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DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENT

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HEALTH AND SAFETY

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**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 Reg. 10196, effective July 30, 2001; old Part repealed at 30 Ill.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 Reg. 4793, effective March 16, 2010; old Part repealed at 38 Ill.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; peremptory 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; amended at 46 Ill. Reg. 9890, effective May 26, 2022; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: INSPECTIONS AND CITATIONS

**Section 350.90 Representatives of Employers and Employees**

- a) Enforcement Inspectors 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 may permit additional employer representatives and additional representatives authorized by employees to accompany them when they determine 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.

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- b) Inspectors shall have authority to resolve all disputes concerning the identity of 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 shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.
- c) The representative or representatives authorized by employees may be an employee of the employer or a third party. When the representative or representatives authorized by employees are not employees of the employer, they may accompany the Inspector during the inspection if, in the judgment of the Inspector, good cause has been shown why accompaniment by a third party is reasonably necessary to conduct an effective and thorough physical inspection of the workplace (including, but not limited to, the third party's relevant knowledge, skills, or experience with hazards or conditions in the workplace or similar workplaces, or language or communication skills).
- 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 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 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)