**Section 230.400 Criteria for Review**

a) The Joint Committee will consider the following criteria in its review of emergency rules and rulemakings:

1) Emergency

A) Does a situation exist that reasonably constitutes a threat to the public interest, safety or welfare and that requires adoption of the rule upon fewer days' notice than is required by Section 5-40 of the Act?

B) Has the agency stated clearly and completely, in writing, its reasons for finding that such a situation exists?

C) Has the emergency situation arisen through no fault of the agency?

D) Is the emergency rule limited to those matters that are required to meet the emergency situation?

E) Has the agency taken steps to make the emergency rule known to those persons who may be affected by it? Has the agency stated those steps in writing?

F) Has the agency not adopted the same emergency rule, or an emergency rule having substantially the same purpose and effect, in the past 24 months? (This provision does not apply to additions to or deletions from the Department of Public Aid's Drug Manual, which are exempt from this limitation pursuant to Section 5-45 of the Act.)

G) Does the agency have legal authority for each portion of the emergency rule?

H) Does each portion of the emergency rule comply with the statutory authority and legislative intent upon which it is based, or which it is implementing or interpreting?

I) Does the agency have rulemaking authority?

2) Substantive

A) Does each portion of the emergency rule comply with State and federal constitutions, State and federal law, and case law?

B) Does each portion of the emergency rule include standards for the exercise of discretionary authority? Are the standards defined as clearly as practicable under the conditions?

3) Propriety

A) Is there an adequate justification and rationale for the emergency rules and rulemaking and for any regulation of the public embodied in the rules?

B) Has the agency considered the economic effects of the rules upon those regulated, including small businesses, not for profit corporations and units of local government, school districts, and community college districts?

C) Has the agency considered less costly alternatives to these emergency rules?

D) Has the agency considered the budgetary effects of the emergency rules upon itself, other State agencies, and State revenue in general?

E) Is the language of the emergency rules simple and clear, so that the rules can be understood by the persons and groups they will affect?

F) Are the emergency rules free of serious technical errors, redundancies and grammatical or typographical errors that would affect the meaning of the rules?

4) Procedural

A) Does the emergency rulemaking comply with the requirements of the Administrative Code Division (1 Ill. Adm. Code 100)?

B) Do the emergency rules and rulemaking comply with any additional requirements imposed on the agency by State or federal law?

C) Do the emergency rules and rulemaking comply with the agency's own rules for the promulgation of rules?

b) If the Joint Committee determines that one or more of the criteria enumerated in this Section are not met, the Committee shall issue an objection or recommendation pursuant to Section 230.600(a) or (b) of this Part.

(Source: Amended at 18 Ill. Reg. 1233, effective January 13, 1994)