

ILLINOIS REGISTER

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Alternate Fuels Program
- 2) Code Citation: 35 Ill. Adm. Code 275
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
275.100	Amendment
275.120	Amendment
275.130	Amendment
275.300	New
275.310	New
275.320	New
275.330	New
275.340	New
275.350	New
275.360	New
275.370	New
275.380	New
275.390	New
275.400	New
275.410	New
275.420	New
275.430	New
- 4) Statutory Authority: Sections 15 and 30 of the Alternate Fuels Act [415 ILCS 120/15 and 120/30].
- 5) A Complete Description of the Subjects and Issues Involved: The Illinois Environmental Protection Agency's (Illinois EPA) proposal would amend Part 275 to reflect amendments to Section 30 of the Alternate Fuels Act (Act) signed into law on July 11, 2011, as Public Act (P.A.) 97-0090. Amendments to Section 30 of the Act establish an electric vehicle car sharing grant program. These amendments provide that, through fiscal year 2013, the Illinois EPA may award grants to car sharing organizations for the purchase of new electric vehicles from an Illinois car dealership to the extent that funds remain available from the alternate fuel vehicle rebate fund. Also, amendments to Section 30 provide grant award criteria, eligibility requirements, application requirements, funding limitations, and reporting requirements.

The Illinois EPA's proposed amendments to Part 275 establish procedures for the issuance of electric vehicle car sharing grants. Specifically, the proposed amendments

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establish the availability and limitations of grants, grant application requirements, and criteria and procedures relating to the Illinois EPA's award of grants and grant funding amounts. In addition, the proposed amendments establish requirements relating to grant agreements, access to grant projects, audits, maintenance of records, reporting, and reimbursement. Also, the proposed amendments establish procedures for addressing noncompliance with grant requirements.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The Illinois EPA relied on P.A. 97-0090 to compose this rulemaking. Copies are available for review with the Illinois EPA at 1021 N. Grand Avenue East, Springfield, Illinois 62794.
- 7) Will this proposed amendment replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed amendment contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Illinois EPA will accept written public comments on this proposal for a period of forty-five (45) days after the date of publication in the Illinois Register. Comments should reference the Alternate Fuels Program and be addressed to:

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- 13) Initial Regulatory Flexibility Analysis:

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- A. Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking will impact small businesses, small municipalities, and not for profit corporations to the extent that if they apply for an electric vehicle car sharing grant, they will utilize this rule. The Illinois EPA anticipates that this rule will generally benefit these entities by providing funds and a streamlined process for obtaining such funds for the purchase of new electric vehicles.
 - B. Reporting, bookkeeping or other procedures required for compliance: This rulemaking requires grant recipients to maintain records relating to their grants and to submit quarterly reports, if applicable, and final reports.
 - C. Types of Professional skills necessary for compliance: None.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because these rules were not contemplated until passage of House Bill 2903 (P.A. 97-0090).

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

1 TITLE 35: ENVIRONMENTAL PROTECTION
2 SUBTITLE B: AIR POLLUTION
3 CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

4
5 PART 275
6 ALTERNATE FUELS PROGRAM

7
8 SUBPART A: GENERAL PROVISIONS
9

10	Section	
11	275.100	Purpose <u>and Introduction</u>
12	275.110	Other Definitions
13	275.120	Definitions
14	275.130	Abbreviations and Acronyms
15	275.140	Incorporations by Reference

16
17 SUBPART B: ALTERNATE FUEL VEHICLE REBATES

18		
19	Section	
20	275.200	General Applicant and Vehicle Eligibility
21	275.210	Conversion Cost Rebate Eligibility
22	275.215	OEM Differential Cost Rebate Eligibility
23	275.220	Fuel Cost Differential Rebate Eligibility
24	275.230	Applications
25	275.240	Rebate Priorities and Rebate Amounts
26	275.250	Appeal of Agency Decision

27
28 SUBPART C: ELECTRIC VEHICLE CAR SHARING GRANTS

29		
30	<u>Section</u>	
31	<u>275.300</u>	<u>Availability and Limitations of Grants</u>
32	<u>275.310</u>	<u>Grant Application Requirements</u>
33	<u>275.320</u>	<u>Agency Action on Grant Applications</u>
34	<u>275.330</u>	<u>Grant Agreement and Amendments</u>
35	<u>275.340</u>	<u>Access</u>
36	<u>275.350</u>	<u>Audit and Records</u>
37	<u>275.360</u>	<u>Grant Reporting Requirements</u>
38	<u>275.370</u>	<u>Final Inspection</u>
39	<u>275.380</u>	<u>Noncompliance</u>
40	<u>275.390</u>	<u>Project Suspension</u>
41	<u>275.400</u>	<u>Grant Termination by the Agency</u>
42	<u>275.410</u>	<u>Agency Recovery and Reimbursement of Grant Funds</u>
43	<u>275.420</u>	<u>Indemnification</u>
44	<u>275.430</u>	<u>Disputes</u>

45
46 275.APPENDIX A Annual Fuel Cost Differential For LDVs (Repealed)
47

48 AUTHORITY: Implementing and authorized by Sections 15 and 30 of the Alternate Fuels Act
49 [415 ILCS 120/15 and 30].
50

51 SOURCE: Adopted at 21 Ill. Reg. 7150, effective May 29, 1997; amended at 23 Ill. Reg. 11916,
52 effective September 13, 1999; amended at 25 Ill. Reg. 6877, effective May 18, 2001; amended at
53 34 Ill. Reg. 16841, effective October 18, 2010; amended at 36 Ill. Reg. _____, effective
54 _____.

55
56 SUBPART A: GENERAL PROVISIONS
57

58 **Section 275.100 Purpose and Introduction**
59

60 a) This Part establishes procedures for applying for alternate fuel vehicle rebates and
61 electric vehicle car sharing grants as authorized by the Alternate Fuels Act [415
62 ILCS 120]. Alternate fuel vehicle rebates include an original equipment
63 manufacturer (OEM) differential cost rebate, conversion cost rebate, or fuel cost
64 differential rebate ~~as authorized by the Alternate Fuels Act [415 ILCS 120].~~

65
66 b) This Part is divided into Subparts that are grouped as follows:
67

68 1) Subpart A: General Provisions;
69

70 2) Subpart B: Alternate Fuel Vehicle Rebates; and
71

72 3) Subpart C: Electric Vehicle Car Sharing Grants.
73

74 (Source: Amended at 36 Ill. Reg. _____, effective _____)
75

76 **Section 275.120 Definitions**
77

78 "Act" means the Alternate Fuels Act [415 ILCS 120].
79

80 "Agency" means the Illinois Environmental Protection Agency.
81

82 "Alternate fuel" means liquefied petroleum gas (propane), natural gas, E85 blend
83 fuel, hydrogen fuel, electricity when used as the primary external fuel source to
84 power the vehicle excluding on-board electric generation, fuel composed of a
85 minimum 80% ethanol or 80% bio-based methanol, or fuels that are at least 80%
86 derived from biomass.
87

88 "Alternate fuel vehicle" means any motor vehicle or engine that is capable of

89 using an alternate fuel and is operated in the State of Illinois.

90
91 "Base retail price" means the manufacturer's suggested retail price ([MSRP](#))
92 excluding options, upgrades, and applicable taxes, title, license, document fee,
93 destination charge, and other add-ons or dealer-related charges.

94
95 "Biodiesel fuel" means a renewable fuel conforming to the industry standard
96 ASTM D 6751, incorporated by reference in Section 275.140 of this Subpart.

97
98 "Car sharing organization" means an organization whose primary business is a
99 membership-based service that allows members to drive cars by the hour in order
100 to extend the public transit system, reduce personal car ownership, save
101 consumers money, increase the use of alternative transportation, and improve
102 environmental sustainability. [415 ILCS 120/10]

103
104 "Conventional", when used to modify the word "vehicle", "engine", or "fuel",
105 means gasoline or diesel or any reformulations of those fuels. [415 ILCS 120/10]

106
107 "Conversion Cost Rebate" means a rebate issued to offset, in part, the cost of
108 converting a conventional vehicle to alternate fuel capability.

109
110 "Covered area" means the counties of Cook, DuPage, Kane, Lake, McHenry, and
111 Will and those portions of Grundy County and Kendall County that are included
112 in the following zip code areas, as designated by the U.S. Postal Service on
113 August 7, 1998: 60416, 60444, 60447, 60450, 60481, 60538, and 60543.

114
115 "Domestic renewable fuel" means a fuel, produced in the United States or its
116 territories, composed of a minimum 80% ethanol or 80% bio-based methanol,
117 minimum 20% biodiesel fuel, or other fuels derived from at least 80% biomass.

118
119 "E85 blend fuel" means fuel that contains 85% ethanol and 15% gasoline [415
120 ILCS 120/10] or any wintertime blend of at least 70% ethanol.

121
122 "Electric vehicle" means a vehicle that is licensed to drive on public roadways, is
123 predominantly powered by, and primarily fueled with, electricity, and does not
124 have restrictions confining it to operate on only certain types of streets or roads.
125 [415 ILCS 120/10]

126
127 "Fuel cost differential rebate" means a rebate issued to offset, in part, the
128 increased cost of using an alternate fuel or domestic renewable fuel compared to
129 conventional fuel.

130
131 "Gross Vehicle Weight Rating" or "GVWR" means the total vehicle weight,
132 including the maximum load, as designated by the original equipment

133 manufacturer.

134

135 "Heavy-duty vehicle" or "HDV" means a motor vehicle whose GVWR is more
136 than 8,500 lbs.

137

138 "*Location*" means:

139

140 | *a parcel of real property; or*

141

142 *multiple, contiguous parcels of real property that are separated by private*
143 *roadways, public roadways, or private or public rights-of-way and are*
144 *owned, operated, leased, or under common control of one party. [415*
145 *ILCS 120/10]*

146

147 "Motor vehicle" means a car, truck, van, bus, motorcycle, or other similar on-road
148 vehicle that can be legally driven on all public roadways and all highways in
149 Illinois for the purpose of transporting passengers or cargo. Types of vehicles that
150 are designed to be used primarily as off-road vehicles or equipment, including,
151 but not limited to, vehicles and equipment used for agriculture, construction,
152 recreation or landscaping, and golf carts that are designed and manufactured for
153 operation on a golf course or similar vehicles that resemble golf carts, are not
154 motor vehicles for the purposes of this Part.

155

156 "OEM differential cost rebate" means a rebate issued to offset, in part, the
157 increased cost of purchasing an OEM alternate fuel vehicle.

158

159 "Owner" means any person who has legal or equitable title to a motor vehicle.

160

161 "Person" means any individual, business, corporation, organization, partnership,
162 firm, association, trust, estate, public or private institution, group, municipality,
163 political subdivision of a state, any agency, department, or instrumentality of the
164 United States, and any officer, agent or employee of any of the above. A car
165 | dealer, ~~or~~ car dealership or lessee of a motor vehicle is not a person for the
166 purposes of this Part.

167

168 "Private fueling operation" means any activity in which alternate fuel or domestic
169 renewable fuel is transferred from a stationary or mobile source to a fuel storage
170 system used to provide fuel to the engine or motor of that vehicle where the fuel is
171 not available to the public.

172

173 | "Project expenditures" means the purchase costs of electric vehicles and costs of
174 supporting infrastructure for an electric vehicle car sharing grant.

175

176 "Proof of payment" means a copy of a cancelled check, an invoice or bill showing

177 that the applicable amount has been paid or that no remaining balance exists, or
178 other appropriate proof, acceptable to the Agency, that payment has been made
179 for the related purchase.

180
181 "Public fueling operation" means any site where alternate fuel or domestic
182 renewable fuel is transferred from a stationary source to a fuel storage system
183 used to provide fuel to the engine or motor of that vehicle, and is a retail
184 operation.

185
186 "Purchase costs" means the base MSRP of an electric vehicle.

187
188 "Retail" means to sell directly to the ultimate consumer in small quantities (e.g.,
189 gallons) and deliver fuel to a fuel storage system used to provide fuel to the
190 engine or motor of a vehicle.

191
192 "Small fleet owner" means a person who owns or operates no more than 30 motor
193 vehicles and employs 100 or fewer employees.

194
195 "Supporting infrastructure" means equipment and installation of equipment for the
196 recharging of electric vehicles purchased under a grant project.

197
198 (Source: Amended at 36 Ill. Reg. _____, effective _____)
199

200 **Section 275.130 Abbreviations and Acronyms**
201

Agency	Illinois Environmental Protection Agency
ASTM	ASTM International
CARB	California Air Resources Board
FEIN	Federal Employer Identification Number
GVWR	gross vehicle weight rating
HDV	heavy-duty vehicle
<u>MSRP</u>	<u>Manufacturer's suggested retail price</u>
OEM	original equipment manufacturer
USEPA	United States Environmental Protection Agency
VIN	vehicle identification number

202
203 (Source: Amended at 36 Ill. Reg. _____, effective _____)
204

205 SUBPART C: ELECTRIC VEHICLE CAR SHARING GRANTS
206

207 Section 275.300 Availability and Limitations of Grants
208

- 209 a) Once in each of fiscal years 2012 and 2013, in accordance with the Act and this
210 Subpart, a car sharing organization may submit a grant proposal to the Agency for

211 the purchase of new electric vehicles from an Illinois car dealership.

212
213 b) Grant funds may only be used for purchasing electric vehicles [415 ILCS
214 120/30(c)(4)]. Grant funding may not exceed 25 percent of the actual project
215 expenditures.

216
217 c) The availability of grants in any fiscal year is limited to the Agency's estimate of
218 the amount of the annual appropriation and funding remaining after all alternate
219 fuel rebates, as authorized by the Act and Subpart B of this Part, for the applicable
220 fiscal year, have been accounted for.

221
222 d) Grants shall be awarded on a competitive basis.

223
224 e) The Agency may elect to partially fund a grant project.

225
226 f) Grant projects must be performed within one year after the date of the grant
227 award.

228
229 g) An electric vehicle purchased using grant funding is not eligible for any rebate
230 authorized by the Act and Subpart B of this Part.

231
232 h) A grant recipient, if determined to be in noncompliance with this Subpart or the
233 grant agreement, may not be eligible to receive an additional grant until
234 compliance has been achieved and the grant recipient provides sufficient
235 assurances to the Agency that it has addressed or will timely address the previous
236 noncompliance.

237
238 (Source: Added at 36 Ill. Reg. _____, effective _____)

239
240 **Section 275.310 Grant Application Requirements**

241
242 a) To be considered for a grant under this Subpart, eligible grant applicants must
243 submit to the Agency a grant proposal that includes complete application forms
244 and any other required information. Grant applicants must use application forms
245 furnished by the Agency.

246
247 b) Grant proposals must include the following:

248
249 1) Name, principal address, chief officers, and locations of the car sharing
250 organization and its operations within Illinois;

251
252 2) Description of the car sharing organization, including the number and
253 types of vehicles currently in the fleet and how the vehicles are
254 strategically located to maximize their usage, along with a summary of the

255 demographic populations being served [415 ILCS 120/30(c)(1)(B)];
256

257 3) Summary of average miles per year driven by the vehicles currently in the
258 fleet [415 ILCS 120/30(c)(1)(C)];
259

260 4) Narrative description of the project, including the overall plans of the
261 organization in acquiring electric vehicles, the makes and models and the
262 number of electric vehicles that will be acquired by the funding, estimated
263 purchase costs for each vehicle, how the vehicles will be refueled, and
264 whether the refueling locations are available to the public or other
265 entities, are private facilities solely used by the organization, or a
266 combination of both [415 ILCS 120/30(c)(1)(D)]; and
267

268 5) Detailed project budget, including purchase costs of the electric vehicles
269 and costs of the supporting infrastructure.
270

271 c) Grant proposals must be submitted by hard copy and postmarked by May 1 of the
272 applicable fiscal year, unless otherwise specified by the Agency.
273

274 (Source: Added at 36 Ill. Reg. _____, effective _____)
275

276 **Section 275.320 Agency Action on Grant Applications**
277

278 a) Subject to the availability and limitations of grants as specified in Section
279 275.300, the Agency may award grants and set initial and final grant funding
280 amounts.
281

282 b) In awarding a grant, the Agency shall consider the following:
283

284 1) The overall level of environmental benefits to be realized by the proposed
285 grant project, including, but not limited to, the following:
286

287 A) Whether the car sharing organization's current and proposed
288 vehicles are or will be located in an ozone nonattainment area;
289

290 B) The geographic distribution of the car sharing organization's
291 current and proposed vehicles;
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293 C) The number of proposed vehicles, including the make and model;
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295 D) The demographic populations being served by the car sharing
296 organization;
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298 E) The average miles driven per year by the car sharing organization's

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current vehicles;

F) The type of equipment to be used for refueling the vehicles; and

G) Whether the refueling locations are available to the public or other entities, are private facilities solely used by the car sharing organization, or a combination of both;

2) Whether a greater portion of the estimated total project expenditures will fund the purchase of new electric vehicles; and

3) Other relevant information provided by the grant applicant or identified by the Agency.

c) Grant Funding Amounts

1) Initial and final grant funding amounts shall be based only on the base MSRP of the electric vehicle and its electric motors and drivetrain system as depicted on the window sticker or similar documents and not on add-on options such as cabin-related product or component upgrades and extended warranties.

2) Initial grant funding amounts shall not exceed 25 percent of the estimated project expenditures. Final grant funding amounts shall not exceed 25 percent of the actual project expenditures. In the event there is a difference between initial and final grant funding amounts such that initial grant funding exceeds 25 percent of the actual project expenditures, the grant recipient shall reimburse the State of Illinois that excess portion of the initial grant funding amount in accordance with Section 275.410(a).

d) The Agency may request that the grant applicant revise its grant proposal.

e) Grant applicants are not eligible to obtain grant funding by default due to failure by the Agency to act upon a grant proposal.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 275.330 Grant Agreement and Amendments

a) If selected for a grant, the Agency shall send the grant applicant a grant agreement. The grant applicant shall sign and return the grant agreement within the time period specified by the Agency. If the grant applicant fails to submit the signed grant agreement to the Agency within the time period specified, the grant award may be considered null and void.

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- b) The grant agreement, any grant amendments, and this Subpart shall govern the grant.
- c) Following acceptance of the grant agreement by the State of Illinois, the Agency shall award the grant by issuing a grant project confirmation letter, including a signed copy of the grant agreement, to the grant recipient that authorizes the grant recipient to begin the grant project.
- d) The grant recipient may propose changes to the grant project, and the Agency and grant recipient may mutually agree to amend the grant. Any changes to the grant project must be made in writing, signed by the Agency and grant recipient, as an amendment.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 275.340 Access

- a) Any entity with grant oversight authority, and any representative of that entity, shall have access, during normal business hours and at any other time during which the grant project is being performed, to the premises where any grant project is being performed or where any electric vehicles are located. After completion of the grant project, any entity with grant oversight authority, and any representative of that entity, shall have access to the resulting grant project, including electric vehicles, for five years, during normal business hours. During any access under this subsection, interviews of persons may be conducted.
- b) Failure by the grant recipient to provide access as required by this Section after 3 business days written notice from the Agency may result in the Agency taking any of the actions specified by Section 275.380(a)(1)-(a)(4) (Noncompliance).

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 275.350 Audit and Records

- a) The grant recipient shall maintain books, records, documents, reports, papers, agreements, and other evidentiary material and accounting procedures and practices ("records") as required by the grant agreement and any applicable law or regulation, and consistent with generally accepted accounting standards.
- b) For purposes of this Section, "records" shall include, but not be limited to, the following:

- 386 | 1) Documentation of the receipt and disposition by the grant recipient of all
387 | grant funds received for the grant project; and
388 |
389 | 2) Documentation of the project expenditures for the grant project, including
390 | all direct and indirect costs of whatever nature incurred for the
391 | performance of the grant project.
392 |
393 | c) The grant recipient's facilities, or any facilities engaged in the performance of the
394 | grant project, and the grant recipient's records shall be subject to inspection and
395 | audit by any entity with grant oversight authority, and any representative of that
396 | entity, at the times specified in Section 275.340 (Access).
397 |
398 | d) The grant recipient shall preserve and make its records available to any entity
399 | with grant oversight authority, and any representative of that entity, for the
400 | following record retention periods:
401 |
402 | 1) Five years after submission of the final report;
403 |
404 | 2) If the grant is completely or partially terminated, 5 years after any
405 | resulting final termination settlement; or
406 |
407 | 3) If any dispute, litigation, claim, negotiation, audit or other action involving
408 | the records has been started before expiration of the record retention
409 | period specified in subsection (d)(1), until completion of the action and
410 | resolution of all issues that arise from it.
411 |
412 | e) Failure of the grant recipient to make records available as required by this Section
413 | after 3 business days written notice from the Agency may result in the Agency
414 | taking any of the actions specified by Section 275.380(a)(1)-(a)(4)
415 | (Noncompliance).
416 |
417 | f) The rights of access under this Section are not limited to the applicable record
418 | retention period, but shall last as long as the records are retained.
419 |
420 | g) The grant recipient shall comply with any investigations and interviews relating to
421 | the grant project and related records.
422 |

423 | (Source: Added at 36 Ill. Reg. _____, effective _____)
424 |

425 | **Section 275.360 Grant Reporting Requirements**
426 |

- 427 | a) Within one year after the date of the grant award, the grant recipient shall submit
428 | a final report to the Agency. Final reports shall be submitted by hard copy and
429 | postmarked within one year after the date of the grant award.

- 430
431 b) Final reports shall include, at a minimum, the following information:
432
433 1) The make, model and model year of each electric vehicle purchased;
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435 2) The purchase date of each electric vehicle;
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437 3) The VIN of each electric vehicle purchased;
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439 4) The license plate number and the state of registration of each electric
440 vehicle purchased;
441
442 5) A copy of the window sticker or similar document showing the base
443 MSRP and all options for each electric vehicle purchased;
444
445 6) A copy of the purchase invoice for each electric vehicle, showing proof of
446 payment and identifying the Illinois car dealership where the vehicle was
447 purchased; and
448
449 7) A complete accounting of any and all costs attributable to the supporting
450 infrastructure.
451
452 c) For grants in excess of \$25,000, the grant recipient shall submit quarterly reports
453 to the Agency. Quarterly reports shall describe the progress of the grant project
454 and expenditure of grant funds. Quarterly reports shall be submitted to the
455 Agency by hard copy within 30 days after October 1, January 1, April 1, and July
456 1, as applicable.
457
458 d) Failure by the grant recipient to submit any report when due, as required by this
459 Section, may result in the Agency taking any of the actions specified by Section
460 275.380(a)(1)-(a)(4) (Noncompliance).
461

462 (Source: Added at 36 Ill. Reg. _____, effective _____)
463

464 **Section 275.370 Final Inspection**
465

466 The Agency shall conduct a final inspection of the grant project within 60 calendar days after
467 receipt of the final report required by Section 275.360 of this Subpart or within 60 days after the
468 grant award expires, whichever comes first. If the Agency concludes at final inspection that
469 performance of the grant project is deficient, the Agency shall notify the grant recipient in
470 writing within 30 calendar days after final inspection. Within 30 calendar days after receipt of
471 the Agency's written notice of deficiency, the grant recipient shall satisfy the deficiency and
472 notify the Agency in writing of completion. The Agency shall schedule a follow-up inspection,
473 or other appropriate review, within 30 calendar days after receipt of the notice.

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(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 275.380 Noncompliance

a) In the event of noncompliance with any provision of the grant agreement or this Part, the Director may take any necessary action as provided by law or by the grant agreement against the grant recipient, including, but not limited to, one or more of the following actions:

- 1) Commence legal action in a court of competent jurisdiction;
- 2) Declare all grant funds revoked immediately and recover all grant funds;
- 3) Terminate the grant pursuant to Section 275.400 (Grant Termination by the Agency);
- 4) Suspend all or part of the grant project pursuant to Section 275.390 (Project Suspension); or
- 5) Reduce the amount of the grant by the amount of misused funds.

b) In determining whether to take action, the Agency shall, at a minimum, consider mitigating or aggravating factors, including, but not limited to, the severity and number of the violations, whether the violation is a continuing one, whether the grant recipient can remedy or has remedied the violation, and whether the grant recipient remains capable of performing the grant project.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 275.390 Project Suspension

a) In the event of any violation of this Subpart or noncompliance with any provision of the grant agreement, the Agency may, by written notice and order, require the grant recipient to suspend all or any part of the grant project for a period of not more than 30 calendar days after the date of the order, and for any further period to which the parties may agree. Any such order shall include a list of the grant project activities to which it applies. Upon receipt of a project suspension order, the grant recipient shall immediately comply with its terms and shall minimize the incurrence of costs allocable to the grant project activities covered by the order during the period of suspension. Within 30 days after the date of the project suspension order, or within the period of any extension to which the parties have agreed, the Agency may:

- 518 1) Cancel the project suspension order upon resolution of the violation or
519 cause leading to that project suspension order; or
520
521 2) Terminate the work covered by the project suspension order, as provided
522 in Section 275.400 (Grant Termination by the Agency).
523
524 b) If a project suspension order is cancelled or the period of the order or any
525 extension of the order expires, the grant recipient shall resume the grant project
526 activities. An adjustment may be made in the grant period, the grant funding, or
527 any combination of these, and the grant may be amended accordingly, if the grant
528 recipient submits a written claim for an adjustment to the Agency within 30
529 calendar days after the end of the project suspension. Any such adjustment is at
530 the discretion of the Agency.
531
532 c) All costs that are incurred by the grant recipient after the receipt of a project
533 suspension order, or during any extension of the project suspension order period
534 to which the Agency and the grant recipient have agreed, shall be deemed
535 unallowable costs unless otherwise authorized by the Agency in writing.
536

537 (Source: Added at 36 Ill. Reg. _____, effective _____)
538

539 **Section 275.400 Grant Termination by the Agency**
540

541 The Agency may terminate the grant for any of the following reasons:
542

- 543 a) Availability of Appropriation. The Agency, by written notice to the grant
544 recipient, may immediately terminate a grant, in whole or in part, without penalty
545 or further payment being required, if the Illinois General Assembly fails to make
546 an appropriation sufficient to pay the grant obligation, or if funds needed are
547 insufficient for any reason.
548
549 b) Cause. The Agency, by written notice to the grant recipient, may immediately
550 terminate a grant, in whole or in part, if it is determined that the actions, or failure
551 to act, of the grant recipient, its agents, employees or contractors have caused, or
552 reasonably could cause, jeopardy to health, safety or property. If the grant
553 recipient fails to perform to the Agency's satisfaction any material requirement of
554 a grant or is in violation of a material provision of a grant or this Subpart, the
555 Agency shall provide written notice to the grant recipient requesting that the
556 breach or noncompliance be remedied within the period of time specified in the
557 Agency's written notice. If the breach or noncompliance is not remedied by that
558 date, the Agency may either immediately terminate the grant without additional
559 written notice or enforce the terms and conditions of the grant, and, in either
560 event, may seek any available legal or equitable remedies and damages.
561

- c) Convenience. Following 30 days written notice, the Agency may terminate a grant in whole or in part without the payment of any penalty or incurring any further obligation to the grant recipient. Following any termination for convenience, the grant recipient shall be entitled to compensation upon submission of invoices and proof of claim for grant project work performed under the grant agreement up to and including the date of termination.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 275.410 Agency Recovery and Reimbursement of Grant Funds

- a) If there are grant funds remaining at the time of submitting the final report, the remaining grant funds shall be returned to the State of Illinois within 45 days after submitting the final report.
- b) The State of Illinois shall be reimbursed for any grant funds that have not been spent in accordance with this Part or the grant agreement.
- c) If the Agency determines that any grant funds are being misspent or improperly held by the grant recipient, the Agency or the Attorney General shall have the authority to recover those funds and take any action authorized by the Illinois Grant Funds Recovery Act [30 ILCS 705].
- d) Electric vehicles purchased with grant funds must remain registered and in service with the grant recipient in Illinois for a minimum of 5 years after purchase. If an electric vehicle is sold or otherwise taken out of service in Illinois earlier than that time, the grant recipient shall refund to the State of Illinois a prorated amount of the grant funds used to purchase that vehicle based on MSRP within 45 days after being sold or taken out of service, except if the vehicle is replaced with a comparable vehicle or can no longer be safely operated due to an accident or other damage.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 275.420 Indemnification

The grant recipient agrees to defend, indemnify and hold harmless the State of Illinois, its agencies, officers, employees, agents and volunteers from any and all costs, demands, expenses, losses, claims, suits, causes of action, fines, damages, liabilities, settlements and judgments, including in-house and contracted attorneys' fees and expenses, relating to bodily injuries to persons, including death, and for loss of, damage to, or destruction of real or tangible personal property, including property of the State of Illinois, resulting from the negligence or misconduct of the grant recipient, its employees, agents or contractors in the performance of the grant project or related to performances of the grant project. The grant recipient shall require any contractor

606 engaged by the grant recipient to agree in writing to look solely to the grant recipient for
607 performance of its sub-agreement with the grant recipient and for satisfaction of any and all
608 claims arising under the sub-agreement.

609
610 (Source: Added at 36 Ill. Reg. _____, effective _____)

611
612 **Section 275.430 Disputes**

613
614 a) Any dispute arising under a grant that is not disposed of by agreement shall be
615 decided by the Director, or his or her authorized representative, who shall render a
616 decision in writing. This decision shall be furnished to the grant recipient by
617 mail, electronic mail, facsimile, personal service or similar means. The decision
618 of the Director shall be in accordance with this Subpart and shall be final and
619 conclusive.

620
621 b) Subsection (a) shall not preclude the Director from considering questions of law
622 or equity in any decision.

623
624 (Source: Added at 36 Ill. Reg. _____, effective _____)