Randolph Street, Room 11-512  
Chicago

and

Illinois Environmental Protection Agency Building  
Illinois Pollution Control Board Hearing Room, Room 1244N, First Floor  
1021 North Grand Avenue East  
Springfield

The Board invites public comment on the proposed amendments. The Board will receive public comments until at least 45 days after a notice of these proposed amendments appears in the *Illinois Register*. Anyone may file a public comment with the Board addressed as follows:

Office of the Clerk

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENTS

Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601

All comments relating to this rulemaking should clearly refer to docket R22-8.

The record in this docket will include all documents pertaining to this proceeding. All documents in the record are publicly available for inspection and copying as provided in 2 Ill. Adm. Code 2175 by contacting the Office of the Clerk. The documents are also freely available online at the Board's webpage: [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

The record will not include a copy of the following documents, which are all otherwise publicly available:

- The March 4, 2021 and March 26, 2021 *Federal Register* notices that prompted this action (referenced in the Board's February 3, 2022 opinion and order proposing amendments);
- The December 15, 2021 update to the List of Designated Methods that prompted this action (referenced in the Board's February 3, 2022 opinion and order proposing amendments);
- Federal statutes and regulations referenced in the Board's February 3, 2022 opinion and order; and
- Illinois statutes and regulations referenced in the Board's February 3, 2022 opinion and order.

The Board requests that interested persons direct questions to the following person:

Michael J. McCambridge, Staff Attorney  
Pollution Control Board  
100 West Randolph Street, Room 11-500  
Chicago, Illinois 60601  
312-814-6924  
[michael.mccambridge@illinois.gov](mailto:michael.mccambridge@illinois.gov)

The Board requests that interested persons request documents from or submit documents to the following person:

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENTS

Don A. Brown, Clerk of the Board  
Pollution Control Board  
100 West Randolph Street, Room 11-500  
Chicago, Illinois 60601  
312-814-3461  
don.brown@illinois.gov

After the hearing and conclusion of the public comment period, the Board will promptly issue an opinion and order adopting final rule amendments. The Board presently anticipates adopting the amendments before June 1, 2022. The Board will then file the amendments with the Office of the Secretary of State, and a Notice of Adopted Amendments will appear in the *Illinois Register*. Any Agency submission of the associated SIP revision to USEPA will follow that Notice.

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENTS

## NOTICE PURSUANT TO 415 ILCS 5/7.2(b)

Section 10(H) of the Environmental Protection Act (Act) [415 ILCS 5/10(H)] requires the Board to adopt regulations that are identical in substance to the National Ambient Air Quality Standards (NAAQS) adopted by USEPA under section 109 of the Clean Air Act (CAA) (42 U.S.C. § 7409 (2019)). The USEPA NAAQS adopted under this authority are codified as 40 C.F.R. 50. The Board is required to adopt these rules using the “identical in substance” rulemaking procedure of Section 7.2 of the Act [415 ILCS 5/7.2].

Section 7.2(a) of the Act requires the Board to complete its identical-in-substance rulemaking actions within one year after the date of the USEPA action on which they are based. Section 7.2(b) allows the Board to extend the deadline for adoption by publication of a notice of reason for delay in the *Illinois Register*.

On February 17, 2022, the Pollution Control Board adopted an order in consolidated docket R22-8 that stated reasons for delay and extended the deadline for the Board completing action on rules adopted by USEPA on March 4, 2021 and March 26, 2021. A segment of that opinion and order set forth reasons for delay in the update to 35 Ill. Adm. Code 243. In that order, the Board stated as follows:

**EXTENSION OF DUE DATE AND REASONS FOR DELAY**  
**TIMETABLE TO COMPLETE RULEMAKING**

Section 7.2(b) of the Act requires the Board to complete action on these amendments within one year of the earliest USEPA action in the docket. That is March 4, 2022. Section 7.2(b) further allows the Board to extend the deadline for completing the amendments upon finding that more time is necessary. The Board must publish notice of this finding in the *Illinois Register*. 415 ILCS 5/7.2(b) (2020).

The Board finds that additional time is needed to complete the amendments in this docket. Events have delayed action until today. The Board extends the due date for final action until June 1, 2022.

The Board is reviewing the entire text of the Illinois hazardous waste regulations to make needed corrections and harmonize that text with current Board stylistic preferences and stylistic preferences that the Joint Committee on Administrative Rules (JCAR) consistently submits based on our proposed rules. The corrections to the first portion of the hazardous waste and underground injection control permit rules in RCRA Subtitle C Update, USEPA Amendments (July 1, 2020 through December 31, 2020, R21-13, RCRA Subtitle C Update, USEPA Amendments (July 1, 2021 through December 31, 2021, R22-13, Corrections to RCRA Subtitle

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENTS

C and UIC Permit Rules (35 Ill. Adm. Code 702 through 705), R22-19 (consol.) has substantially taxed Board resources. The volume of text involved is large and the effort needed for the review considerable. The Board staff member who has worked on hazardous waste updates for nearly 30 years plans to retire within the next several months. The Board wishes to take advantage of his experience by completing review of the rules before he retires.

Work on the R21-13/R22-13/R22-19 rulemaking unavoidably delayed progress in the present R22-8 NAAQS update.

The Board plans to complete the amendments in the docket R22-8 NAAQS update on the following schedule:

Board order proposing amendments:	<b>February 17, 2022</b>
Submission for <i>Illinois Register</i> publication:	February 28, 2022
Estimated <i>Illinois Register</i> publication date:	March 11, 2022
Public Hearing on Amendments	April 21, 2022
Estimated end of 45-day public comment period:	April 11, 2022
Board order adopting amendments:	<b>May 4, 2022</b>
Estimated filing and effective date:	<b>May 16, 2022</b>
Estimated <i>Illinois Register</i> publication date:	May 27, 2022

This schedule delays adopting amendments by a short time after the public hearing to allow any additional public comments after the hearing.

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 46, Issue 10 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

**PROPOSED RULES**

77 - 4500	.....	3478
56 - 350	.....	3482
35 - 243	.....	3485
35 - 310	.....	3497
20 - 1286	.....	3509

**ADOPTED RULES**

56 - 350	2/15/2022 .....	3518
80 - 150	2/17/2022 .....	3589

**EMERGENCY RULES**

56 - 350	2/15/2022 .....	3598
----------	-----------------	------

**JOINT COMMITTEE ON  
ADMINISTRATIVE RULES  
STATEMENTS OF SUSPENSION**

77 - 690	.....	3608
----------	-------	------

**JCAR REVIEW OF EXISTING RULES  
STATEMENT OF RECOMMENDATIONS**

56 - 350	.....	3610
----------	-------	------

**JCAR REVIEW OF EXISTING RULES  
STATEMENT OF OBJECTIONS**

89 - 403	.....	3611
----------	-------	------