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## DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Equal Pay in Employment
- 2) Code Citation: 56 Ill. Adm. Code 320
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
320.100	Amendment
320.110	Amendment
320.120	Amendment
320.140	Amendment
320.150	New Section
320.310	Amendment
320.340	Amendment
320.620	Amendment
320.800	New Section
320.810	New Section
320.820	New Section
320.830	New Section
320.840	New Section
320.850	New Section
320.860	New Section
320.870	New Section
320.875	New Section
320.880	New Section
320.890	New Section
- 4) Statutory Authority: Equal Pay Act of 2003 [820 ILCS 112].
- 5) Effective Date of Rules: December 22, 2022
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes, this rulemaking contains incorporations by reference.
- 8) A copy of the Adopted Rule, including any material incorporated, is on file in the Department of Labor's Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in *Illinois Register*: 46 Ill. Reg. 8023; May 20, 2022
- 10) Has JCAR issued a Statement of Objections to this Rulemaking? No

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- 11) Differences between Proposal and Final Version: In Section 10, the definition of “calendar year” was modified to specify the period of January 1 - December 31 of a given year. Section 310 was amended to specify that employers must be notified of investigations and provided an opportunity to respond within 30 days of a complaint. Section 310 was amended to enumerate the Department’s investigatory powers. Section 310 was amended to define the scope of a Department investigation to 5 years. Section 310 was amended to clarify the situations in which the Department may maintain the confidentiality of a witness. In Section 810, definitions of “application” and “compliance” were added. Section 830 was amended to remove a deadline. In Section 840, instructions on how to report “wages” were added; instructions on submitting registration fees via check or money order were removed; and the term “violation” was clarified. Section 875 was added to establish the process for investigations of Section 11 of the Act. Section 890 was amended to clarify that the Department may only provide data already in its possession to qualifying employees who request it. Grammatical and stylistic changes were made for clarity and consistency.
- 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 any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking adds provisions implementing Section 11 of the Equal Pay Act of 2003. It establishes deadlines and timelines for large private businesses and the Department to fulfill obligations under Section 11; establishes what data must be reported to the Department and in what format; clarifies what it means to be in compliance with wage laws; establishes that the Department, after giving notice of a violation, must provide 30 days for an employer subject to Section 11 to come into compliance; outlines the processes for a notification of rejection, for appeal, for suspension or revocation, for investigation of violations, and for initiation of hearings. This rulemaking also sets requirements for employees of large private businesses who wish to request data as provided for in Section 11. This rulemaking also provides for electronic payment of fines and fees; adds a Section for incorporated and referenced materials; and adds recordkeeping requirements for compliance with Public Act 100-1140, which prohibits employers with 4 or more employees from discriminating against African-American employees with regard to pay.
- 16) Information and questions regarding this adopted rule shall be directed to:

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Anna Koepfel  
Legislative Director  
Illinois Department of Labor  
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The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF LABOR

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

PART 320  
EQUAL PAY IN EMPLOYMENT

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<u>320.830</u>	<u>Assignment of Filing Date</u>
<u>320.840</u>	<u>Application for Certification; Recertification</u>
<u>320.850</u>	<u>Issuance or Rejection</u>
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<u>320.870</u>	<u>Suspension and Revocation</u>
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[320.880](#)      [Initiation of Hearing](#)  
[320.890](#)      [Employee Request for Data](#)

AUTHORITY: Implementing the Equal Pay Act of 2003 [820 ILCS 112].

SOURCE: Emergency rule adopted at 28 Ill. Reg. 363, effective January 1, 2004, for a maximum of 150 days; adopted at 28 Ill. Reg. 8009, effective May 26, 2004; amended at 34 Ill. Reg. 19552, effective December 3, 2010; amended at 40 Ill. Reg. 229, effective December 21, 2015; amended at 47 Ill. Reg. 155, effective December 22, 2022.

## SUBPART A: GENERAL PROVISIONS

**Section 320.100 Purpose and Scope**

This Part shall apply to actions arising under the Equal Pay Act of 2003 [820 ILCS 112] administered under the jurisdiction of the Director of [the Illinois Department of Labor](#) ~~and~~[and/or](#) the [Illinois](#) Department of Labor.

(Source: Amended at 47 Ill. Reg. 155, effective December 22, 2022)

**Section 320.110 Application of the Act**

~~Men and women have equal protection under the Act.~~ In areas where the State and federal government have concurrent powers under their respective statute, the stricter of the two laws shall prevail.

(Source: Amended at 47 Ill. Reg. 155, effective December 22, 2022)

**Section 320.120 Definitions**

“Act” means the Equal Pay Act of 2003 [820 ILCS 112].

"Authorized agent" means an employee of a business with knowledge of pay practices and who has been designated by the corporate officers of the business to submit information to the Department as required by the Act. Authorized agent does not include any outside or third-party consultant or vendor who serves the business.

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"Average compensation" means the average wages for a specific occupation in the State of Illinois as determined by the most recent U.S. Bureau of Labor Statistics State Occupational Employment and Wage Estimates publication.

"Complaint" means an allegation of a violation of the Act filed with or initiated by the Department.

"Complainant" means a person who files a complaint, including the Department in cases initiated by the Department.

*"Department" means the Illinois Department of Labor. [820 ILCS 112/5]*

*"Director" means the Director of the Illinois Department of Labor or a duly authorized representative of the Director. [820 ILCS 112/5]*

"Effort" means the physical or mental exertion needed for the performance of a job. Job factors that cause mental fatigue and stress, as well as those factors that alleviate fatigue, are to be considered in determining the effort required for the job. Effort encompasses the total requirements of the job. Occasional or sporadic performance of an activity that may require extra physical or mental exertion is not alone sufficient to justify a finding of unequal or equal effort.

*"Employee" means any individual permitted to work by an employer. [820 ILCS 112/5]-*

*"Employer" means an individual, partnership, corporation, association, business, trust, person, or entity for whom 4 or more employees are gainfully employed in Illinois and includes the State of Illinois, any State officer, department, or agency, any unit of local government, and any school district. [820 ILCS 112/5]*

"Equal Pay Registration Certificate" means a certificate issued by the Department to a business in accordance with the requirements of Section 11 of the Act.

"Filing year" means any calendar year in which a business is due to submit its Equal Pay Registration Certificate application, as determined by the due date assigned to the business by the Department, whether the business is applying for its initial certification or a recertification. The filing year is the year immediately after the payroll year.



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“Merit system” means an established, bona fide, uniform and objective system that rewards an employee with promotion, bonus, increased pay or other advantages based on competence, expertise, proficiency and human relations.

"Minority" means a minority person as defined in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. [30 ILCS 575]

"Payroll year" means the complete calendar year (January 1-December 31) upon which the payroll data in the business' Equal Pay Registration Certificate application is based. The payroll year is the year immediately preceding the filing year.

“Respondent” means an employer against whom a complaint is filed.

“Responsibility” means the degree of accountability required in the performance of ~~a~~the job. Minor or occasional responsibility added to an employee’s duties that are not of significant consequence or importance will not justify a finding of unequal or equal responsibility.

“Seniority system” means a system that gives preference to employees based on years of service.

“Similar working conditions” means the surroundings and hazards, including the frequency and intensity of such conditions. Surroundings measure the elements, such as toxic chemicals or fumes, regularly encountered by an employee. Hazards take into account the physical hazards regularly encountered by an employee. Slight or inconsequential differences in working conditions that are not usually taken into account by employers or in collective bargaining in setting wage rates do not justify a differential in pay. The method used for testing this requirement is flexible. The mere fact that jobs are in different departments of a workplace or performed in different locations will not necessarily mean that the jobs are performed under dissimilar working conditions.

“Skill” means experience, training, education and ability. Possession of a skill not needed to meet the requirements of the job cannot be considered in making a determination regarding equality of skill.

“Substantially similar work” means comparable work on jobs with comparable requirements related to equal skill, effort and responsibility. Substantially similar

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is not ~~dependent~~~~dependant~~ on a job classification or title but depends rather on actual job requirements and genuine differences in how work is performed.

“Wages”, ~~for purposes of the Equal Pay Act of 2003~~, means any compensation made to an employee as remuneration for employment regardless of whether paid periodically or deferred until a later date. Compensation includes but is not limited to: wages, salary, vacation pay, sick leave, holiday pay, overtime pay, premium pay, and other benefits such as health insurance, life insurance, disability insurance, commission, draw payments, pension and profit sharing, expenses, bonus, uniform cleaning allowance, hotel accommodations, use of vehicle, gasoline allowance, cafeteria plan and educational benefits.

“Workplace” means a distinct physical place of business rather than an entire business or enterprise that may include several separate places of business.

(Source: Amended at 47 Ill. Reg. 155, effective December 22, 2022)

**Section 320.140 Recordkeeping Requirements**

- a) An employer subject to any provision of the Act shall make and preserve records that document the name, address, and occupation of each employee; the wages paid to each employee and any other forms of compensation provided by the employer; dates of hire, dates of promotion, dates of pay increases, and dates any other compensation was provided by the employer, if applicable, for each employee; and payroll records~~records, including but not limited to: name, address, occupation and wages paid to each employee, payroll records and records of other forms of compensation, dates of hire, dates of promotion and dates of pay increases.~~
- b) ~~The~~~~In addition, the~~ employer shall also preserve any records made in the regular course of the business operation related~~that relate~~ to personnel records, employee qualifications for hire, promotion, transfer, discharge or other disciplinary action, wage rates, skills testing certifications, job evaluations, job descriptions, merit systems, seniority systems, written job offers, individual employment contracts, collective bargaining agreements, description of practices or other matters that describe or explain the basis for payment of any wage differential ~~between~~~~to~~ employees of the opposite sex or the basis for payment of wages to any employee who is African-American at a rate less than the rate paid to employees who are not African-American by the same employer and that may be pertinent to a

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determination whether the differential or lower wage payment is based on a factor other than sex or race.

- c) The records required by subsections (a) and (b) shall be preserved and maintained for a period of not less than 5 years unless the records relate to an ongoing investigation or enforcement action under the Act, in which case the records must be maintained until their destruction is authorized by the Department or by court order.

(Source: Amended at 47 Ill. Reg. 155, effective December 22, 2022)

**Section 320.150 Incorporated and Referenced Materials**

The following regulations and standards are incorporated in this Part. All incorporations by reference refer to the regulations, guidelines and standards on the date specified and do not include any editions or amendments subsequent to the date specified.

- a) Federal Regulations and Publications
- 1) U.S. Bureau of Labor Statistics Standard Occupational Classification (SOC) System Revision for 2018, April 15, 2020.
  - 2) 29 CFR 1602.7 through 1602.14, July 26, 1991.
  - 3) 41 CFR 60-1.7(a), December 22, 1997.
- b) The following State statutes and rules are referenced in this Part:
- 1) The Freedom of Information Act [5 ILCS 140]
  - 2) The Equal Pay Act of 2003 [820 ILCS 112]
  - 3) The Illinois Income Tax Act [35 ILCS 5]
  - 4) The Business Enterprise for Minorities, Women, and Persons with Disabilities Act [30 ILCS 575]
  - 5) The Illinois Human Rights Act [775 ILCS 5]
  - 6) The Equal Wage Act [820 ILCS 110]

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- 7) [The Illinois Administrative Procedure Act \[5 ILCS 100/Art. 10\]](#)
  - 8) [Rules of Procedure in Administrative Hearings \(56 Ill. Adm. Code 120\)](#)
  - 9) [Joint Rules of the Department of Labor and Department of Human Rights: Rules on Investigation of Equal Pay Act Cases \(56 Ill. Adm. Code 325\)](#)
- c) [The following federal laws are referenced in this Part:](#)
- 1) [29 U.S.C. 2](#)
  - 2) [Title VII of the Civil Rights Act of 1964 \(42 U.S.C. 2000e et seq.\)](#)
  - 3) [The Equal Pay Act of 1963 \(29 U.S.C. 201 et seq.\)](#)

(Source: Added at 47 Ill. Reg. 155, effective December 22, 2022)

## SUBPART C: PROCEDURE UPON COMPLAINT AND DECISION

**Section 320.310 [Investigations Except Those Under Section 11 of the Act](#)~~Investigation~~**

- a) After the Department determines jurisdiction and ~~that the matter will not be~~~~has not been~~ referred to the Department of Human Rights [under 56 Ill. Adm. Code 325](#), the Department shall conduct an investigation to determine whether reasonable cause exists to believe a violation under the Act has occurred. [Within 30 business days after receipt of the complaint, the Department shall provide the respondent with a written notice of investigation stating the substance of the alleged violation and giving the respondent an opportunity to respond to the allegation and present any information the respondent wishes the Department to consider in its investigation of the alleged violation. The respondent must submit such response to the Department within 30 business days after receipt of the notice of investigation.](#)~~The investigation shall include a written notice to the respondent of the substance of the alleged violation and an opportunity to present any information the respondent wishes the Department to consider in reaching its determination.~~
- b) [The Department is authorized to investigate and gather data and records regarding employee wages and hours, and other conditions and practices of employment of the respondent, and may enter the respondent's premises to inspect](#)

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*such records at reasonable times during regular business hours; question the respondent's employees; and investigate the facts, conditions, practices, or matters as the Department may deem necessary or appropriate to determine whether the respondent has violated the Act. Investigations*~~The investigation~~ may also include~~be made by~~ written or oral ~~inquiries~~~~inquiry~~, field ~~visits~~~~visit~~, subpoenas, conferences, and interviews,~~conference~~ or any ~~investigation~~ method or combination of methods deemed suitable in the discretion of the Department ~~or authorized by the Act. In no case will the Department review more than 5 years~~~~The Department will limit its investigation to reviewing up to 3 years~~ prior to the date the complaint was filed,~~but in no case will review occur prior to the effective date of the Act, January 1, 2004.~~

- ~~c~~b) If during the investigation a respondent refuses to cooperate, the Director may either make a finding of reasonable cause or issue subpoenas to compel the attendance of respondent witnesses or the production of documents.
- ~~d~~e) Whenever a decision is made after an investigation conducted by the Department of Human Rights and the Department of Labor adopts that decision, 56 Ill. Adm. Code 325 ~~supersedes~~~~superecedes~~ this Part and shall control as to further procedural actions and remedies available to the parties. If the Department of Labor does not adopt the Department of Human ~~Rights~~~~Rights~~ decision, then this Part 320 applies and controls as to further procedural actions and remedies available to the parties.
- ~~e~~d) A complainant must promptly ~~notify~~~~provide~~ the Department ~~with a notice~~ of ~~any~~ address or telephone ~~number~~ change or ~~any~~ prolonged absence from the current address so that the complainant can be located. A complainant must cooperate with the Department, provide necessary information and be available for interviews, conferences and hearings upon reasonable notice or request by the Department. If a complainant cannot be located or does not respond to reasonable requests by the Department, the Department may dismiss the complaint pursuant to Section 320.500.
- ~~f~~e) The ~~Director~~~~Department~~ may, ~~upon request or in the Director's~~~~its~~ discretion, withhold any witness statement or identity of any witness as confidential ~~upon the request of a party or the witness. Circumstances in which the Department may withhold a witness statement include, but are not limited to, when the safety or employment status of the witness is endangered or threatened.~~

(Source: Amended at 47 Ill. Reg. 155, effective December 22, 2022)

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**Section 320.340 Enforcement Procedures**

- a) The payment of back wages and other relief found due pursuant to Section 30 of the Act will be evidence of compliance with the provisions of the Act. Payment shall be supervised, when possible, by the Director.
- b) The Director may require proof that the employees or former employees received all the back wages and other relief due pursuant to Section 30 of the Act. ~~Payment and the Director may require the respondent to send~~ for back wages and other relief or penalties may be made to the Department using the State Treasurer's E-Pay program or any successor program, certified checks, cashier's checks, or money orders, made payable to the individual employees or the Department of Labor, ~~to the Department for disbursement.~~
- c) If the respondent does not comply within 15 calendar days after the Director's demand, the Director may bring a civil action against the respondent as provided for in Section 30 of the Act. Failure to timely comply may also subject the respondent to further penalties as provided for in Section 35(a) of the Act.

(Source: Amended at 47 Ill. Reg. 155, effective December 22, 2022)

## SUBPART F: INFORMAL INVESTIGATIVE HEARING

**Section 320.620 Continuances**

Parties shall be prepared to proceed at hearing. A request by one party for a continuance will be granted prior to the hearing if the request is in writing, the other party agrees and the Administrative Law Judge grants permission. Otherwise, a request for a continuance must be made in person to the Administrative Law Judge at the time of hearing with proof that the party notified or attempted to notify the other party in advance of the hearing of the intent to ask for a continuance. The continuance will be granted only upon a showing of good cause. Good cause may be shown by, but not limited to, the failure of the party to receive notice of the hearing, the inability of a party to produce a material witness or ~~relevant~~ relevant evidence, the illness or death of a party or counsel, the sudden and unexpected unavailability of counsel, and the substitution of counsel.

(Source: Amended at 47 Ill. Reg. 155, effective December 22, 2022)

SUBPART H: EQUAL PAY REGISTRATION CERTIFICATE

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**Section 320.800 Purpose**

This Subpart shall prescribe the process for businesses as defined in Section 320.810 to apply for and be issued an Equal Pay Registration Certificate under Section 11 of the Equal Pay Act of 2003 [820 ILCS 112].

(Source: Added at 47 Ill. Reg. 155, effective December 22, 2022)

**Section 320.810 Definitions**

The following definitions shall apply for this Subpart H only:

"Application" means the form provided by the Department that a business must complete and submit to the Department in order to obtain an Equal Pay Registration Certificate or recertification of an Equal Pay Registration Certificate.

"Business" means any private employer who has 100 or more employees in the State of Illinois and is required to file an Annual Employer Information Report EEO-1 with the Equal Employment Opportunity Commission, but does not include the State of Illinois or any political subdivision, municipal corporation, or other governmental unit or agency. [820 ILCS 112/11]

"Compliance" means that, as of the date of application or recertification, the business either:

- 1) has not had any final and non-appealable adverse judgment or final and non-appealable administrative ruling entered against it in the preceding two years under Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), the Equal Pay Act of 1963 (29 U.S.C. 206), the Illinois Human Rights Act (775 ILCS 5), the Equal Wage Act (820 ILCS 110), or the Equal Pay Act of 2003 (820 ILCS 112); or
- 2) has corrected any final and non-appealable adverse judgment or final and non-appealable administrative ruling entered against it under Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), the Equal Pay Act of 1963 (29 U.S.C. 206), the Illinois Human Rights Act (775 ILCS 5), the Equal Wage Act (820 ILCS 110), or the Equal Pay Act of 2003 (820 ILCS 112).

For purposes of Section 320.840(a)(3)(A), any business that has corrected a final and non-appealable adverse judgment or final and non-appealable

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administrative ruling entered against it shall submit evidence of the underlying judgment or ruling and the corrective measures undertaken by the employer business.

"Employee" means any person performing a service for a business under the Act whose base of operations, or if there is no base of operations, the place from which the service is directed or controlled, is located within the State of Illinois; or whose base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in the State of Illinois. [35 ILCS 5/304(a)(2)(B)(iii)]

"Job classification" or "job category" means an employee classification that appears on the EEO-1 report of the Equal Employment Opportunity Commission as required by section 709(c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-8(c), and 29 CFR 1602.7 through 1602.14 and 41 CFR 60-1.7(a).

"Job title" means the title or role established for an employee by their employer that is used to identify and classify the employee internally within that workplace.

"Occupation" means any one of the Standard Occupational Classifications identified and published in the Standard Occupational Classification (SOC) System – Revision for 2018 published by the U.S. Bureau of Labor Statistics.

(Source: Added at 47 Ill. Reg. 155, effective December 22, 2022)

**Section 320.820 Enrollment**

- a) A business that is authorized to transact business in the State of Illinois on or before March 23, 2021 shall submit an enrollment form notifying the Department that the business is subject to Section 11 of the Act. A business that becomes authorized to transact business in the State of Illinois on or after March 24, 2021 shall submit an enrollment form notifying the Department that the business is subject to Section 11 of the Act by January 1 of the calendar year immediately following the year in which the business becomes authorized to conduct business in the State of Illinois. The enrollment form must include designated contact information for the business.



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- b) An enrollment form must be submitted via the Department's web-based submission portal found on its web site at <https://www2.illinois.gov/idol/Pages/default.aspx>.
- c) If the Department determines that a business that is not subject to the Act has submitted an enrollment form, the Department shall notify the business in writing that the business is not required to obtain an Equal Pay Registration Certificate.

(Source: Added at 47 Ill. Reg. 155, effective December 22, 2022)

**Section 320.830 Assignment of Filing Date**

- a) The Department will assign every business a date by which the business must submit an application and a list of the information outlined in Section 320.840(a) that the business must provide with its application. The filing date shall be randomly assigned by the Department. Each business will receive at least 120 calendar days' notice of the filing date. The application due date is the date by which the application must be received by the Department.
- b) Once an application filing date is assigned by the Department, the business shall be enrolled in the Department's web-based portal as a business required to obtain an Equal Pay Registration Certificate. The business shall be required to obtain an Equal Pay Registration Certificate every two years after the initial due date, unless the business has fewer than 100 employees on December 31 of the business's payroll year.

(Source: Added at 47 Ill. Reg. 155, effective December 22, 2022)

**Section 320.840 Application for Certification; Recertification**

*A business that has employees in multiple locations or facilities in Illinois shall submit a single application to the Department regarding all of the business's operations in Illinois. [820 ILCS 112/11(c)(3)]*

- a) An application shall include the following:
  - 1) A copy of the business's most recently filed Employer Information Report EEO-1 for all locations in the State of Illinois and for all employees as defined in this Subpart H, submitted in a text-searchable, sortable Microsoft Excel file or comma-separated values file format.

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- 2) A list of all employees during the payroll year (January 1 through December 31) immediately preceding the application due date, separated by gender, race, and ethnicity categories in a text-searchable, sortable Microsoft Excel file or comma-separated values file format, as well as any other information required by the Department on the application form. For the purposes of this report, wages shall be reported by either the mean hourly wage (for employees paid hourly wages) or annual mean wage (for salaried employees). The business may provide any other information it believes is relevant to explain any pay disparities amongst its employees. [820 ILCS 112/11(c)(1)(A)]
- 3) An Equal Pay Compliance Statement, signed by a corporate officer, legal counsel employed by the business, or authorized agent employed by the business, that certifies:
- A) that the business is in compliance with the Act and other relevant laws, including but not limited to, Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), the Equal Pay Act of 1963 (29 U.S.C. 206(d)), the Illinois Human Rights Act [775 ILCS 5], and the Equal Wage Act [820 ILCS 110];
- B) that the average compensation for the business's female and minority employees is not consistently below the average compensation for its male and non-minority employees within each of the major job categories in the Employer Information Report EEO-1 Job Classification Guide for which an employee is expected to perform work, taking into account factors such as length of service, requirements of specific jobs, experience, skill, effort, responsibility, working conditions of the job, education or training, job location, use of a collective bargaining agreement, or other mitigating factors;
- C) that the business does not restrict employees of one sex to certain job classifications, and makes retention and promotion decisions without regard to sex. Businesses with positions for which sex is a bona fide occupational qualification, as defined in 29 CFR 1604.2, must provide a list of such positions with a short explanation of why sex is a bona fide occupational qualification for those positions;

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- D) *that wage and benefit disparities are corrected when identified to ensure compliance with the Acts in subsection (a)(3)(A)(i);*
- E) *how often wages and benefits are evaluated; and*
- F) *the approach the business takes in determining what level of wages and benefits to pay its employees; acceptable approaches include, but are not limited to, a wage and salary survey. [820 ILCS 112/11(c)]*
- b) An application shall be submitted to the Department via the Department's web-based submission portal found on its website at <http://labor.illinois.gov>.
- c) An application must be accompanied by a filing fee of \$150, to be paid using the State Treasurer's E-Pay program or any successor program.
- d) After receiving an initial Equal Pay Registration Certificate, a business must recertify every two years by submitting to the Department an application, as described in this Subpart, with updated information. The Department will notify the business that recertification is required and will provide the business with a recertification due date at least 180 calendar days before the recertification due date. A business that has fewer than 100 employees on December 31 of the business's payroll year must notify the Department, in writing by the recertification due date, of the number of employees employed by the business on December 31 of the business's payroll year and shall not be required to recertify. [820 ILCS 112/11(c)]
- e) If a business discovers that it has provided incorrect or incomplete information in its application, that business shall submit to the Department a revised application with correct or complete information, along with a letter identifying the information that was amended. A business that makes a correction shall not be subject to penalties if the incorrect or incomplete information was provided in good faith and without knowledge that such information was incorrect or incomplete.

(Source: Added at 47 Ill. Reg. 155, effective December 22, 2022)

**Section 320.850 Issuance or Rejection**

## DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- a) Within 45 calendar days after receipt of an application, the Department will issue to the business an Equal Pay Registration Certificate or a Statement of Rejection stating why the application was rejected.
- b) A business has 30 calendar days from the date it receives the Statement of Rejection to cure any deficiencies in its application that led to the rejection and resubmit the revised application to the Department.

(Source: Added at 47 Ill. Reg. 155, effective December 22, 2022)

**Section 320.860 Appeal**

- a) A business may appeal a rejected application under Section 11 of the Act. An appeal shall be submitted to the Department in writing within 14 calendar days after a Statement of Rejection is received. Appeals may be submitted via email to [DOL.EPRC.APPEAL@illinois.gov](mailto:DOL.EPRC.APPEAL@illinois.gov), or mailed to: Illinois Department of Labor, ATTN: Con/Med, 160 North LaSalle Street, Suite C-1300, Chicago, Illinois, 60602. The request, if mailed, shall be prominently marked REQUEST FOR EPRC APPEAL on both the letter and the envelope; or, if emailed, shall contain the subject line REQUEST FOR EPRC APPEAL.
- b) Within 30 calendar days after receipt of an appeal, the Department will notify the business in writing of the Department's decision on the appeal. If the appeal is granted, the Department will issue the business an Equal Pay Registration Certificate. If the appeal is denied, the Department will provide the business with a notice stating the reason for the denial and a date by which the business must submit an amended application to the Department.
- c) If the Department denies the appeal, the business must submit to the Department an application with all identified deficiencies cured. Once that application is received and contains all the information required by this Subpart, the Department will issue the business an Equal Pay Registration Certificate. The business shall be in violation of the Act until all deficiencies in its application are cured and the application is approved by the Department.

(Source: Added at 47 Ill. Reg. 155, effective December 22, 2022)

**Section 320.870 Suspension and Revocation**

## DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

*An Equal Pay Registration Certificate for a business may be suspended or revoked by the Department when a business:*

- a) *fails to make a good faith effort to comply with the Act, Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), the Equal Pay Act of 1963 (29 U.S.C. 206(d)), the Illinois Human Rights Act [775 ILCS 5], the Equal Wage Act [820 ILCS 110], or any other relevant laws.*
- b) *fails to make a good faith effort to comply with Section 11 of the Act; or*
- c) *has two or more violations of Section 11 of the Act or the statutes identified in subsection (a). [820 ILCS 112/11(e)] For purposes of this subsection, a violation means any final and non-appealable adverse judgment or final and non-appealable administrative ruling entered against the business since the most recent submission to the Department under this Act.*
- d) *As used in this Section, “good faith effort” means demonstrable efforts by the business to promote pay equity and combat employment discrimination, including but not limited to, internal compensation reviews, staff training, adoption of equal opportunity policies, and evidence that such policies were enforced through evaluation, investigation, and personnel action.*

(Source: Added at 47 Ill. Reg. 155, effective December 22, 2022)

**Section 320.875 Section 11 Investigations**

- a) *Prior to the suspension or revocation of an Equal Pay Registration Certificate, the Department shall initiate an investigation under Section 11(e) of the Act to determine whether reasonable cause exists to suspend or revoke to Equal Pay Registration Certificate. Such investigations shall be initiated upon the Department's reasonable belief that a business's Equal Pay Registration Certificate may be suspended or revoked for any of the reasons listed in Section 320.870(a) through (c).*
- b) *The Department is authorized to conduct audits, interview workers, administer oaths, take or cause to be taken the depositions of witnesses, and require by subpoena the attendance and testimony of witnesses, and the production of personnel and compensation information, and all books, records, and other evidence relative to the matter under investigation. A subpoena issued under this Section shall be signed and issued by the Director. [820 ILCS 112/11]*

## DEPARTMENT OF LABOR

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- c) Within 30 business days after starting the investigation, the Department shall provide the business with a written notice of investigation stating the reason for the investigation under Section 320.870(a) through (c) and identifying the data in the application that merits the investigation. The notice of investigation shall provide the business with an opportunity to respond to the notice and present any information the business wishes the Department to consider in its investigation. The business must submit its response to the Department within 30 business days after receipt of the notice of investigation.
- d) If a business refuses to cooperate during the investigation, the Director may either make a finding of reasonable cause and suspend or revoke the business's Equal Pay Registration Certificate or issue subpoenas to compel the attendance of witnesses or the production of documents.
- e) The Director may, upon request or in the Director's discretion, withhold any witness statement or the identity of any witness as confidential.

(Source: Added at 47 Ill. Reg. 155, effective December 22, 2022)

**Section 320.880 Initiation of Hearing**

- a) A hearing pursuant to Section 11(e) and Section 11(i) of the Act shall be initiated upon the request of a party after the party has received a written decision of notice of suspension or revocation of the certificate or imposition of civil penalties. The request must be made in writing and mailed by certified mail or delivered in person to the Chief Administrative Law Judge at the Department's Chicago office within 20 business days after receipt of the written decision of notice of suspension or revocation. The request shall be marked REQUEST FOR HEARING UNDER THE EQUAL PAY ACT on both the letter and the envelope.
- b) Hearings pursuant to Section 11(e) and Section 11(i) of the Act shall be conducted pursuant to the provisions of Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and the Department's Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120).

(Source: Added at 47 Ill. Reg. 155, effective December 22, 2022)

**Section 320.890 Employee Request for Data**

## DEPARTMENT OF LABOR

## NOTICE OF ADOPTED AMENDMENTS

- a) *A current employee of a business may request anonymized data regarding that employee's own job classification or title and the pay for that title or classification. [820 ILCS 112/11(h)(3)] A request for data must be submitted in writing to the Department, and shall include the employee's name, date of hire, job title or classification, the dates for which the data is being requested, a signed affidavit swearing that the employee holds the specified job title at that business, and evidence that the employee currently holds the specified job title at that business. Acceptable evidence includes, but is not limited to, pay stubs, work schedules, hire letters, work ID cards, business cards, and company website listings. The Director may require multiple forms of evidence as necessary to demonstrate current employment.*
- b) Upon request and if in the possession of the Department, the Department shall provide current and historical data from no more than 10 years prior to the date of the request to a requesting employee, based on the data timeframe specified in the request for employees working in the same county as the requestor.

(Source: Added at 47 Ill. Reg. 155, effective December 22, 2022)