**Section 1100.200 Rulemaking Procedures**

a) Identification of need for rulemaking

The Department shall initiate rulemaking proceedings when:

1) A unit of the Department recommends that a new rule be adopted or an existing rule be amended or repealed; or

2) When a petition for rulemaking is received and favorably considered by the Department, petitions for Department rulemaking shall be governed by the provisions of the rule on such matters.

b) Rulemaking proceedings

When a need for rulemaking has been identified, the rule proposal shall be prepared in the form used by the Department for its rules; which incorporates the substance of the recommendation. The draft shall indicate any changes in existing rules or additional new rules resulting from the initial rule proposal. Copies of the draft shall be circulated for review by Department operating and administering units which may be affected by it and adjustments in the draft shall be made on the basis of the review. If the Department determines the rule should be pursued, the necessary steps for filing and publication shall be followed.

c) Methods of adoption of rules

1) When the Department determines that an emergency which reasonably constitutes a threat to the public interest, safety and welfare, requires adoption of a rule upon fewer than 45 days notice, the Department shall:

A) File a copy of the rule and a certificate of emergency with the Secretary of State,

B) Submit a notice of emergency adoption for publication in the next available issue of the Illinois Register, and

C) Comply with the requirements of subsection (d) below.

2) When Federal law or regulations or judicial order requires adoption of rule under circumstances which preclude Department compliance with the 45 day notice requirement, the Department shall:

A) File a certified copy of the rule with the Secretary of State, and

B) Submit a notice of adoption for publication in the next available issue of the Illinois Register.

3) In all circumstances other than those identified in paragraphs (1) and (2) directly above, the Department should comply with the notice and comment requirements and subsection (d) below.

d) Illinois Register proceedings. The Department shall prepare and submit a notice of intended rulemaking for publication in the Illinois Register, including the text of statutory authority for the rule proposal, an explanation of the subject matter of the proposal, and, if the opportunity is available, the manner in which interested parties may submit views and comments.

1) Where the Department publishes in the Illinois Register a notice of its intention to adopt a rule after 45 days and allows opportunity for public comment, those persons desiring to comment must submit to the address identified in the notice a written request to comment or written comments, including supporting material and data, within 14 days of the date the notice is published. In cases where the Department receives within the 14 day period a person's request to comment, the person shall have 14 additional days in which to submit the written comments. The Department may extend the comment period at its discretion. It shall consider the comments received and may revise the rule proposal if it deems a revision appropriate.

2) At the expiration of the 45 day notice or when the Department completes its consideration of comments and has made any changes it deems necessary in the proposal if more than 45 days have elapsed, the Department shall prepare and submit a notice of adoption for publication in the Illinois Register. The notice shall indicate the effective date of the rule.

3) If the Department adopts a rule upon fewer than 45 days notice, the Department shall prepare and submit a notice of adoption for publication in the Illinois Register. The notice shall indicate the basis for the Department's action and the effective date of the rule, the text of and statutory authority for the rule and an explanation of its subject matter.

e)

1) Secretary of State filing procedures. The Department shall file adopted rules with the Secretary of State according to the format prescribed by the Secretary of State as follows:

A) At the expiration of the 45 day notice period, or at a later date when necessitated by Department review of a rules proposal, the Department shall file a certified copy of the adopted rule.

B) When the Department adopts a rule to be effective immediately on an emergency basis, the Department shall file a copy of the rule and a certificate stating the reason for the action.

C) When the Department adopts a rule to be effective immediately because of requirements imposed by Federal law or regulations or by judicial order, the Department shall file a certified copy of the rule.

2) Concurrently with the filing, the Department shall submit a notice of adoption for publication in the Illinois Register, as provided in subsection (d) above.

f) Petitions For Adoption Of Rules.

1) Any person may petition the Department for the adoption of a new rule or the amendment or repeal of a rule currently in effect. The petition shall be in writing and shall:

A) Identify the current rule to be amended or repealed or state the substance of the new rule proposed,

B) Include an explanation and any documentation supporting the petition, and

C) Identify the petitioner's organizational affiliation, if any.

2) Petitions shall be addressed to the Rules Coordinator, Illinois Department of Public Aid, 316 South Second Street, Springfield, IL 62762. The Department shall acknowledge submittal of the petition by mailing a notice of receipt to the petitioner.

3) The petition shall be considered by the Department. If the Department elects to initiate rulemaking proceedings on the basis of the petition, it shall mail a notice to the petitioner of the intended action.

4) A petition is denied when the Department either notifies the petitioner of its denial or does not initiate rulemaking proceedings on the subject of the petition within 30 calendar days after submittal.