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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Licensing Standards for Child Care Institutions and Maternity Centers
- 2) Code Citation: 89 III. Adm. Code 404
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
404.2	Amended
404.4	Amended
404.5	Amended
404.6	Amended
404.7	Amended
404.9	Amended
404.11	Amended
404.12	Amended
404.18	Amended
404.22	Amended
404.25	Amended
404.28	Amended
404.31	Amended
404.33	Amended
404.37	Amended
404.38	Amended
404.44	Amended
404.47	Amended
404.49	Added
404.50	Renumbered
- 4) Statutory Authority: Implementing and authorized by the Child Care Act [225 ILCS 10] and the Children's Product Safety Act [430 ILCS 125].
- 5) A Complete Description of the Subjects and Issues Involved: In addition to formatting and grammatical corrections, the Department is amending Part 404 as follows:

In Section 404.2, the requirement of Law Enforcement Agency Data System (LEADS) checks for persons ages 13 through 17 has been deleted. The name for the Illinois Sex Offender Registry has been corrected. To be consistent with federal regulations, "forestry camps and facilities operated for the detention of children who are determined to be delinquent" has been added to the exclusion list of child care institutions. The definition of SACWIS (Statewide Automated Child Welfare Information System) has been added. SACWIS has replaced the Child Abuse and Neglect Tracking System (CANTS).

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In Section 404.4, requirements for a complete application have been added to include the institution's exempt status; list of persons owning more than five percent in the stock of the corporation along with the list of names, addresses and contact phone numbers of board chair and officer of the board, list of standing committees and documentation showing compliance with local zoning regulations.

In Section 404.5, additional requirements for license renewal have been added: the applicant is to submit a current list of members of the board, staff list indicating those who are licensed, pending investigations against the institution's license and changes in the institution's policies.

In Section 404.6, institutions are to develop a code of ethics policy and shall display their license in areas visible to the public.

In Section 404.7, when requesting a permit, the governing body of the institution shall sign the application request and attest to compliance with local zoning regulations.

In Section 404.9, the conflict of interest policy to be developed by institutions and maternity centers shall include the requirement that the institution will avoid nepotism or the appearance of it. The institution's governing body shall notify the Department within two days after a change of the administrator and within 30 days after other major changes.

In Section 404.11, the effective date has been added for the provision for administrators who are deemed qualified by serving in that capacity for a minimum of five years at the institution. A requirement was added for notification to the Department when there is a change of administrators.

In Section 404.12, the position of Program Director has been added as an option for the administrative coverage.

In Section 404.18, residents in the institution may use their own personal physician to perform medical functions required by the institution.

In Section 404.22, requirements for in-service training are listed.

In Section 404.25, discharge criteria and procedures have been added.

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In Section 404.28, requirements have been added that children be supervised at all times. The institution shall consider a mother's cognitive abilities, age and number of children residing with the mother in the institution when considering staff ratios, which shall be approved by the Department.

In Section 404.31, the institution shall assure that children's personal belongings accompany the child when he or she leaves the facility.

In Section 404.33, language was added indicating that institutions are to deposit children's personal funds over \$300. - dollars in insured accounts and that the transfer of money and property among youth and between staff and youth is prohibited.

In Section 404.37, the acceptance of children's medical examinations by an advanced practice nurse or physician assistant was added according to provisions in P.A. 92-703. Safety standards protecting children from sharp instruments, hazardous items, as well as the requirement that staff are to protect children at all times and not subject them to corporal punishment have been added.

In Section 404.38, to meet the nutritional needs of the children in care, the food guide pyramid provided by the U.S. Department of Agriculture is to be used in preparing food.

In Section 404.44, the requirement of one bathtub/shower per 8 residents has been updated according to 77 Ill. Adm. Code 890, Table B, Minimum Number of Plumbing Fixtures.

Section 404.47 clarifies the requirements for reporting a child's unusual incidents. In addition it clarifies the requirements for reporting new hires and changes of the administrator.

Section 404.49, has been renumbered as Section 404.50, and

The new transportation standards have been added as Section 404.49.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? Yes
- 9) Are there any other amendments pending on this Part? No

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NOTICE OF PROPOSED AMENDMENTS

- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498
Telephone: (217) 524-1983
TDD: (217) 524-3715
E-Mail: cfpolicy@idcfs.state.il.us
Facsimile (217) 557-0692

The Department will consider fully all written comments on these proposed amendments submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: This rulemaking affects child care institutions and maternity centers that are subject to licensure by the Department.
- B) Reporting, bookkeeping or other procedures required for compliance: Besides making copies of required files, there are no additional costs to small businesses.
- C) Types of professional skills necessary for compliance: Clerical
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not anticipated when the last two Regulatory Agendas were published.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 404

LICENSING STANDARDS FOR CHILD CARE INSTITUTIONS
AND MATERNITY CENTERS

Section

404.1	Purpose
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404.47	Records and Reports
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404.49	Transportation Severability of This Part
<u>404.50</u>	<u>Severability of This Part</u>

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10] and the Children's Product Safety Act [430 ILCS 125].

SOURCE: Adopted and codified at 5 Ill. Reg. 13070, effective November 30, 1981; amended at 7 Ill. Reg. 3424, effective April 4, 1983; amended at 8 Ill. Reg. 22870, effective November 15, 1984; amended at 9 Ill. Reg. 19712, effective December 20, 1985; amended at 11 Ill. Reg. 17504, effective October 15, 1987; amended at 21 Ill. Reg. 4488, effective April 1, 1997; amended at 24 Ill. Reg. 17031, effective November 1, 2000; emergency amendment at 26 Ill. Reg. 6868, effective April 17, 2002, for a maximum of 150 days; emergency expired September 13, 2002; amended at 27 Ill. Reg. 508, effective January 15, 2003; amended at 28 Ill. Reg. _____, effective _____.

Section 404.2 Definitions

"Access to children" means an employee's job duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual or auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

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"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police and Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate, ~~or via a LEADS check of persons ages 13 through 17~~; and
- a check of the ~~Statewide Automated Child Welfare Information System (SACWIS) Child Abuse and Neglect Tracking System (CANTS)~~ and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and
- a check of the ~~Illinois Statewide Child~~ Sex Offender Registry.

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

"Child care institution" means a child care facility where more than 7 children are received and maintained for the purpose of providing them with care or training or both. The term "child care institution" includes residential schools, primarily serving ambulatory handicapped children, and those operating a full calendar year, but does not include:

- any State-operated institution for child care established by legislative action;
- any juvenile detention or shelter care home established and operated by any county or child protection district;
- any institution, home, place or facility operating under a license pursuant to the Nursing Home Care Act [210 ILCS 45];
- any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public schools, grades one through 12, or elementary and high schools, and which operates on a regular academic school year basis; ~~or~~
- any facility licensed as a "group home" as defined in the Child Care Act

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of 1969; or: (Section 2.06 of the Child Care Act of 1969)

- for purposes of this Part, forestry camps, training schools or any facility operated primarily for the detention of children who are determined to be delinquent are not child care institutions.

"Conditional employee" means an individual (including any substitute or assistant) who has applied for and been conditionally selected to perform child care functions or administrative, professional, or support functions that allow access to children, as defined in this Section, and who has commenced such duties while awaiting the results of the background check required by this Part.

"Deemed status" means the Department has approved an institution or maternity center as in compliance with the requirements of this Part because the institution or maternity center:

- has received full accreditation status from the Council on Accreditation for Children and Family Services (2001 Standards); and
- during the past four years, there have been no substantiated licensing violations that affect the health, safety, morals, or welfare of children served by the accredited institution or maternity center.

"Department" or "DCFS" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Employee" means any staff person employed by a child care facility, and includes any substitute or assistant. This definition includes administrative, professional and other support staff who have access to children.

"Initial background check" means the individual has cleared a check of the Statewide Automated Child Welfare Information System (SACWIS) Child Abuse and Neglect Tracking System and the Illinois Statewide Child Sex Offender Registry.

"License" means a document issued by the Department which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant", for purposes of background checks, means the operator or

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~~person~~~~persons~~ with direct responsibility for daily operation of the facility to be licensed. (Section 4.4 of the Child Care Act of 1969)

"Licensee" means those individuals, agencies or organizations who hold a license or permit issued by the Department.

"Licensing representative" means persons authorized by the Department under the Child Care Act of 1969 to examine facilities for licensure.

"Maternity center" means a facility in which any person, agency or corporation, other than one licensed as a foster family home or group home under the Child Care Act of 1969, receives, treats or cares for one or more unwed pregnant girls under 18 years of age, except that the term does not include any facility licensed under the Hospital Licensing Act. (Section 2.07 of the Child Care Act of 1969)-

"Permit" means a one-time only document issued by the Department for a six-month period to allow the ~~individual~~~~individual(s)~~, agency or organization to become eligible for a license.

"Persons subject to background checks" means:

- the ~~operator~~~~operator(s)~~ of the child care facility; and
- all current and conditional employees of the child care facility; and
- any person who is used to replace or supplement staff; and
- any person who has access to children, as defined in Section 385.20, Definitions, of 89 Ill. Adm. Code 385, Background Checks.

If the child care facility operates in a family home, the license ~~applicant~~~~applicant(s)~~ and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Replacement or supplemental staff" means any paid or unpaid individual who is used to perform essential staff duties as evidenced by being counted in the staff-child ratio or being permitted to be alone with children in a licensed child care facility outside the visual or auditory supervision of facility staff.

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"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that is replacing the Child Abuse and Neglect Tracking System (CANTS).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.4 Application for License

- a) Application for license shall be completed by the officers of the governing body of the institution, ~~or its authorized representative~~ on forms prescribed and furnished by the Department.
- b) For the application to be considered complete, the following shall be attached to the application:
 - 1) articles of incorporation and bylaws, indicating that the institution's corporate status is in good standing with the Illinois Secretary of State and specifying whether the institution is for profit or not-for-profit;
 - 2) if a not-for-profit corporation under Section 501 of the Internal Revenue Code (26 USCA 501), a copy of the Internal Revenue Service ruling on the institution's exemption status from Federal income tax and registration with the Charitable Trust Bureau of the Attorney General's Office (if applicable);
 - 32) a statement of purpose, including the types of child care provided;
 - 43) list of owners, officers, board members, and principal shareholders owning more than 5% of the stock of the corporation and each person's attestation that he or she has not been convicted of a felony or indicated as a perpetrator of child abuse or child neglect, as defined in Appendix B of 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect). This includes any or all of the above persons who reside outside the State of Illinois. The board list shall include the name, home address or Post Office Box and contact phone number other than the agency's telephone number, of the board chair and officers of the board and name of the list of officers, board members and committees of the governing body;
 - 5) list of standing committees;

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- ~~6)~~ documentation of compliance with local zoning regulations;
 - ~~74)~~ operating budget;
 - ~~85)~~ range of services;
 - ~~96)~~ staffing plan which includes job descriptions and the qualifications of staff; ~~and~~
 - ~~107)~~ a list of persons subject to the background check requirements of 89 Ill. Adm. Code 385, (Background Checks); and each person's complete, signed authorization to conduct the background check; ~~and~~;
 - ~~11)~~ a code of ethics adopted by the governing body. This code of ethics must be at least as stringent as the Code of Ethics for Child Welfare Professionals (published by the Office of Communications, Department of Children and Family Services, 406 E. Monroe Street, Station #65, Springfield, Illinois 62701, May 1996, or found on the Department's website at www.state.il.us/dcf).
- c) A new application shall be filed:
- 1) when an application for license has been withdrawn, and the institution seeks to reapply;
 - 2) there is a change of address of a facility;
 - 3) there is a change of ownership, name or corporate status; or
 - 4) not sooner than 12 months after the Department has revoked or refused to renew a license, and a new license is sought.
- d) A new application may be submitted at any time a license, permit or application has been voluntarily surrendered or withdrawn by the applicant.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.5 Renewal of License

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a) Application

- 1) ~~License renewal application~~ Application forms ~~for license renewal~~ shall be mailed to the institution by the Department six months prior to the expiration date of license. Officers of the governing body shall submit the ~~The~~ completed application ~~shall be submitted~~ to the Department three months prior to the expiration date of the license. The child care institution or maternity center shall also include with the application verification of any accreditations earned. For a renewal application to be considered complete, the following shall be attached to the application:
 - A) a current list of names and addresses of owners, officers, board members, principal shareholders owning more than 5% of the stock of the corporation;
 - B) a staff list, including name and job title, indicating those who are licensed to practice as a direct child welfare employee required in 89 Ill. Adm. Code 412.40; and
 - C) the following documents, if changes were made to them since the last application or renewal:
 - i) statement of purpose;
 - ii) range of services; and
 - iii) code of ethics.
- 2) Upon receipt of the application for license renewal, the Department shall conduct a license study in order to determine that the institution continues to meet licensing standards. The licensing study shall be in writing; reviewed and signed by the licensing supervisor and the licensing representative performing the study.
- 3) *When a licensee has made timely and sufficient application for renewal of a license or a new license with reference to any activity of a continuing nature and the Department fails to render a decision on the application for renewal of the license prior to the expiration date of the license, the existing license shall continue in full force and effect for up to 30 days until the final Department decision has been made. The Department may*

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further extend the period in which such decision must be made in individual cases for up to 30 days, if good cause is shown. [205 ILCS 10/5(d)] "Good cause" includes but is not limited to shortages of staff.

- b) Acceptance of Accreditation as Deemed Status
- 1) When a child care institution or maternity center is fully accredited by the Council on Accreditation for Children and Family Services, Inc. (Council on Accreditation), 120 Wall Street, 11th Floor, New York NY 10005 (2001 standards) and there have been no substantiated licensing violations that affect the health, safety, morals, or welfare of children served by that facility for the last four years, that child care institution or maternity center is deemed to be in compliance with the program requirements of this Part.
 - 2) The Department shall verify in writing with the Council on Accreditation that the child care institution or maternity center's accreditation continues to be in good standing and shall conduct annual monitoring visits to verify the continued compliance of the facility with the requirements of this Part.
 - 3) If licensing violations are substantiated against an accredited child care institution or maternity center, the Department licensing worker shall notify in writing the Council on Accreditation of the substantiated violations. The facility shall receive a copy of this notice.
 - 4) If a substantiated licensing violation may affect the health, safety, morals, or welfare of the children served by the child care institution or maternity center, the institution or maternity center shall be removed from deemed status and a full license study shall be conducted as part of the license renewal process.
- c) Renewal Application Under Deemed Status
- 1) A child care institution or maternity center in deemed status doing business with the Department shall submit to the Department Regional Office of ~~Central~~-Licensing:
 - A) Signed and completed renewal application on a form provided by the Department;

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- B) Written description of any change in the institution's ~~tax~~corporate exempt status, charitable trust registration, and range of services provided;
 - C) List of current employees, including the name of the Administrator;
 - D) List of current board members, including their names, home phone numbers, and addresses;
 - E) Copy of any Corrective Plan currently placed on the institution;
 - F) Copy of additional information submitted by the institution to the Council on Accreditation, including:
 - i) Institution's consumer surveys' results;
 - ii) Information regarding any "hold" on the institution's intake placed by the Council on Accreditation, including: was the hold for any part of the current license sequence; was the institution on hold at the time of renewal; reason for the hold, and duration of the hold status; and
 - iii) Copy of the most recent Annual Maintenance of Accreditation Report the institution filed with the Council on Accreditation;
 - G) Copy of letter the institution has from the Council on Accreditation for Children and Family Services showing that the institution is fully accredited.
- 2) The Department shall obtain the following information from other sources about the institution in deemed status doing business with the Department:
- A) Results of the institution's financial audit and any documented financial problems;
 - B) The number of indicated child abuse/neglect investigations and licensing complaint investigations; and

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NOTICE OF PROPOSED AMENDMENTS

- C) Council on Accreditation confirmation that the institution is fully accredited and in good standing.
- 3) Institutions and maternity centers not doing business with the Department shall submit to the Department:
- A) Signed and completed renewal application on a form provided by the Department;
 - B) Written description of any change (if applicable) in the institution's corporate exempt status, charitable trust status and range of services provided;
 - C) List of current employees, including the name of the Administrator;
 - D) List of current board members, including their names, home phone numbers and addresses;
 - E) Copy of information the institution submitted to the Council on Accreditation regarding results of or information about the institution's consumer surveys;
 - F) Copy of the last Annual Maintenance of Accreditation Report the institution filed with the Council on Accreditation;
 - G) Copy of letter the institution has from the Council on Accreditation showing that the institution is fully accredited; and
 - H) Copy of the institution's most recent audit.
- 4) The Department shall obtain the following information from other sources about the institution in deemed status that is not doing business with the Department:
- A) Number of indicated child abuse/neglect investigations and licensing complaint investigations;
 - B) Council on Accreditation confirmation that the institution is fully accredited and in good standing

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- d) Removal of Institution or Maternity Center from Deemed Status
The following shall occur before the Department is to remove a child care institution or maternity center from deemed status:
- 1) The Department shall have documentation of one or more substantiated violations that affect the health, safety, morals or welfare of children served by the institution or maternity center's program.
 - 2) After review and confirmation of the substantiated violation by the licensing supervisor and manager, the Central Office of Licensing shall submit a recommendation for removing the institution from deemed status to a 5-member panel comprised of representatives from the Divisions of Quality Assurance, Purchase of Service Monitoring, and Program Operations, and the Offices of Child and Family Policy and Licensing.
 - 3) The 5-member panel shall review the recommendation for removal from deemed status.
 - A) If the panel concurs with the recommendation, the panel shall forward the recommendation to the Director for final approval.
 - B) If the panel does not concur with the recommendation, the institution or maternity center will maintain deemed status.
 - 4) The Department shall notify the institution or maternity center in writing of the Director's decision to remove or maintain the institutionfacility in deemed status.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.6 Provisions Pertaining to License

- a) A child care institution license is valid for four years unless revoked by the Department or voluntarily surrendered by the licensee.
- b) The child care institution shall adhere to the provisions specified on the license.
- c) The following changes in licensing status shall occur only upon prior approval of the Department:

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- 1) the age or characteristics of children served;
 - 2) the licensed capacity; or
 - 3) the area within the institution used for children.
- d) The license shall not be transferred to another person, or other legal entity, nor shall it be valid for a name or an address other than that shown on the license.
- e) The license capacity of the institution shall not be increased unless the facility is in compliance with licensing standards.
- f) A current license shall be displayed at the institution in an area visible to the public at all times.
- g) There shall be no fee or charge for the license.
- h) The institution's code of ethics adopted by the governing body must be at least as stringent as the Code of Ethics for Child Welfare Professionals (published by the Office of Communications, Department of Children and Family Services, 406 E. Monroe Street, Station #65, Springfield, Illinois 62701, May 1996, or found on the Department's website at www.state.il.us/dcfs).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.7 Provisions Pertaining to Permits

- a) A permit shall not be issued until:
- 1) the application for license has been completed and signed by an officer of the governing body of the ~~responsible~~-child care institution or maternity center and submitted to the Department;
 - 2) written clearances concerning compliance with the fire, health, sanitation, local zoning, and safety requirements as specified in ~~State~~ laws and municipal codes are received. If well water is used, a copy of the inspection report and certification of compliance with local or Illinois Department of Public Health~~state health department~~ regulations is on file;

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- 3) a person in charge of the administration and operation of the child care institution who has passed the background check requirements of 89 Ill. Adm. Code 385, Background Checks has been employed;
 - 4) furnishings, equipment and space sufficient for the number of children to be served have been acquired;
 - 5) child care staff sufficient for the number of children to be served have been hired;
 - 6) a written plan has been filed which requires provision of food, clothing, educational and religious opportunities and health care of children to meet the physical, spiritual, mental and health needs of the children;
 - 7) the facility has established procedures and forms to maintain required and necessary records including records on the children served;
 - 8) a written plan on how the requirements for licensure will be met has been developed within the permit period;
 - 9) references and medical reports on all staff, including the administrator, are on file at the institution; and
 - 10) demonstration of financial capability through a projected budget and letters of commitment from the sources of income specified in the budget.
- b) A permit shall not be issued retroactively.
 - c) The permit shall not be transferred or transmitted to another person or other legal entity.
 - d) The permit shall not be valid for a name or an address different than the name and address shown on the issued permit.
 - e) The permit shall not be renewable.
 - f) The permit shall be displayed on the premises in an area visible to the public at all times.
 - g) A license shall be issued any time within the six month period covered by the

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permit provided the facility achieves and maintains compliance with the Department's licensing standards.

- h) There will be no fee or charge for issuing the permit.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.9 Composition and Responsibilities of the Governing Body

- a) The governing body of an institution incorporated not-for-profit shall be a Board of Directors composed of at least five persons. All board members shall be of reputable and responsible character. The governing body shall be responsible to the Department for maintaining the standards set forth in this ~~Part~~part.
- b) If incorporated as a not-for-profit corporation, the governing body shall adopt a conflict of interest policy that requires, at a minimum:
- 1) that no member of the board of directors may derive or appear to derive any personal profit or gain, directly or indirectly, by reason of his or her membership on the board of directors or because of services provided to the board;
 - 2) that each board member must disclose to the board any personal interest that he or she or any immediate family member may have in any current or potential matter before the board and refrain from participating in any decision on such matters; and
 - 3) that no member of the administrator's or the chief financial officer's immediate families may serve on the board of directors for the child care institution or maternity center and no member or any board member's immediate family may serve as administrator, the chief financial officer, or independent contractor of the institution.
- c) If incorporated as a for-profit corporation, the board shall adopt a code of conduct.
- ~~db~~) The governing body shall:
- 1) establish written by-laws;
 - 2) assure that the institution operates at all times with an on-site

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administrator, who, by official notice, is made known to the Department;

- 3) hold at least ~~four~~two meetings annually;
- 4) keep records of minutes of all Board meetings reflecting official actions of the Board;
- 5) officially notify the Department in writing within two days after a change in the administrator of the institution or within 30 days after any major changes in the corporate structure, including, but not limited to:
 - A) changes in the articles of incorporation or bylaws; ~~of any major changes in the corporate structure, or a change in the administration of the institution, including: articles of incorporation and bylaws, board membership, officers, and other changes in services provided by the institution;~~
 - B) changes in the not-for-profit status or tax exempt status as determined by the Internal Revenue Service (if applicable) or its charitable organization status as determined by the Illinois Attorney General;
 - C) addition of any principal shareholder owning at least five percent of the stock of the corporation;
 - D) changes in the governing body or its officers; and
 - E) other changes in services provided by the institution;
- 6) establish written policies of the institution which shall be made available to all board members and employees including services to be provided by the institution: admissions, personnel policies, fiscal operations, care of children and other policies as needed to direct the institution, such as family visitation, community contacts with children and the functions of the administrator;~~;~~
- 7) provide and maintain physical facilities appropriate for the program and supporting services;
- 8) maintain and keep all records and documents required by this ~~Part~~part in

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the State of Illinois where they shall be readily available for licensing review;

- 9) assure fidelity bonding of fiscally responsible officers and employees, elected or appointed, whether or not compensated by salary, against breach of fiduciary duty or the loss of monies, securities or other property which the institution may sustain through any fraudulent or dishonest act or acts committed by any officer or employee acting alone or in collusion with others; and
- 10) assure that all persons working with children are of reputable character.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.11 The Administrator

- a) The administrator is that person designated by the board or ~~owners~~owner(s) to carry out established policies and procedures and the day-to-day management of the institution.
- b) An administrator shall have:
 - 1) a Master's Degree from an accredited school of social work and three years' work experience with children, at least two of which were in institutional or other residential group care programs and at least an additional two years of administrative experience; or
 - 2) a Master's Degree in a human services field from an accredited school and three years work experience with children, at least two of which were in institutional or other residential group care programs and at least an additional two years of administrative experience; or
 - 3) a Bachelor's Degree from an accredited college or university, five years' work experience with children, at least three of which were in institutional or other residential group care programs and an additional two years of administrative experience.
- c) All persons currently serving as administrators who have served in that capacity for a minimum of five years prior to April 1, 1997 at the institution where currently employed~~immediately preceding the implementation of this part~~ shall be

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deemed qualified.

- d) If there is no social work supervisor, the administrator shall, in addition, meet the qualifications for a social work supervisor as defined in Section 404.19; ~~(Social Work Staff)~~.
- e) A person/persons shall be appointed to act in behalf of the administrator when the administrator is absent.
- f) If the administrator is to be on leave for more than one month or has left prior to a replacement, the Department shall be notified of the name of the person appointed as acting administrator. The acting administrator shall have the qualifications of an administrator. The notification to the Department shall include documentation that the acting administrator meets the qualifications to be an administrator.
- g) The Department shall be notified when there is a change of administrator. The notification shall include documentation that the individual meets the qualifications to be an administrator.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.12 Administrative Coverage

- a) The institution shall not be left at any time, or under any circumstances, without a properly designated, administratively responsible person on the premises. The designated administratively responsible person may be the child care worker for each unit, with the administrator, or someone designated by the administrator, to be on call.
- b) Program Administrator
The administrator may delegate certain program responsibilities to a program administrator. These may include day-to-day management of the program for children, supervision of program staff, staff development and training, educational activities and other services to children. The program administrator shall have:
 - 1) a Master's Degree from an accredited school of social work and three years' work experience with children, at least two of which were in institutional or other residential group care programs; or

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- 2) a Master's Degree in a human services field from an accredited school and three years work experience with children, at least two of which were in institutional or other residential group care programs; or
- 3) a Bachelor's Degree from an accredited college or university, five years' work experience with children, at least three of which were in institutional or other residential group care.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.18 Medical and Health Services

- a) A qualified physician working in collaboration with the administrator shall be designated to assure that comprehensive medical and health services are provided according to the needs of the children and the requirements of this part.
- b) The on-call physician shall:
 - 1) be a physician licensed in the State of Illinois to practice medicine in all its branches;
 - 2) be on the premises at regular intervals but not less than once per month to personally observe and evaluate medical and health services~~;~~;
 - 3) participate in the establishment of the institution's written medical policies and supervise the medical and health program of the institution, including admission and periodic examinations, immunizations and treatment programs, unless the resident has his/her own personal physician to perform these functions;
 - 4) review all prescriptions monthly and authorize their continuance in writing, unless the resident has his/her own personal physician to perform these functions;
 - 5) be responsible for the observation of applicable laws, rules and regulations in the prescription, storage and administration of drugs and medications;
 - 6) arrange for and supervise the locked storage, use and disposal of drugs and medications and allow for standing orders from children's individual physicians for the dispensing of medications prescribed by them~~;~~;

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- 7) designate persons responsible for administering medications prescribed to the children to be present when medications are dispensed. Medications shall be consumed when a staff member is present; and
- 8) advise on the qualifications and appointment of other medical consultants and specialists whose services are required.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.22 Staff Training

- a) There shall be an organized in-service training program to equip child care personnel to meet the individual and group care needs of the children.
- b) The in-service training program shall include content designed to familiarize staff with:
 - 1) licensing rules, including this Part;
 - 2) 89 Ill. Adm. Code 384 (Behavior Treatment in Residential Child Care Facilities);
 - 3) program and range of services provided by the facility;
 - 4) child development principles; and
 - 5) the Abused and Neglected Child Reporting Act [325 ILCS 5].

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.25 Criteria for the Admission and Discharge of Children

- a) The institution shall establish written admission policies.
- b) Children shall be admitted only upon written consent or application of parent or guardian, upon court order, or, in emergency situations, upon authorization of an officer of the law or a Department child protective services worker. No person who has attained age 18 shall be admitted unless referred by a parent or a guardian, including an agency having legal responsibility for the person under 705

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~~ILCS 405/2-27 Ill. Rev. Stat. 1983, ch. 37, par. 705-7.~~

- c) The institution shall assess with the referring agency, child and/or family the child's need for placement, the purpose for referral to the specific institution, and the institution's ability to serve the child.
- d) A plan for services for the child and family shall be in writing, shall be reviewed at least every 6 months, and shall be signed by all the parties involved. The plan shall describe the services to be provided, describe how they will meet the needs of the child and family, describe how they are directed toward resolution of the need for placement, and establish a time frame for termination of services and care in the facility.
- e) Referrals from and acceptance of out-of-state children for care shall be in accordance with 89 Ill. Adm. Code 328~~the~~ (Interstate Compact on the Placement of Children) and other applicable laws and rules.
- f) ~~Prior to~~No child shall be accepted for placement, ~~without the~~ information and documents about a child shall be obtained from the respective parent or guardian or from the referring agency at the time of admission; however, if any of this information does not exist, is not available, or is not provided, the institution shall include in its record a written statement from the referral source to that effect.
- g) The information and documents shall include:
 - 1) name, birthdate, sex, race, religion, legal status and current address of the child;
 - 2) names, addresses and telephone numbers of parents, significant relatives, guardian, referring agency and referring agency social worker;
 - 3) name and address of the school last attended, current placement, school report and/or information on the child's educational needs;
 - 4) name, address and telephone number of the doctor, clinic or hospital currently or recently treating the child;
 - 5) financial and insurance resources available to the child; and
 - 6) listing of prior placements with length of time and reasons for placement

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and change.

- h) Medical data about the child shall include:
- 1) complete medical history including current problems, medications and handicaps, past health conditions such as diseases, allergies and surgeries, immunizations and dates, and a report of the most recent physical examination;
 - 2) all available information pertaining to the health history of the child's family; and
 - 3) if any of this information regarding medical history of the child or family of the child does not exist, the institution shall include in its record a written statement from the referral source to that effect.
- i) Social data about the child and his family describing pertinent past experiences and circumstances leading to the child's admission shall include:
- 1) significant behavioral problems of the child;
 - 2) child's strengths and areas of need;
 - 3) physical description of the child;
 - 4) current family situation;
 - 5) relationship of child and family or other significant adults;
 - 6) relationship of child to peers, adults;
 - 7) immediate and long-range goals;
 - 8) results and dates of prior psychiatric or psychological evaluations or tests; and
 - 9) consents and agreements as required.
- j) Any child who, after attempts have been made to meet the child's individual needs, demonstrates the inability to benefit from the type of care offered by the

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institution, or whose presence is detrimental to the group, shall be discharged from the institution.

- k) In all instances, when an institution decides that it is in the best interest of the child to terminate enrollment, the child's and parents' or guardian's needs shall be considered by planning with the parents or guardian to meet the child's needs when he or she leaves the institution, including referrals to other institutions, agencies or facilities.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.28 Child Care Groupings

- a) Groupings and supervision of children shall provide for individual attention and consideration of each child. Groups shall consist of a maximum of 15 children.
- b) Child care staff shall provide appropriate supervision to children at all times.
- cb) There shall be:
- 1) no more than 12 children when there are children between 6 and 12 years of age in the group;
 - 2) no more than 5 children when there are children between 2 and 6 years of age in the group; and
 - 3) no more than 6 children when there are children under 2 years of age in the group.
- de) In case of an emergency the institution must be able to provide for the safety of the children.
- ~~d) Institutions which were licensed prior to the effective date of this part shall have two calendar years from that date to comply with these groupings.~~
- e) Two or more groups may share common programs and living accommodations but sufficient numbers of child care workers shall be maintained.
- f) Children under 18 years of age whose parents serve as staff members maintaining a residence in the institution shall be included in determining the license capacity

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if they:

- 1) live in the same quarters as children accepted for care; and
 - 2) have been admitted for direct care by the institution on the same basis as other children.
- g) The institution shall assign one or more child care workers for direct supervision of each group to be on duty and readily available while the children are awake and on the premises. Girls shall be under the direct supervision of adult female staff while in their living quarters.
- h) For night time supervision, there shall be at least one person on duty and awake for each two groups occupying common or attached living quarters. Girls shall be under the direct supervision of adult female staff during the night. Additional staff shall be on call in case of emergency or other need.
- 1) The awake night staff requirements may be waived in writing by the Director of the Department or his designee for an institution, or that portion of an institution, wherein groups of up to ten children are the responsibility of child care staff who share family style living quarters.
 - 2) A request for a waiver of the night staff requirement shall be in writing and it shall be the responsibility of the facility to demonstrate that the well-being of the children will be protected by other means. No waiver may be granted for a group wherein one or more children has been diagnosed as mentally retarded, developmentally disabled or physically ~~incapacitated~~incapacited.
- i) Each child shall be assigned to a group and shall be provided his own bed and readily accessible storage space where he may keep his personal belongings and possessions.
- j) When the needs of individual children dictate, additional staff may be required to meet the needs of all children. The appropriate ratio shall be determined through consultation among the parent/guardian, staff, resource personnel and the Department.
- k) Maternity centers where mothers have their children residing with them at the center shall consider the age of the mother, her cognitive abilities and the age and

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number of children residing with the mother when considering staffing ratios in the facility program plan. The Department shall approve ratios.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.31 Clothing and Personal Belongings

- a) Children shall be supplied with clothing required for their health, comfort, and physical well-being, according to their individual needs, age, and sex.
- b) Clothing items shall be individually selected, properly fitted, appropriate to the season, and in accordance with the standards of the community. A child who is old enough to do so, shall be involved in the selection of his own clothing.
- c) All items shall be supplied in quantities necessary for school and other special uses.
- d) Clothing shall be appropriately identified for the child's own use.
- e) No used shoes or used undergarments shall be provided to a child.
- f) Donated clothing shall be selected with care to eliminate the use of shoddy, torn, or soiled garments, outmoded styles and improper sizes.
- g) A suitable supply of clothing shall accompany the child upon discharge from the institution.
- h) The facility shall assure that a child's personal belongings brought to placement and acquired by or given to the child, such as clothing, books, toys, gifts, private collections, photographs, child's private savings, allowances and other items, accompany the placement and are returned to the child when the child leaves the placement.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.33 Allowances

- a) Personal allowance money shall be available to children based upon the child's age and ability to manage money. Adolescents may be allowed to earn additional personal spending money.

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- b) The institution shall assist the child in the proper handling of money.
- c) The institution shall have procedures for maintaining and managing a separate account for each child's funds. Amounts of \$300 and over shall be deposited in an insured account. Reports on the status of each child's insured account shall be given to the child's caseworker annually. The institution shall ensure a safe and secure environment for the physical protection of other forms of the child's financial assets.
- d) Personal financial transactions or transfer of a child's or youth's personal property among children or youth, children or youth and staff, and children or youth and volunteers/interns shall be prohibited. This does not apply to the common practice in families and foster families to transfer outgrown clothes or equipment.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.37 Health and Safety

- a) Each child shall be examined by a physician, advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, or a physician assistant who has been delegated the performance of health examinations by the supervising physician, within 30 days prior to placement in the institution unless the placement is an emergency. In an emergency placement, the physical examination shall be scheduled within 5 days after placement and completed within 15 days after placement. In all cases each child shall be screened for communicable diseases within 72 hours.
- b) Children shall be examined annually or more frequently if findings and medical opinions indicate need. Diagnosed medical problems shall be promptly treated.
- c) Dental examinations shall be given at least annually. Diagnosed dental defects shall receive prompt treatment; however, recommended orthodonture shall be referred to the child's legal guardian.
- d) In the absence of any religious exemptions, immunizations and tests shall be administered in accordance with standard medical practices and as required by the Illinois Department of Public Health.

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- e) If treatment is in process for any physical impairment which requires continuing or follow-up medical attention, the parent, guardian or other facility to whom the child is discharged shall be so notified.
- f) The institution shall have a written plan for use in case of fires and natural disaster. The institution shall conduct fire and disaster drills with staff and children at least once every three months. Records of such drills shall be kept. At least once every six months, a fire marshal or other authority responsible for public safety shall view the drills.
- g) Household pets shall be inoculated as required by state and local regulations.
- h) No firearms or ammunition shall be allowed in the institution.
- i) The facility may not use or have on the premises, on or after July 1, 2000, any unsafe children's product as described in the Children's Product Safety Act and 89 Ill. Adm. Code 386 (Children's Product Safety).
- j) Sharp scissors, plastic bags, knives, cigarettes, matches, lighters, flammable liquids, drugs, sharp instruments, power tools, cleaning supplies, and any other such items that might be harmful to children shall be kept in areas inaccessible to children. Hazardous items for infants and toddlers also include coins, balloons, safety pins, marbles, Styrofoam[®] and similar products, and sponge, rubber or soft plastic toys.
- k) All cleaning compounds, pesticides, fertilizers and other potentially hazardous or explosive compounds or agents shall be stored in original containers with legible labels in a locked area that is inaccessible to children.
- l) Staff shall not abuse or neglect children and shall protect children from harm at all times.
- m) No child shall be subjected to corporal punishment, verbal abuse, threats or derogatory remarks about the child or the child's family.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.38 Food and Nutrition

- a) Food shall be prepared and served using the food guide pyramid provided by the

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~~United States Department of Agriculture Center for Nutrition to meet provide the recommended dietary allowances (R.D.A.) for~~ the nutritional needs of the children ~~in accordance with those standards currently set by the National Academy of Sciences, Food and Nutrition Board.~~

- b) Food products from home-raised animals shall meet the standards of the Illinois Departments of Agriculture and Public Health.
- c) Special dietary needs of children shall be met as medically prescribed.
- d) The institution shall consider nutritional needs in relationship to sex, age, religious beliefs and cultural influences.
- e) Meals shall be served under clean and sanitary conditions.
- f) Three balanced meals shall be served each day. The time span between service of one meal and the next meal shall not be greater than ~~14~~fourteen hours (overnight).
- g) Children shall be encouraged to eat food served, but shall not be subjected to undue coercion or forced feeding.
- h) Staff members shall be present to provide supervision for children during meal times.
- i) If meals are provided to on-duty staff, they shall be substantially the same as those served children (unless a special diet due to medical needs or religious beliefs is required).
- j) Menus shall be prepared and posted one week in advance of actual service.
- k) Records of all meals actually served shall be retained for one year and shall be available for periodic review and evaluation.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.44 Buildings

- a) Buildings shall be maintained in compliance with state and local ordinances for health, safety and sanitation.

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- b) The institution shall receive inspection annually and clearance from:
 - 1) the Illinois Department of Public Health or local health department; and
 - 2) the Office of the Illinois State Fire Marshal, or designated local fire departments.
- c) The institution shall establish and maintain a program for the upkeep, repair, and replacement of buildings.
- d) Housekeeping and repair programs shall be scheduled and shall be the responsibility of housekeeping and maintenance personnel.
- e) No business shall be conducted on the institution premises that would intrude upon, deter, or interfere with the child care activities or services.
- f) An institution or organization proposing to construct a new child care institution, to relocate, or to undertake major remodeling of buildings shall:
 - 1) notify the Department of such plans;
 - 2) submit building plans for approval to state and local offices if required by law or regulation; and
 - 3) not allow children to occupy any buildings under construction or undergoing major remodeling.
- g) Architectural plans for new, remodeled or replaced buildings shall be suited to the child care function of the institution and its program needs.
- h) The institution shall not permit occupancy of any new, remodeled, or relocated building until state or local fire and health authorities have inspected and approved such buildings.
- i) Living quarters for children shall:
 - 1) be well ventilated, properly lighted, and well heated;
 - 2) be of adequate size and privacy to conform to good standards of health; and

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- 3) meet the children's basic and individual needs.
- j) Sleeping rooms for children shall:
- 1) be separate for boys and girls over ~~six~~ years of age;
 - 2) provide at least 40 square feet of floor space per child, including rooms for single occupancy;
 - 3) provide each child with his own bed and readily accessible storage space where he may keep his personal belongings and possessions; and
 - 4) be equipped with furnishings including but not limited to chairs, tables, desks, mirrors, and bed linen, in good repair.
- k) Lavatory, bath, and toilet facilities for children shall:
- 1) consist of one toilet and one lavatory for every ~~six~~ children;
 - 2) be equipped with hot and cold running water and shall be located near the sleeping quarters;
 - 3) be separate for boys and girls;
 - 4) consist of at least one tub or shower for every ~~ten~~ children; ~~If showers are generally used, one tub available in each unit shall be sufficient;~~ and
 - 5) be equipped with mirrors and areas for storage of toilet articles and for hanging towels and wash cloths, unless provided individually in sleeping areas.
- l) Other living unit areas shall include:
- 1) living rooms large enough to accommodate the free and informal use by the children of the unit;
 - 2) availability of areas for special or quiet activities of individuals and groups; and

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- 3) storage space for supplies and equipment not in use.
- m) The administrator who lives on the premises shall be provided with living quarters separate from those used by the children.
- n) Staff members who live on the premises shall be provided with sleeping rooms and bath facilities separate from those used by the children.
- o) Dining facilities and equipment shall be provided for all children and staff residing on the premises.
- p) Kitchen facilities shall provide for efficient and sanitary preparation, storage and service of food and for the proper cleaning, sanitizing and storage of all equipment and utensils in accordance with Department of Public Health requirements.
- q) There shall be adjacent, readily accessible hand washing and toilet facilities for the use of kitchen staff and helpers with posting of public health warning to remind food handlers, dishwashers, and other kitchen helpers to make use of hand washing facilities after toileting, grooming, and smoking.
- r) Children should be instructed in the proper use of laundry equipment facilities before they are permitted to use them. Appliances shall be equipped with safety devices.
- s) There shall be office facilities and equipment for efficient conduct of the institution's business affairs.
- t) Formal classrooms located on the premises shall be housed in areas so planned or arranged that one program or activity does not intrude or interfere with another.
- u) There shall be rooms on the premises where children can see family, visitors, and professional staff in privacy and without undue or unnecessary interruptions.
- v) Facilities including toilets, lavatories, drinking fountains and telephones shall be available to accommodate non-resident staff and visitors.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.47 Records and Reports

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- a) The institution shall maintain records on each child receiving services and all agency personnel, and in addition, shall submit certain reports as prescribed by the Department. These records and reports shall be confidential. Authorized representatives of the Department shall have access to the records and reports. All persons with access to the records and reports shall respect their confidential nature.
- b) The institution shall submit to the Department of Children and Family Services such periodic and special reports as may be required.
- c) The institution shall state in the child's record and shall report to the child's parent, guardian and the Department licensing representative any unusual incidents or serious occurrences involving children. These incidents and occurrences shall be reported immediately by telephone, fax or other electronic means to the Department licensing representative and in writing, or if made verbally, confirmed in writing within 48 hours ~~after~~ the occurrence. These incidents and occurrences (see 89 Ill. Adm. Code 331 (Unusual Incidents)) include serious accident or injury requiring extensive medical care or hospitalization; death; arrest; alleged abuse or neglect; major fire or other emergency situations; or any serious incident which results in legal action by or against the institution, which affects any child or children, personnel, or conduct of the institution.
- d) A permanent record and master file card shall be maintained for every child under care which shall include:
 - 1) name, birthdate, sex, race, religion and legal status of the child;
 - 2) names, addresses and telephone numbers of parents, significant relatives, guardian, referring agency and social worker;
 - 3) dates of admission and termination of care;
 - 4) information pertaining to the circumstances and reasons for termination of care;
 - 5) names, relationship, address and telephone number of the persons~~person(s)~~ with whom the child resides following termination of care;
 - 6) summaries of evaluation conferences; and

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- 7) the child's health, including current health evaluations, medical and dental reports, psychological and psychiatric examination reports, illnesses, treatment and persons providing treatment, charting of medication including type, dosage, time and signature of persons dispensing the medication, any history of alcoholism or drug addiction.
- e) In addition to the permanent record, the institution shall maintain active records containing the admission study and ongoing data including important documents pertaining to birth, family, legal status, school, religious affiliation, health findings and treatment and consents and other documents as appropriate.
 - f) Children's records shall also include the child's adjustment, functioning and progress in:
 - 1) group interaction; staff and peer relationships;
 - 2) school or work;
 - 3) special skills, interests and activities;
 - 4) the community;
 - 5) relationship with his family and significant changes in the family;
 - 6) relationship and contacts with guardian, and other agencies;
 - 7) treatment services provided the child;
 - 8) reducing behavioral problems to enable him to live in a less restrictive setting; and
 - 9) interaction with his family during visitation.
 - g) Records shall be maintained for all employees and, in addition, for each volunteer who has responsibility for the direct care or supervision of children. These records shall contain all pertinent information relative to character, suitability, qualifications for the position, health, ~~3~~ pre-employment references, history of employment for the last ~~5~~ years, and at a minimum, annual evaluations of performance. Personnel records shall include the date of employment and the

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date and ~~reasons~~reason(s) for separation. These records shall be available for Department review.

- h) The institution shall maintain and submit reports on staff and volunteers to the Department on forms prescribed by the Department.
- 1) An individual report on each new employee (including owner, operator, or director) shall be filed with the Department; a copy of this report shall be kept at the facility.
 - 2) ~~All staff changes shall be reported to the Department within two business after beginning employment. Such reports shall be accompanied by complete, signed authorizations for background checks, as required by 89 Ill. Adm. Code 385, Background Checks.~~
For all new hires, a complete authorization for background checks, as required by 89 Ill. Adm. Code 385 (Background Checks) must be submitted to the Department Central Office of Licensing within 2 business days after beginning employment.
 - 3) Changes of the administrator shall be forwarded to the licensing representative of the Department, within 2 business days after the change. If the 2 day notification is submitted electronically or by phone, written confirmation, with documentation of credentials as required by Section 404.11, shall be submitted to the Department licensing representative within 10 business days. All other staff changes should be reported monthly to the licensing representative.
 - 43) Copies of documentation of medical information, and verification of educational achievement, ~~and character.~~
- i) The institution shall maintain a separate file of the results of the background check required by Section 404.24 and 89 Ill. Adm. 385; (Background Checks).
- j) The institution shall maintain in its official records the major decisions and policies of the governing body or board.
- k) Financial records of operations including a copy of the annual independent certified audit shall be maintained as part of the permanent records of the institution.

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- 1) The institution shall provide safe, locked places for maintenance, safe storage and preservation of confidential and business records.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 404.49 Transportation Severability of This Part

A child care institution or maternity center providing transportation services on a regular basis shall comply with the driver licensing, Rules of the Road, financial responsibility, vehicle equipment and vehicle inspection provisions of the Illinois Vehicle Code [625 ILCS 5].

- a) The driver of a vehicle transporting children on behalf of a child care institution or maternity center, whether paid or unpaid, shall comply with the following requirements:
 - 1) be 21 years of age or older;
 - 2) currently hold a valid driver's license that has not been revoked or suspended for one or more traffic violations during the 3 years immediately prior to the date of application;
 - 3) demonstrate physical fitness to operate vehicles by submitting the results of a medical examination conducted by a licensed physician;
 - 4) has not been convicted of more than 2 offenses against traffic regulations governing the movement of vehicles within a 12 month period;
 - 5) has not been convicted of reckless driving or driving under the influence or manslaughter or reckless homicide resulting from the operation of a motor vehicle within the past 3 years;
 - 6) has signed and submitted a written statement certifying that he/she has not, through the unlawful operation of a motor vehicle, caused an accident that resulted in the death of any person within the 5 years immediately prior to the date of application.
- b) Any child care institution or maternity center may provide for transportation of a child or children for special outings, functions or purposes that are not scheduled on a regular basis without verification that drivers for such purposes meet the requirements of this Section.

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- c) A child care institution or maternity center driver application and a copy of the current medical form shall be submitted to the Department for any individual who transports children regularly on behalf of the institution.
- d) Any individual who holds a valid unrestricted Illinois school bus driver permit issued by the Secretary of State pursuant to the Illinois Vehicle Code and who is currently employed by a school district, parochial school, or a contractor with a school district or parochial school to drive a school bus transporting children to and from school shall be deemed in compliance with the requirements of subsections (a) and (c).
- e) The institution or maternity center shall have and enforce written safety procedures for transporting children.
- f) The number of children transported in a vehicle shall not exceed the manufacturer's rated passenger capacity.
- g) Age-appropriate safety restraints that are federally approved and labeled as such shall be used at all times when transporting children in vehicles having a gross weight of less than 10,000 pounds, except that individual safety restraints shall not be required when children ride as passengers in taxicabs or common carriers or public utilities operating under the jurisdiction of the Illinois Commerce Commission. No more than one child may be in each seat belt.
- h) The institution or maternity center shall have and enforce written procedures for the maintenance of vehicles transporting children in a safe manner at all times.
- i) The driver shall inspect the vehicle after each use to assure that no child is left in the vehicle.
- j) Any vehicle used for the transportation of children on behalf of the institution shall be equipped with a first aid kit when used for transporting children.
- k) A written emergency plan to be followed in case of accidents, serious illness or severe weather alerts and other pertinent information shall be maintained. The emergency plan shall remain in the possession of the driver while en route.

(Source: Section 404.49 renumbered to Section 404.50; new Section 404.49 adopted at 28 Ill. Reg. _____, effective _____)

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Section 404.50~~Section 404.49~~ Severability of This Part

If any court of competent jurisdiction finds that any ~~Section~~section, clause, phrase, or provision of this ~~Part~~part is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this ~~Part~~part.

(Source: Section 404.50 renumbered from Section 404.49 and amended at 28 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Americans with Disabilities Act Grievance Procedure
- 2) Code Citation: 4 Ill. Adm. Code 1300
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1300.10	New Section
1300.20	New Section
1300.30	New Section
1300.40	New Section
1300.50	New Section
1300.60	New Section
1300.70	New Section
- 4) Statutory Authority: 42 USC 12131-12134, as specified at 28 CFR 35.107, and 105 ILCS 5/2-3.6
- 5) A Complete Description of the Subjects and Issues Involved: The federal regulations implementing Title II of the Americans with Disabilities Act require that each public entity employing 50 or more persons designate at least one employee who will be responsible for assisting the entity in complying with its obligations related to nondiscrimination on the basis of disability. Further, each such entity is required to adopt and publish grievance procedures for the resolution of complaints alleging actions that would be prohibited by the federal regulations. It has recently been brought to our attention that ISBE needs to adopt rules for these grievance procedures. The proposed new rules were prepared based on a model used by other Illinois agencies for this purpose.
- 6) Will these proposed rules replace any emergency rules currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed rules contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a state mandate.

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- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized : This rulemaking was not included on either of the 2 most recent regulatory agenda because: ISBE has only very recently become aware of the need to promulgate rules on this subject.

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

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NOTICE OF PROPOSED RULES

TITLE 4: DISCRIMINATION PROCEDURES
CHAPTER XLV: STATE BOARD OF EDUCATIONPART 1300
AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

Section	
1300.10	Purpose
1300.20	Definitions
1300.30	Applicability of Procedure
1300.40	Designated Coordinator's Level
1300.50	Final Level
1300.60	Accessibility
1300.70	Case-By-Case Resolution

AUTHORITY: Implementing Title II, Subtitle A, of the Americans With Disabilities Act of 1990 (42 USC 12131-12134), as specified in regulations for Title II (28 CFR 35.107), and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6].

SOURCE: Adopted at 28 Ill. Reg. _____, effective _____.

Section 1300.10 Purpose

- a) This Part establishes a procedure for use in resolving grievances asserted by qualified individuals with disabilities, pursuant to the Americans With Disabilities Act of 1990 (ADA) (42 USC 12101 et seq.) and its implementing regulations at 28 CFR 35.107. Any individual who desires to review the ADA or its implementing regulations in order to understand the rights, privileges, and remedies afforded by the Act may contact the designated coordinator.
- b) In general, the ADA requires that each program, service, and activity offered by the State Board of Education, when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities.
- c) It is the intention of the State Board of Education to foster open communication with all individuals who request readily accessible programs, services, and activities. The State Board encourages the supervisors of the Board's programs, services, and activities to respond to requests for modifications before grievances arise.

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Section 1300.20 Definitions

A "complainant" is an individual with a disability who files a grievance form provided by the State Board of Education under this Part.

The "designated coordinator" is the person or persons appointed by the State Superintendent of Education to be responsible for coordinating the State Board's efforts to comply with and carry out its responsibilities under Title II of the ADA, including the investigation of grievances filed by complainants. The designated coordinator for the State Board of Education can be contacted at 100 North First Street, Springfield, Illinois 62777.

A "grievance" is any complaint under the ADA that is reduced to writing by an individual with a disability who meets the essential eligibility requirements for participation in or receipt of the benefits of a program, activity, or service offered by the State Board of Education and who believes that he or she has been excluded from participation in, or denied the benefits of, any program, service, or activity of the State Board or that he or she has been subject to discrimination by the State Board.

A "grievance form" is the form prescribed for use in filing a grievance pursuant to this Part. It includes information such as the complainant's name, address, and telephone number; the nature of the grievance, including the date, time, and place of the incident; and any witnesses.

Section 1300.30 Applicability of Procedure

- a) To be eligible for consideration, each grievance shall be submitted in accordance with the procedure established in Sections 1300.40 and 1300.50 of this Part.
- b) A complainant's failure to submit a grievance or to appeal it to the next level for consideration within the applicable time limit shall be deemed a withdrawal of the grievance or the complainant's acceptance of the response most recently given by the State Board of Education under the grievance procedure.
- c) Upon being informed of an individual's desire to file a formal grievance, staff of the State Board of Education shall instruct the individual how to receive information about the procedure established under this Part and a copy of the grievance form.

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Section 1300.40 Designated Coordinator's Level

- a) Each individual who wishes to submit a grievance shall complete a grievance form and submit it to the designated coordinator for the State Board of Education no later than 180 days after the occurrence of the alleged instance of discrimination.
- b) The designated coordinator shall provide assistance in completing the grievance form if requested to do so. Incomplete grievance forms shall not be considered.
- c) The designated coordinator or a representative shall investigate the grievance and shall make reasonable efforts to resolve it if it is found to be valid. The designated coordinator shall provide a written response to the complainant and to the State Superintendent of Education within 15 days after receipt of a completed grievance form.

Section 1300.50 Final Level

- a) If a grievance is not resolved to the complainant's satisfaction by the actions taken at the designated coordinator's level under Section 1300.40 of this Part, the complainant may submit a copy of the grievance form and the designated coordinator's response to the State Superintendent of Education for review. These documents shall be submitted within five business days after the complainant's receipt of the designated coordinator's response and shall be accompanied by a brief written explanation of the complainant's dissatisfaction.
- b) Within 15 days after receipt of a request for review, the State Superintendent shall appoint a three-member panel to review the grievance at the final level. One of the appointed members shall serve as chairperson of the panel. The panel shall schedule a review of the grievance to begin no later than 15 days after the last member of the panel is appointed.
- c) The complainant shall be afforded an opportunity to appear before the panel and shall have the right to appoint a representative to appear on his or her behalf. The panel shall review the designated coordinator's written response and may conduct interviews and seek advice as it deems appropriate.
- d) Upon agreement of at least two of the panel members, but no later than 15 days after completion of the panel's review, the panel shall make recommendations in writing to the State Superintendent as to the proper resolution of the grievance.

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All recommendations shall include the panel's rationale and shall bear the signatures of the concurring panel members. A dissenting member of the panel may make a separate recommendation to the State Superintendent in writing and shall sign any such recommendation.

- e) Within 10 days after receipt of a panel's recommendations, the State Superintendent or his or her designee shall approve, disapprove, or modify the panel's recommendations; shall render a decision in writing; shall state the basis for the decision; and shall cause a copy of the decision to be served on the parties. The State Superintendent's decision shall be final.
- f) The grievance form, the designated coordinator's response, the complainant's statement of his or her reasons for dissatisfaction, the recommendations of the panel, and the decision of the State Superintendent shall be maintained in accordance with the State Records Act [5 ILCS 160] or as otherwise required by law.

Section 1300.60 Accessibility

The State Board of Education shall ensure that all stages of the procedure set forth in this Part are readily accessible to and usable by individuals with disabilities.

Section 1300.70 Case-By-Case Resolution

Each grievance involves a unique set of factors. Accordingly, termination of a grievance at any level, whether through the granting of relief or otherwise, shall not constitute a precedent on which any other complainant should rely.

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- 1) Heading of the Part: Gifted Education
- 2) Code Citation: 23 Ill. Adm. Code 227
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
227.10	Repeal
227.12	Repeal
227.14	Repeal
227.16	Repeal
227.18	Repeal
227.20	Repeal
227.30	Repeal
227.40	Repeal
227.50	Repeal
227.60	Repeal
227.70	Repeal
227.75	Repeal
227.80	Repeal
227.85	Repeal
227.90	Repeal
227.95	Repeal
227.100	Repeal
227.105	Repeal
227.110	Repeal
227.115	Repeal
- 4) Statutory Authority: 105 ILCS 5/Art. 14A
- 5) A Complete Description of the Subjects and Issues Involved: The repeal of Part 227 responds to P.A. 93-21, which took effect on July 1, 2003. This Act repealed Article 14A of the School Code (“Gifted Children”) in its entirety, thereby repealing the statutory basis for the requirements and reimbursement described in Part 227.
- 6) Will this proposed repealer replace any emergency repealer currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed repealer contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No

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- 10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a state mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2004

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

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NOTICE OF PROPOSED REPEALER

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 227

GIFTED EDUCATION (REPEALED)

Section

227.10	Definition of Terms
227.12	Comprehensive Plan for Gifted and Talented Education
227.14	Contents of the Plan
227.16	Gifted and Talented Education Plan Approval and Amendment Process
227.18	Implementation of Plans
227.20	The Establishment and Administration of Gifted Education Programs
227.30	Gifted Education Instructional Programs
227.40	Identification and Assessment of Gifted and Talented Children
227.50	Educational Personnel for Gifted Programs
227.60	Evaluation of Gifted Programs
227.70	Area Service Centers (Repealed)
227.75	Eligibility to Serve as Area Service Center (Repealed)
227.80	Application for Designation as ASC (Repealed)
227.85	Designation of Area Service Centers (Repealed)
227.90	Terms of Area Service Center Contract (Repealed)
227.95	Institutes (Repealed)
227.100	Institute Eligibility (Repealed)
227.105	Application for Institute Designation (Repealed)
227.110	Institute Designation (Repealed)
227.115	Terms of the Institute Contract (Repealed)

AUTHORITY: Implementing and authorized by Article 14A of the School Code [105 ILCS 5/Art. 14A].

SOURCE: Adopted April 11, 1974; codified at 7 Ill. Reg. 16505; Part repealed, new Part adopted at 9 Ill. Reg. 9988, effective June 14, 1985; amended at 10 Ill. Reg. 21661, effective December 17, 1986; amended at 13 Ill. Reg. 14957, effective September 6, 1989; Part repealed at 28 Ill. Reg. _____, effective _____.

Section 227.10 Definition of Terms

"Advisory Council" means the Advisory Council on Education of Gifted Children

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defined in Section 14A-4 of The School Code (Ill. Rev. Stat. 1987, ch. 122, par. 14A-4).

"Educational Assessment" means all those activities which contribute to a more comprehensive and accurate understanding of the child and his or her educational needs. These activities shall include testing, staffing and evaluation of academic history.

"Educational Service Center (ESC)" means a state funded agency established within a specific geographic region to provide services to local education agencies (LEA's) in meeting the educational needs of gifted and talented children as provided in 23 Ill. Adm. Code 500.50(b)(1) (Educational Service Centers).

"Gifted and Talented Children" means those children who consistently excel or show the potential to be consistently superior in one or more of the following areas of human endeavor:

General Intellectual Ability. The child possesses general intellectual ability, *high level thought processes* (e.g., the ability to make valid generalizations about events, people and things), or *divergent thinking* (e.g., the ability to identify and consider multiple, valid solutions to a given problem) which is consistently superior to that of other children to the extent that he or she needs and can profit from specially planned educational services beyond those normally provided by the standard school program.

Specific Aptitude/Talent. The child possesses a specific aptitude/talent in a specific academic area, creativity or the arts which is consistently superior to the aptitudes of other children to the extent that he or she needs and can profit from specially planned educational services beyond those normally provided by the standard school program.

"Gifted Education Program" means those instructional programs, supportive services, unique materials, learning settings, and other state and local educational services as described in Article 14A of The School Code and herein, which modify, supplement, and support the standard education program of the public schools, and shall include the following components:

Identification of the gifted and talented child.

Assessment of the nature of the child's cognitive and affective educational

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needs for the purpose of developing a suitable program.

Instruction which is based upon an assessment of the student's educational needs.

Continued evaluation and refinement of the program.

"Instructional Services" means those instructional activities which are provided for gifted and talented children in a standard classroom or other educational setting relevant to the gifted student's needs.

"Local Education Agency (LEA)" means a public school board of education, an educational service region or a combination of these, or other public authority legally constituted within the state that is recognized by the state to be an administrative agency for public elementary or secondary schools.

"Reimbursement Coordinator" means the person who is directly responsible for the administration and operation of the program for gifted and talented children within an LEA.

"Reimbursement Program" means an educational program designed to meet the educational needs of gifted and talented children that receives reimbursement for services and materials as described in Section 14A-5 of The School Code.

"Staffing" means a meeting of personnel such as classroom teachers, school administrators, psychologists, guidance counselors, academic discipline specialists, parents, and students for the purposes of:

Determining the eligibility of students for specially planned education services.

Determining the appropriate provision of these services.

Reviewing the educational progress of the gifted and talented students.

"Standard School Program" means the educational program generally offered by the local school district to the majority of its students.

Section 227.12 Comprehensive Plan for Gifted and Talented Education

- a) Pursuant to the provisions of Section 14A-3.1 of The School Code (Ill. Rev. Stat.

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1987, ch. 122, par. 14A-3.1), each school district *shall develop a plan which either provides or makes available for all gifted and talented pupils gifted education program(s)* (as defined in Section 227.10 of this Part) *which encompass all grade levels and fundamental areas of learning* as set forth in 23 Ill. Adm. Code 210.Appendix A (Learning Assessment and School Improvement Plans).

- b) Each comprehensive plan for gifted and talented education (hereinafter called a Plan) shall at least contain the information required in Section 227.14 of this Part and shall be submitted to the State Board of Education by December 31, 1989 for review and approval in accordance with Section 227.16 of this Part.

Section 227.14 Contents of the Plan

- a) Each Plan must include a description of:
- 1) a system for the identification and assessment of gifted and talented children that meets the requirements of Section 227.40 of this Part;
 - 2) a gifted education program that:
 - A) meets the requirements of Sections 227.10 and 227.12(a) of this Part; and
 - B) reflects in scope the district's estimate of the number of gifted and talented students it expects to serve by grade level and fundamental area of learning;
 - 3) educational personnel needed to provide instructional and other services pursuant to subsections (a)(1) and (a)(2);
 - 4) that portion of the district's ongoing staff development plan (developed pursuant to 23 Ill. Adm. Code 30) designed for the educational personnel referred to in subsection (a)(3); and
 - 5) evaluation procedures that meet the requirements of Sections 227.30(b) and 227.60 of this Part.
- b) Each Plan shall also include a budget, completed on forms provided by the State Board of Education, which shall be an estimate of the school district's costs for operating the program components described in its Plan. For the purpose of establishing accurate estimates of these costs, school districts shall not be

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constrained by the reimbursement limitations set forth in Section 14A-5 of The School Code (Ill. Rev. Stat. 1987, ch. 122, par. 14A-5).

Section 227.16 Gifted and Talented Education Plan Approval and Amendment Process

- a) The State Board of Education will approve the Plan if the Plan conforms to the requirements listed in Section 227.14.
- b) Upon completion of review of the Plan, the State Superintendent of Education shall send a letter to the submitting LEA, indicating that:
 - 1) its Plan has been approved pursuant to the provisions of subsection (a) of this Section; or
 - 2) its Plan can be approved upon submission of specified revisions and/or additional information within 45 days.
- c) Upon completion of review of information submitted by a school district pursuant to the provisions of subsection (b)(2) of this Section, the school district will be notified in writing that its Plan has been approved or that the Plan remains unapprovable for reasons which shall be specified.
- d) A school district must have an approved Plan on file with the State Board of Education in order to be eligible for reimbursement of the costs of implementing its Plan. Annual reimbursement for programs based upon approved Plans shall be provided in accordance with the provisions of Section 227.18 of this Part.
- e) Each school district shall review its Gifted and Talented Education Plan annually and may amend it to ensure that services meet the changing needs of students.
 - 1) Amendments to Plans shall be submitted to the State Board of Education for approval prior to their implementation.
 - 2) The State Board shall notify the district of the approval status of its amended Plan as set forth in Section 227.16(b).
 - 3) Amendments will be approved if the resulting Plan continues to meet the criteria set forth in Section 227.14.

Section 227.18 Implementation of Plans

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- a) *Implementation of the plans or components thereof* (i.e., as specified in Section 227.14(a) in relation to grade levels and fundamental learning areas) *as determined by the State Board of Education shall begin during the 1991-92 school year, provided that the Governor and the General Assembly have accepted the formula and funding level to be submitted to them by the State Board of Education by January 31, 1991* (Section 14A-3.1 of The School Code).
- b) Subject to the condition set forth in subsection (a) of this Section, the State Board of Education shall determine the extent to which the approved Plans or components thereof shall be implemented, on the basis of:
 - 1) the sum of the estimated costs for the Plans and for their components;
 - 2) the extent of additional personnel and other resources needed to implement the Plans or their components; and
 - 3) the intent of the State Board of Education to achieve full implementation of the Plans at the earliest possible date.
- c) The State Board of Education shall send a written notice to all districts indicating the Board's implementation decision pursuant to this Section within thirty (30) days of adopting said decision.

Section 227.20 The Establishment and Administration of Gifted Education Programs

- a) Proposed programs for gifted and talented children shall be submitted to the Advisory Council and State Board staff on forms provided by the State Board of Education for evaluation and recommendation to the State Superintendent of Education.
- b) Proposed programs shall be recommended for approval to the State Superintendent of Education if they contain evidence of providing or increasing services of the public school in the field of gifted education and evidence of compliance with the requirements set forth in this Part.
- c) Approval and subsequent reimbursement of proposed programs in accordance with Section 14A-5 of The School Code shall be determined by the State Superintendent of Education and shall be based upon the recommendations resulting from review of the proposed programs and the standards for such review as set forth above, and upon the information provided by the applicant in the "Budget Breakdown" portion of the application form issued by the State Board of

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Education. This section of the form requires the provision of information concerning the district's enrollment, equalized assessed valuation, personnel salaries and other expenses necessary to determine the level of reimbursement for which the district is eligible.

- d) An LEA may request gifted education reimbursement funds to establish and operate a gifted education program to meet the educational needs of children who consistently excel or have the potential to consistently excel in one or more of the areas of human endeavor defined in Section 227.10.
- e) The establishment of reimbursable gifted education programs shall proceed from planning to program development and implementation at all grade levels.
- f) The gifted education program reimbursement coordinator shall be responsible for the development and operation of the local gifted education program as an integrated part of the standard school program in cooperation with appropriate state education agency personnel, educational service center personnel, parents of gifted students, and gifted students themselves.

Section 227.30 Gifted Education Instructional Programs

- a) Those LEA's receiving gifted reimbursement funds shall design gifted education programs in direct response to the educational needs of children identified as gifted and talented in one of the areas of human endeavor defined in Section 227.10.
- b) Educational objectives, experiences, and evaluation techniques shall be developed by the LEA for each type of instructional program designed to meet the educational needs of gifted and talented children. These objectives, experiences, and evaluation techniques shall stress sequential education and be subject to continuing review, evaluation, and revision through consultation with individuals involved in the program, e.g., LEA personnel, ESC personnel, students and parents.
- c) Programs and services designed to meet the educational needs of gifted and talented children shall be an integrated part of the standard school program. These programs and services may also provide learning experiences that occur in settings and at times other than those of the regular school program, including optional summer school.

Section 227.40 Identification and Assessment of Gifted and Talented Children

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- a) Subject to subsection (c) below, in order to qualify for program approval, an LEA shall indicate in its proposal that gifted and talented children have been identified, through a process consistent with subsection (b), for participation in the program to be reimbursed.
- b) The process for identifying children as gifted and talented shall be determined by the LEA. However, the identification process shall meet the following standards.
 - 1) It must be applied to all students in the LEA population.
 - 2) It must establish, make public, and apply criteria for selecting a child from the LEA's student population for differentiated instructional programs or services.
 - 3) It must uniformly apply any criteria for selection to every child in the LEA population for whom they are applicable (e.g., according to grade level, academic area, or area of talent).
 - 4) It must describe specific means used for student identification and make use of both objective measures and professional judgment such as those enumerated in subsections (A) and (B), respectively:
 - A) Objective measures
 - Specific subject matter tests
 - Achievement test sub-scores
 - Creativity tests
 - Pictorial, nonverbal, or abstract reasoning tests
 - Individual intelligence tests
 - Group verbal intelligence or mental ability tests;
 - B) Professional judgment
 - Teacher or specialist, e.g., counselor, psychologist, or other professional evaluation

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NOTICE OF PROPOSED REPEALER

Past school performance

Evidence of accomplishment or ability, e.g., portfolio, audition, or other performance.

- c) All gifted and talented children who have been identified shall be given an educational assessment as defined in Section 227.10.
- d) The identification and assessment of a gifted child must be done prior to the development of an instructional program or service for that child.

Section 227.50 Educational Personnel for Gifted Programs

- a) All professional personnel for whom reimbursement funds in excess of \$300 are claimed must hold a registered teaching, supervisory, or administrative certificate as applicable to their roles, and must meet at least two of the three following requirements:
 - 1) They must have completed at least three semester or four quarter hours of college credit in the education of gifted and talented children.
 - 2) They must have completed a training institute for teachers of gifted and talented children approved by the State Board of Education prior to June 30, 1986, or provided by an ESC pursuant to 23 Ill. Adm. Code 500.50(b)(1) (Educational Service Centers) after June 30, 1986.
 - 3) They must have had at least two years of experience in working with programs for gifted and talented children.
- b) The LEA superintendent shall serve as or designate a reimbursement coordinator who shall have the following responsibilities:
 - 1) To complete and file the application and proposal for approval.
 - 2) To implement and/or supervise the activities proposed within the LEA gifted program proposal.
 - 3) To develop and operate the local gifted education program as an integrated part of the standard school program.

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- 4) To provide inservice training for the teachers of identified gifted and talented children.
 - 5) To select and implement identification and assessment instruments and processes.
 - 6) To determine the need and provide for the implementation of staffings related to gifted and talented children.
 - 7) To develop and implement a self-evaluation process for the LEA gifted program.
 - 8) To complete and file the claim for reimbursement form.
 - 9) To submit:
 - A) program applications within 45 days of receipt;
 - B) program evaluation reports within 45 days of receipt;
 - C) claims for reimbursement as provided in Section 14A-5(b) of The School Code (Ill. Rev. Stat. 1985, ch. 122, par. 14A-5(b)).
 - D) Except in the case of claims for reimbursement, these submission dates shall be waived when circumstances beyond the control of local districts or the State Board of Education make this action necessary. School districts shall receive written notification including the reason(s) for the waiver and the new date established for submission of the required materials.
 - 10) To coordinate the LEA's gifted program with those of its regional ESC and the State Board of Education.
 - 11) To meet all program goals and objectives as set forth and agreed upon by the LEA and the State Board of Education.
- c) All professionals within an LEA designated as teachers of identified gifted children or as administrators of the local gifted program shall be eligible to participate in and receive all services pertinent to the education of gifted and talented children offered by the State Board of Education and the Educational Service Centers.

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Section 227.60 Evaluation of Gifted Programs

- a) The extent to which the LEA receiving reimbursement funds for gifted programs is fulfilling its responsibilities to gifted and talented children as defined and set forth in this Part shall be determined annually by the State Board of Education in accordance with the criteria set forth in subsection (d) of this Section.
- b) All gifted program financial records must be maintained for a period of three years subsequent to the conclusion of the program.
- c) An LEA receiving reimbursement funds for operating a gifted program shall develop its own gifted program evaluation. The LEA reimbursement coordinator shall conduct the evaluation at least annually in a manner consistent with the provisions of Section 227.30 (b). Evaluation procedures should indicate the process, instruments and techniques used to measure the progress toward the objective and the anticipated degree of change.
- d) The evaluation report resulting from (c) above must contain evidence of LEA compliance with Section 227.50(b)(11) in order to be eligible for continued state reimbursement in each year following approval of the initial program application.

Section 227.70 Area Service Centers (Repealed)**Section 227.75 Eligibility to Serve as Area Service Center (Repealed)****Section 227.80 Application for Designation as ASC (Repealed)****Section 227.85 Designation of Area Service Centers (Repealed)****Section 227.90 Terms of Area Service Center Contract (Repealed)****Section 227.95 Institutes (Repealed)****Section 227.100 Institute Eligibility (Repealed)****Section 227.105 Application for Institute Designation (Repealed)****Section 227.110 Institute Designation (Repealed)****Section 227.115 Terms of the Institute Contract (Repealed)**

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Summer School for Gifted and Remedial Education
- 2) Code Citation: 23 Ill. Adm. Code 230
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
230.10	Amendment
230.20	Amendment
230.30	Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.61
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking responds to P.A. 93-21, which took effect on July 1, 2003. This Act repealed Article 14A of the School Code ("Gifted Children") in its entirety and also made corresponding changes in Section 2-3.61 of the School Code. The proposed amendments to Part 230 reflect these statutory changes by deleting references to gifted students.
- 6) Will these proposed amendments replace any emergency amendments currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a state mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

STATE BOARD OF EDUCATION
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rules@isbe.net

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2004

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
 SUBTITLE A: EDUCATION
 CHAPTER I: STATE BOARD OF EDUCATION
 SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 230
 SUMMER SCHOOL FOR ~~GIFTED AND~~ REMEDIAL EDUCATION

Section

230.10	Definitions
230.20	Eligible Applicants
230.30	Procedures and Criteria for Approval of Applications
230.40	Allocation of Funds
230.50	Distribution of Grant Awards
230.60	Program Evaluation Standards

AUTHORITY: Implementing and authorized by Section 2-3.61 of the School Code [105 ILCS 5/2-3.61].

SOURCE: Adopted at 10 Ill. Reg. 12615, effective July 9, 1986; amended at 13 Ill. Reg. 1535, effective January 23, 1989; amended at 28 Ill. Reg. _____, effective _____.

Section 230.10 Definitions

~~"Gifted/Talented Students" means those students identified in accordance with 23 Ill. Adm. Code 227.40 (Gifted Education), including students identified as displaying high level thought processes and divergent thinking pursuant to Section 14A-2 of The School Code (Ill. Rev. Stat. 1987, ch. 122, par. 14A-2).~~

"Potential Dropout" means a student who is subject to compulsory attendance as defined in ~~Section Article~~ 26-1 of ~~theThe~~ School Code ~~[105 ILCS 5/26-1](Ill. Rev. Stat. 1985, ch. 122, par. 26-1 et seq.)~~ and who is identified by school district officials as a potential dropout on the basis of his or her academic performance and/or personal ~~behavior~~ ~~performance~~. This definition includes a student whose academic and/or personal performance demonstrates to school district officials that he or she is uninvolved, unmotivated, and/or disaffected (e.g., repeated tardiness or absence, disruptiveness, or failure to complete assignments).

"Remedial Students" means those students at risk of academic failure as evidenced by meeting at least one of the following criteria:

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students who are potential dropouts as defined in this Section ~~230.10~~;

students who have failed an academic subject;

students who are not likely to graduate because of insufficient academic credits; or

students who by teacher judgment (e.g., based upon observation of students' actions, attendance patterns, or relationships with others) and assessment results demonstrate a proficiency level one grade or more below current placement level.

"Summer School" means instruction offered during that period of the calendar year not embraced within the regular school term.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 230.20 Eligible Applicants

Eligible ~~applicants~~ **Applicants** for the purposes of this Part are those school districts with ~~remedial~~ **Remedial or Gifted and Talented** students as defined in Section 230.10 of this Part.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 230.30 Procedures and Criteria for Approval of Applications

- a) Eligible applicants must annually submit a completed application on forms provided by the State Board of Education which will include:
 - 1) a total grant request not more than the amount for which the applicant is eligible in accordance with Section 230.40 of this Part;
 - 2) information describing the local school district's proposed project, including the needs of remedial ~~and gifted~~ students and the related project activities, expectations for improving student achievement, and assessment procedures for evaluating the program; and
 - 3) a completed budget and budget summary form of proposed expenditures eligible under Section 2-3.61 of ~~the~~ **The School Code** [105 ILCS 5/2-3.61] ~~(Ill. Rev. Stat. 1987, ch. 122, par. 2-3.61)~~ and this Part.

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- b) Local assessment procedures for evaluating the program as specified in subsection (a)(2) of this Section ~~230.30(a)(2)~~ must meet the following minimum standards:
- 1) assessment procedures must include systematic data collection and analysis of students'~~student~~ needs, services provided, and results achieved;
 - 2) assessment procedures must be based on good testing practices as described in "Standards for Educational and Psychological Testing" (1985), published by the American Psychological Association (~~no~~~~Ne~~ later amendments to or editions of these standards are incorporated by this Section~~rule~~);
 - 3) assessment criteria must be uniformly applied to all students tested with a particular assessment procedure; and
 - 4) assessment procedures must include statements concerning what actions will be taken to eliminate or alleviate identified problems when analysis of the assessment data demonstrates that the applicant's expectations for improving remedial students'~~and-gifted-student~~ achievement are not being met.
- c) Each application will be reviewed by State Board of Education staff to determine the extent to which the applicant has related the needs of the students to be served to the services to be provided to them and has clearly stated expectations for the program's outcomes. Evidence that an applicant has adequately related students' needs to proposed services may include, but not be limited to, plans to provide students who demonstrate deficiency in a particular academic subject area with intensive instructional support in that area, ~~or plans to offer students exhibiting superior proficiency in a subject area advanced instruction in that area or introduction to an area requiring those skills.~~
- d) An application must be submitted on or before the date specified in Section 2-3.61 of ~~the~~The School Code.
- e) Information provided in the application, as required in subsection (a) of this Section ~~230.30(a)~~, will be reviewed by State Board of Education staff to determine that the information demonstrates compliance with Section 2-3.61 of ~~the~~The School Code and this Part.
- f) State Board staff will send a written notice to applicants specifying any requested information that is missing from their application. Such applicants must supply

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the requested information within ~~15~~fifteen (15) calendar days ~~after of their~~ receipt of ~~the~~said notice.

- g) The State Superintendent of Education will approve applications that demonstrate compliance with Section 2-3.61 of ~~the~~The School Code and this Part, except that the State Superintendent shall have discretion to invoke the provisions of subsection (f) of this Section with respect to any such application submitted for final approval.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Driver Education
- 2) Code Citation: 23 Ill. Adm. Code 252
- 3) Section Number: 252.30 Proposed Action:
Amendment
- 4) Statutory Authority: 105 ILCS 5/27-23 and 27-24 through 27-24.8
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking responds to P.A. 93-55. That legislative change took effect on July 1, 2003, and amended Section 27-24.6 of the School Code with regard to who must sign a school district's claim for reimbursement for the driver education program. The previous language of the law required the president or acting president of the school board to sign the claim in addition to the chief school administrator. With the change, either the chief school administrator or "authorized driver education personnel employed by the school board" can prepare and certify the district's claim.

The proposed amendment to Part 252 reflects the revision to the statute and makes no other substantive change.
- 6) Will these proposed amendments replace any emergency amendments currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a state mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street

STATE BOARD OF EDUCATION
NOTICE OF PROPOSED AMENDMENTS

Springfield, Illinois 62777
(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2004

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER g: SPECIAL COURSES OF STUDY

PART 252

DRIVER EDUCATION

Section

252.10	Definitions
252.20	Administration and Procedures
252.25	Eligibility of Students
252.30	The Terms of Reimbursement for Public School Participation in the Program
252.40	Driver Education Teacher Requirements
252.50	Commercial Schools (Transferred)

AUTHORITY: Implementing and authorized by Section 27-23 of the School Code and the Driver Education Act [105 ILCS 5/27-23 and 27-24 through 27-24.8].

SOURCE: Adopted September 4, 1975; codified at 8 Ill. Reg. 1585; emergency amendment at 9 Ill. Reg. 15558, effective October 1, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 12922, effective July 22, 1986; Section 252.50 transferred to 92 Ill. Adm. Code 1060.240 (Secretary of State) pursuant to Section 5-80(d) of the Illinois Administrative Procedure Act [5 ILCS 100/5-80(d)] and Section 6-411 of the Illinois Driver License Law [625 ILCS 5/6-411] at 11 Ill. Reg. 1631; amended at 18 Ill. Reg. 16307, effective October 25, 1994; amended at 22 Ill. Reg. 7577, effective April 17, 1998; amended at 26 Ill. Reg. 10476, effective July 1, 2002; amended at 28 Ill. Reg. _____, effective _____.

Section 252.30 The Terms of Reimbursement for Public School Participation in the Program

- a) Claims for Reimbursement – These *shall be made under oath or affirmation of ~~the president or acting president of the school board and~~ the chief school administrator for the district employed by the school board **or authorized driver education personnel employed by the school board*** [105 ILCS 5/27-24.6].
 - 1) Reimbursement shall be determined in accordance with the provisions of Sections 27-24.4 and 27-24.5 of the School Code [105 ILCS 5/27-24.4 and 27-24.5]. If the local school board establishes a policy permitting students to take a proficiency examination after at least 3 clock hours of practice driving (see Section 252.20(c)(13) of this Part), and the student(s)

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successfully complete the examinations, the claim for reimbursement will include this fact. However, reimbursement for students who fail the proficiency examination may be claimed only upon their completion of 6 clock hours of practice driving.

- 2) The ~~State~~ shall not reimburse any district for any student enrolled in the driver education course who has repeated any part of the course more than once, who did not meet the age requirements of the Act or was otherwise ineligible during the period in which he or she was enrolled in the course, or who did not hold a valid instruction permit during the laboratory instruction, or any district which did not adequately publicize and provide the course in a reasonable time after requested.
- 3) If the sum appropriated from the driver education fund is insufficient to pay all claims submitted each year, the amount payable to each district shall be proportionately reduced.
- 4) The school district ~~that~~ which is the residence of an eligible pupil who attends a nonpublic school in another district that has furnished the driver education course shall reimburse the district offering the course the difference between the actual per capita cost of giving the course the previous school year and the amount reimbursed by the ~~State~~.
- 5) The district may charge a reasonable fee – not to exceed the amount specified in Section 27-23 of the School Code – to students who participate in a driver education course approved in accordance with this Part. This fee shall supersede any other fee(s) or portion thereof charged to students and attributable to the driver education course. As used in this Part, "reasonable fee" means a fee calculated by dividing the sum of documented annual district costs for items such as instructional materials (if not included in the district's textbook rental fee), the cost of driver education cars, car maintenance costs, fuel, and insurance by the number of students participating in the driver education course. For purposes of this calculation, the cost of driver education cars that are purchased by the district shall be amortized over a five-year period, and the cost of leasing cars shall be included in the fee calculation in the year such costs are incurred.
- 6) No fee shall include any portion of the costs for school district personnel salaries and benefits.

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- 7) The driver education fee shall be waived with respect to any student who applies pursuant to this subsection and who is eligible for free lunches or breakfasts pursuant to the School Free Lunch Program Act [105 ILCS 125/1-~~et seq.~~], and with respect to other students in accordance with the district's policy adopted in accordance with Section 1.245 ("Waiver of School Fees") of the rules of the State Board of Education (see 23 Ill. Adm. Code 1, Public Schools Evaluation, Recognition and Supervision).
- b) Tuition Student – The district of residence will pay the entire per capita cost of such instruction to the other school and make claim for State reimbursement for such student.
- c) Transfer Student – For any transfer student as defined in Section 252.20(b)(3) of this Part, reimbursement shall be claimed only by the school district to which the student has transferred.
- d) Cooperative School Programs – In fulfilling the reimbursable requirements, a school district must provide an approved driver education course or participate in a special education cooperative or be part of an approved joint school agreement with another public school district.
- e) Records – Daily attendance records shall be kept by the teachers in the manner prescribed in Section 27-24.6 of the School Code and are to be used to certify claims made under the Act.
- 1) Records must be maintained by the school ~~to which~~ substantiate daily lessons, time behind the wheel, observation time, other laboratory experiences and periodic as well as final evaluation of each student. Also recorded shall be the beginning and ending dates of classroom and laboratory instruction. Students are to be identified by their instructional permit number, name, address and other personal information.
 - 2) Such records are to be on file in the office of the driver education supervisor, principal, or other manager at the time reimbursement and/or certification is requested.
 - 3) Driver education participation records are to be kept and be readily available for a period of not less than three years.
 - 4) All records are subject to yearly audit by ~~Statestate~~ auditors.

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- f) Public School District Participation Agreement – Prior approval affirms continuous approval as long as the school continues to maintain standards established in the Driver Education Act and this Part.

- g) Driver Education Cost Accounting – Records of all expenses incurred in the operation of a reimbursable driver education program must be maintained by school officials. Actual school expenditures for administration, supervision, instruction, instructional supplies, inservice training for teachers, operation of equipment, buildings, and other special construction (provided a schedule is on file) may be used to determine the actual per capita cost.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Regional Offices of Education and Intermediate Services
- 2) Code Citation: 23 Ill. Adm. Code 525
- 3) Section Number: 525.110 Proposed Action: Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.62, 3A-16, and 3A-17
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking responds to P.A. 93-21, which took effect on July 1, 2003. This Act repealed Article 14A of the School Code ("Gifted Children") in its entirety and also made corresponding changes in Section 2-3.62 of the School Code. The proposed amendment to Part 525 reflects these statutory changes by deleting the reference to services for gifted students.
- 6) Will this amendment replace any emergency amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this amendment contain any incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a state mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

STATE BOARD OF EDUCATION

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- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2004

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER o: MISCELLANEOUS

PART 525

REGIONAL OFFICES OF EDUCATION AND INTERMEDIATE SERVICES

Section

525.10	Advisory Boards for Regional Offices of Education
525.20	Purpose (Repealed)
525.30	Membership and Selection (Repealed)
525.40	Duties (Repealed)
525.50	Intermediate Service Centers in Cook County Outside the City of Chicago
525.60	City of Chicago Intermediate Service Center
525.100	Role of Chief Administrator
525.110	Programs and Services to be Provided
525.120	Regional Improvement Plan
525.130	Annual Application
525.140	Program Evaluation Standards and Procedures
525.150	Allocation of Funds
525.160	Fiscal Procedures

AUTHORITY: Implementing and authorized by Sections 2-3.62, 3A-16, and 3A-17 of the School Code [105 ILCS 5/2-3.62, 3A-16, and 3A-17].

SOURCE: Adopted at 18 Ill. Reg. 17447, effective November 28, 1994; amended at 21 Ill. Reg. 2172, effective January 29, 1997; amended at 28 Ill. Reg. _____, effective _____.

SUBPART B: PROGRAM ADMINISTRATION AND EVALUATION

Section 525.110 Programs and Services to be Provided

The following school improvement services shall be provided by each Regional Office of Education and the Chicago Intermediate Service Center as defined in Section 525.10 of this Part. These services shall comprise a core common to all Regional Offices and the Chicago Intermediate Service Center, but shall not limit the range of programs and services that may be offered by one or more of these entities. The 10 Regional Offices of Education with the smallest populations shall provide services under cooperative agreements with one or more of the 35 Regional Offices of Education with the largest populations in accordance with subsection (b) of this Section.

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- a) Each Regional Superintendent of Schools shall ensure the provision to all school districts of the ~~following~~ programs and services listed in this subsection (a). Such services may be provided either directly by each Regional Office of Education or in cooperation with one or more Regional Offices of Education. Such services may include, but need not be limited to, the provision of administrator and teacher training programs, data collection, on-site consultation, evaluation services, implementation of the improvement practices selected by school district staff, and other services identified by school personnel as critical to the completion of their school improvement efforts.
- 1) ~~Each Regional Office of Education shall provide for Education of Gifted Children as specified in Section 2-3.62(1) of the School Code. Gifted education services are those necessary to support school administrators and teachers in the planning, implementation, and evaluation of the district comprehensive gifted education plans as they relate to school improvement plans. Regional Offices shall assist the State Board of Education with collection and dissemination of information relative to the implementation of district comprehensive plans, professional development programs, and the completion of special studies as deemed necessary by the State Superintendent of Education.~~
- 2) Each Regional Office of Education shall provide for Computer Technology Education as specified in Section 2-3.62(2) of the School Code. This shall include planning, implementation, and evaluation services necessary for the establishment of programs designed to achieve computer literacy and high-technology competency. These technology services must include, but need not be limited to, inservice training and staff development; use, application, and evaluation of software; technical assistance; and curriculum development.
- ~~2)3)~~ Each Regional Office of Education shall provide for Staff Development Services in Fundamental Learning Areas, to include at least mathematics, science, and reading resources, as specified in Section 2-3.62(3) of the School Code. These services shall include planning, implementation, and evaluation services as they relate to the continuing education, inservice training, and staff development needs of teachers and administrators in the areas of mathematics, biological and physical sciences, language arts, fine arts, social sciences, and physical development and health. Activities shall include, but need not be limited to, assisting in needs assessment activities, providing workshops and inservice training sessions, providing technical

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assistance, convening study or assessment groups, and acting as a clearinghouse for research materials in the fundamental learning areas.

~~3)4)~~ Each Regional Office of Education shall ensure access for all administrators to continuing professional development offered through the Illinois Administrators' Academy (Section 2-3.53 of the School Code [105 ILCS 5/2-3.53]) and at least provide the following services: assessing regional needs, acting as a clearinghouse for educational materials and research, and keeping accurate records of attendance at inservice training sessions provided through the Illinois Administrators' Academy.

~~4)5)~~ Each Regional Office of Education shall establish and maintain a directory of cooperating consultants used by the Regional Office to provide services to school districts and to make information regarding such consultants available to schools.

- b) The 10 Regional Offices of Education with the smallest populations shall enter into cooperative agreements with one or more of the larger regions to provide those services outlined in subsections (a)(1) through ~~(4)(5)~~ of this Section, provided that:
- 1) approval for the agreement is obtained from each Regional Superintendent of Schools involved in the cooperative;
 - 2) services and programs to be delivered are included in the regional improvement plan pursuant to Section 525.120 of this Part; and
 - 3) if one or more of the 10 Regional Offices of Education cannot enter into a cooperative agreement with one or more of the larger regions, then the State Board of Education shall work with regions so that they enter into a cooperative agreement or, if necessary, assign regions to participate in a cooperative agreement.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Boiler and Pressure Vessel Safety
- 2) Code Citation: 41 Ill. Adm. Code 120
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
120.10	Amendment
120.11	Amendment
120.15	Amendment
120.20	Amendment
120.30	Amendment
- 4) Statutory Authority: Boiler and Pressure Vessel Safety Act [430 ILCS 75/2]
- 5) A Complete Description of the Subjects and Issues Involved: References to Special Inspector Trainee are being deleted because there is no such individual. Certain National Standards are being updated or deleted. Certain fees are being raised. Groups of heating and hot water supply boilers connected together shall be registered as one unit and receive one Certificate of Inspection under specified circumstances; as a result, each boiler will not be charged a separate fee.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? Yes
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: None
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

Dave Douin, Director
Division of Boiler and Pressure Vessel Safety
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield IL 62703-4259
217/785-1008

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- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Any small business, small municipality and not for profit corporation with a boiler pressure vessel.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the need for the new amendment was not anticipated at the time that the agendas were published.

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

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TITLE 41: FIRE PROTECTION

CHAPTER I: STATE FIRE MARSHAL

PART 120

BOILER AND PRESSURE VESSEL SAFETY

SUBPART A: DEFINITIONS AND ADMINISTRATION

Section

120.4	Foreward (Repealed)
120.7	Kindly Observe the Following Briefs and Avoid Unnecessary Inconvenience (Repealed)
120.10	Definitions
120.11	Incorporation of National Standards
120.15	Fees
120.20	Administration
120.30	Inspectors, Examinations, Certificate of Competency and Commission
120.41	Special Inspector Trainee (Repealed)

SUBPART B: CONSTRUCTION, INSTALLATION, INSPECTION,
MAINTENANCE, AND USE

Section

120.100	New Installations of Boilers, Miniature Boilers, Heating Boilers and Hot Water Supply Boilers
120.105	Boiler Exemptions
120.200	New Installations of Pressure Vessels
120.205	Pressure Vessel Exemptions
120.300	Existing Installations of Power Boilers
120.400	Existing Installations of Miniature Boilers (Repealed)
120.500	Operation of Boilers and Pressure Vessels
120.600	Existing Installation of Pressure Vessels
120.700	General Requirements for all Boilers and Pressure Vessels (Repealed)
120.800	Nuclear Power Plant Components (Repealed)
120.900	Flame Safeguard Requirements and Incorporated Standards (Repealed)

SUBPART C: REPAIR AND ALTERATION

Section

120.1000	Repairs and Alterations to Boilers and Pressure Vessels by Welding
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120.1010	Authorization to Repair Boilers and Pressure Vessels
120.1020	Issuance and Renewal of the Certificate
120.1030	Changes to Certificates of Authorization
120.1040	Quality Control Requirements
120.1041	Repair and Alteration Requirements

SUBPART D: STATE SPECIALS

Section

120.1100	Procedure for the Issuance of a State Special Permit
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SUBPART E: REPAIR OF SAFETY AND SAFETY RELIEF VALVES

Section

120.1200	Authorization for Repair of Safety & Safety Relief Valves
120.1210	Authorization to Repair ASME and National Board Stamped Safety and Safety Relief Valves
120.1220	Issuance and Renewal of the Certificate
120.1240	Changes to Certificates of Authorization
120.1250	Repairs to Safety and Safety Relief Valves
120.1260	Quality Control System
120.1270	Nameplates
120.1275	Field Repair
120.1280	Performance Testing of Repaired Valves
120.1285	Training of Valve Repair Personnel
120.1290	ASME "V", "UV" or National Board "VR" Certificate Holders

SUBPART F: OWNER-USER QUALITY CONTROL REQUIREMENTS

Section

120.1300	Introduction
120.1301	Authority and Responsibility
120.1305	Organization
120.1310	Inservice Inspection Program
120.1320	Drawings, Design Calculations, and Specification Control
120.1325	Material Control
120.1330	Examination and Inspection Program
120.1335	Correction of Nonconformities
120.1340	Welding
120.1345	Nondestructive Examination

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120.1350 Calibration of Measurement and Test Equipment
120.1355 Records
120.1360 Inspectors

120.APPENDIX A Operational and Maintenance Log
 120.EXHIBIT A Hot Water Heating Boilers
 120.EXHIBIT B Steam Heating Boilers
120.APPENDIX B Record of Welded Repair (Repealed)

AUTHORITY: Implementing the Boiler and Pressure Vessel Safety Act [430 ILCS 75] and authorized by Section 2 of the Boiler and Pressure Vessel Safety Act [430 ILCS 75/2].

SOURCE: Boiler and Pressure Vessel Safety Act Rules and Regulations adopted at 4 Ill. Reg. 7, p. 126, effective January 31, 1980; codified at 5 Ill. Reg. 10677; amended at 7 Ill. Reg. 6925, effective July 1, 1983; amended at 10 Ill. Reg. 9510, effective July 1, 1985; amended at 11 Ill. Reg. 16587, effective January 1, 1988; amended at 16 Ill. Reg. 6808, effective July 1, 1992; amended at 17 Ill. Reg. 14917, effective September 1, 1993; amended at 19 Ill. Reg. 11904, effective August 15, 1995; amended at 20 Ill. Reg. 9540, effective July 3, 1996; amended at 21 Ill. Reg. 997, effective January 1, 1997; amended at 23 Ill. Reg. 162, effective January 1, 1999; amended at 24 Ill. Reg. 18555, effective December 7, 2000; amended at 25 Ill. Reg. 11914, effective January 1, 2002; amended at 27 Ill. Reg. 518, effective January 01, 2003; emergency amendment at 27 Ill. Reg. 14855, effective September 2, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 1737, effective January 13, 2004; amended at 28 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS AND ADMINISTRATION

Section 120.10 Definitions

Act or the Act means the Boiler and Pressure Vessel Safety Act [430 ILCS 75].

Alteration means any change in the item described on the original Manufacturers' Data Report which affects the pressure containing capability of the boiler or pressure vessel. Non-physical changes such as an increase in the maximum allowable working pressure (internal or external) or design temperature of a boiler or pressure vessel shall be considered an alteration. A reduction in minimum temperature such that additional mechanical tests are required shall also be considered an alteration.

API 510 means the Maintenance, Inspection, Rating, Repair and Alteration of

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Pressure Vessels as published by the American Petroleum Institute.

Approved means approved by the Board of Boiler and Pressure Vessel Rules.

ASME Code means the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers with such revisions, amendments and interpretations thereof as are made, approved and adopted by the Council of the Society and approved and adopted by the Board. Copies of the Code may be obtained from said Society at 345 E. 47th Street, New York, New York 10017.

Authorized Inspection Agency means one of the following:

A department or division established by a jurisdiction which has adopted one or more Sections of the ASME Code and whose inspectors hold valid commissions issued by the National Board of Boiler and Pressure Vessel Inspectors;

An inspection agency of an insurance company which is authorized (licensed) to insure and is insuring boilers and pressure vessels in those jurisdictions which have examined the agency's inspectors to represent such jurisdictions as is evident by the issuance of a valid Certificate of Competency to the inspector; or

An owner or user of boilers and pressure vessels who maintains a regularly established inspection department, whose organization and inspection procedures meet the requirements established by the Board and contained in this Part.

Authorized Repairer means a holder of a Certificate of Registration issued pursuant to the Boiler and Pressure Vessel Repairer Regulation Act.

Board means the Board of Boiler and Pressure Vessel Rules created by the Act and empowered to make, alter, amend and interpret rules and regulations for the safe construction, installation, inspection, alteration, and repair of boilers and pressure vessels and for establishing fees.

Boiler means a vessel intended for use in heating water or other liquids or for generating steam or other vapors under pressure or vacuum by the application of heat resulting from the combustion of fuels, electricity, or waste gases.

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Certificate Inspection means an inspection, the report of which is used by the Chief Inspector as justification for issuing, withholding or revoking the inspection certificate. The Certificate Inspection shall be an internal inspection when required; otherwise, it shall be as complete an inspection as possible.

Certificate of Competency means a certificate issued to a person who has passed the examination prescribed by the Board.

Certificate of Registration means a certificate issued by the Office pursuant to the Boiler and Pressure Vessel Repairer Regulation Act.

Commission, National Board means the commission issued by the National Board to a holder of a Certificate of Competency who desires to make shop inspections or field inspections in accordance with the National Board bylaws and whose employer submits the inspector's application to the National Board for such commission.

Condemned Boiler or Pressure Vessel means a boiler or pressure vessel that has been inspected and declared unsafe, or disqualified by legal requirements, by the Chief or Deputy Inspector.

Division means the Division of Boiler & Pressure Vessel Safety.

Electric Boiler means a boiler in which the source of heat is electricity.

Engineer means a registered professional engineer registered in accordance with the Illinois Professional Engineering Act [225 ILCS 325] or a person who graduated from an accredited college or university and either:

holds a mechanical engineering degree, or

has five years experience in a related field (e.g., civil engineering, metallurgical engineering, industrial engineering, design engineering, maintenance engineering, project engineering or construction, maintenance, repair or operation of high pressure boilers and pressure vessels).

Existing Installation means and includes:

Any boiler installed and placed in operation within the State of Illinois

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before May 1, 1953.

Any hot water supply boiler installed and placed in operation within the State of Illinois on or before July 9, 1957.

Any pressure vessel installed and placed in operation within the State of Illinois on or before December 31, 1976.

External Inspection means an inspection made when a boiler or pressure vessel is in operation, if possible.

Heating Boiler means a steam boiler operated at pressures not exceeding 15 psig, or a hot water heating boiler operated at pressures not exceeding 160 psig and/or temperatures not exceeding 250° F. at or near the boiler outlet.

High Pressure Boiler means a boiler where steam is generated at a pressure in excess of 15 psig or a water boiler operated in excess of 160 psig and/or temperatures in excess of 250° F.

High-Temperature Water Boiler means a water boiler operating at pressures exceeding 160 psig and/or temperatures exceeding 250° F. at or near the boiler outlet.

Hot water supply boiler means a boiler (including fired storage water heater) furnishing hot water to be used externally to itself at pressures not exceeding 160 psig and/or temperatures not exceeding 250° F. at or near the boiler outlet except those exempted pursuant to the Boiler and Pressure Vessel Safety Act and this Part.

Inspection Certificate means a certification issued by the Chief Inspector for the operation of a boiler or pressure vessel as required by the Act.

Inspector means the Chief Inspector or Deputy Inspector or Special Inspector or Owner-User Inspector.

Chief Inspector means the Chief Boiler and Pressure Vessel Inspector employed under the Act.

Deputy Inspector means any inspector employed under the provisions of the Act.

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Special Inspector means an inspector holding an Illinois Certificate of Competency and who is regularly employed by an insurance company authorized to write boiler and pressure vessel insurance in this State.

~~Special Inspector Trainees are those inspectors described in Section 120.30.~~

Owner-User Inspector means an inspector described in Section 120.1360 continuously employed as an inspector by an Owner-User Inspection Agency.

Internal Inspection means as complete an examination as can reasonably be made of the internal and external surfaces of a boiler or pressure vessel while it is shut down and manhole plates, handhole plates or other inspection opening closures are removed as required by the inspector.

Jurisdiction means a state, commonwealth, county or municipality of the United States or a province of Canada which has adopted one or more sections of the ASME Code and maintains a duly constituted Department, Bureau, or Division for the purpose of enforcement of such Code. In Illinois the Division of Boiler and Pressure Vessel Safety is the jurisdiction except for the City of Chicago.

Lined Potable Water Heater shall mean a water heater with a corrosion resistant lining, used to supply potable hot water.

Low Pressure Boiler means a steam boiler operated at pressures exceeding 15 psig or a hot water boiler operated at pressures not exceeding 160 psig and/or temperatures not exceeding 250° F.

Miniature Boiler means any boiler which does not exceed any of the following limits:

16 inches inside diameter of shell

20 square feet heating surface

5 cubic feet gross volume, exclusive of casing and insulation

100 psig maximum allowable working pressure

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National Board Inspection Code or NBIC means the Manual for Boiler and Pressure Vessel Inspectors published by the National Board. Copies of the Code may be obtained from the National Board.

National Board means the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the Chief Inspectors of jurisdictions who are charged with the enforcement of the provisions of the ASME Code.

New Boiler Installations means and includes all boilers constructed, installed and placed in operation within the State of Illinois after May 1, 1953, and all hot water supply boilers installed and placed in operation after July 9, 1957.

New Pressure Vessel Installations means and includes any pressure vessel installed and placed in operation within the State of Illinois after December 31, 1976.

Non-Standard Boiler or Pressure Vessel means a boiler or pressure vessel that does not bear the ASME Stamp or the API-ASME Stamp.

Office means the Office of the State Fire Marshal.

Operator means any individual who has charge of a boiler or pressure vessel as defined by the Act, and whose duties include operation and maintenance of such devices.

Owner or User means any person, firm or corporation legally responsible for the safe operation of any boiler or pressure vessel within the State.

Owner-User means an owner and user qualified under Section 15 of the Act.

Place of Public Assembly means a building or specific area, including outdoor areas, in which persons assemble for civic, educational, religious, social or recreational purposes or which is provided by a common carrier for passengers awaiting transportation or in which persons are housed to receive medical, charitable or other care or treatment, or are held or detained for public, civic or correctional purposes.

Portable Boiler means an internally fired boiler which is primarily intended for

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temporary location and the construction and usage of which permits it to be readily moved from one location to another.

Power Boiler means a boiler in which steam or other vapor is generated at a pressure of more than 15 psig and includes a high-pressure, high-temperature water boiler.

Pressure Vessel means a vessel in which pressure is obtained from an external source, or by the application of heat from an indirect source or from a direct source other than those boilers as defined above.

PSIG means pounds per square inch gauge.

Reinstalled Boiler or Pressure Vessel means a boiler or pressure vessel removed from its original setting and reinstalled at the same location within the State of Illinois or at a new location without change of ownership.

Relief Valve means an automatic pressure relieving device actuated by the static pressure upstream of the valve which opens further with the increase in pressure over the opening pressure. It is used primarily for liquid service.

Repair means work necessary to return a boiler or pressure vessel to a safe operating condition.

Rerating means a change in the maximum allowable working pressure or temperature of a boiler or pressure vessel regardless of whether or not physical work is performed on the boiler or pressure vessel. Rerating shall be considered an alteration.

Safety Relief Valve means an automatic pressure actuated relieving device suitable for use as a safety or relief valve, depending on application.

Safety Valve means an automatic pressure relieving device actuated by the static pressure upstream of the valve and characterized by full opening pop action. It is used for gas or vapor service.

Secondhand Boiler or Pressure Vessel means a boiler or pressure vessel which has changed both location and ownership since primary use.

Standard Boiler or Pressure Vessel means a boiler or pressure vessel which bears

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the ASME Code Symbol.

State Special means a pressure vessel of special construction that may not be constructed in accordance with the ASME Code. See Subpart E, Section 120.1100 of this Part, for the procedures for granting a State Special.

Underwriters Laboratories (U.L.) means a non-profit independent organization testing for public safety. It maintains and operates laboratories for the examination and testing of devices, systems and materials to determine their relationship to life, fire and casualty hazards.

Welding or Arc Welding means a group of welding processes wherein coalescence is produced by heating with an arc or arcs, with or without the application of pressure, and with or without the use of filler metal.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 120.11 Incorporation of National Standards

Where standards are incorporated by reference in this Part, the incorporated material does not include any later editions or amendments.

- a) The Board hereby adopts the following nationally recognized standards and addenda:

ASME CSD-1a-1998	Controls and Safety Devices for Automatically Fired Boilers
NFPA 8501-97	Single Burner Boilers – Furnaces
NFPA 8502-99	Multiple Burner Boilers – Furnaces
NFPA 8503-97	Pulverized Fuel Systems
ASME Boiler and Pressure Vessel Code (2001) with 2003 2002 addenda	
Section I	Power Boilers
Section II	Material Specifications – Part A – Ferrous
Section II	Material Specifications – Part B – Nonferrous
Section II	Material Specifications – Part C – Welding Rods Electrodes and Fillers Metals
Section II	Material Specifications – Part D – Properties
Section IV	Heating Boilers

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Section V	Nondestructive Examination
Section VI	Recommended Rules for Care and Operation of Heating Boilers
Section VII	Recommended Rules for Care of Power Boilers
Section VIII	Pressure Vessels – Division 1 Including Appendix M
Section VIII	Pressure Vessels – Division 2 – Alternative Rules
Section VIII	Pressure Vessels – Division 3 – Alternative Rules for High Pressure Vessels
Section IX	Welding and Brazing Qualifications
Section X	Fiberglass – Reinforced Plastic Pressure Vessels

National Board of Boiler & Pressure Vessel Inspectors

Inspection Code (2001) with ~~2003~~2002 addenda

~~National Board Rules and Recommendations for the Design and Construction of Boiler Blowoff Systems (1991)~~

American Petroleum Institute

API-510, Eighth Edition, First Supplement, "API Recommended Practice for Inspection, Repair, and Rating of Pressure Vessels in Petroleum Refining Service"

API – American Petroleum Institute
1220 L Street, Northwest
Washington, D.C. 2005
www.api.org

ASME – American Society of Mechanical Engineers
United Engineering Center
345 East 47th Street
New York, New York 10017
www.asme.org

NB – National Board of Boiler & Pressure Vessel Inspectors
1055 Crupper Avenue
Columbus, Ohio 43229
www.nationalboard.org

NFPA – National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269-9101

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www.nfpa.org

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 120.15 Fees

As authorized by the Boiler and Pressure Vessel Safety Act, the Board hereby establishes the following fees to be collected for services rendered:

Examinations \$30

Commissions

New Issuance \$4025

Renewal \$2515

All Certificates of Inspection..... \$70

Inspections conducted by the Division

High Pressure and High Temperature Water Boilers

Boilers without a manhole \$30

Boilers with a manhole \$60

Low Pressure Steam and Water Boilers

Boilers without a manhole \$30

Boilers with a manhole \$60

Hot water supply boilers \$30

No more than \$130120 shall be charged for one boiler in any one year.

Pressure Vessels

Fees are based on the product of the overall length times the width or diameter of the vessel expressed in square feet.

50 sq. ft. or less \$25

51 sq. ft. to 150 sq. ft. \$50

over 150 sq. ft. \$75

No more than \$160120 shall be charged for any one pressure vessel in any one year.

Annual Statements (Owner-Users)..... \$35 per vessel

Miscellaneous

Witness a hydrostatic test \$100

Joint reviews, audits, shop inspections

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½ day \$300
 Full day \$500
 Plus expenses, including travel and lodging.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 120.20 Administration

- a) Applying State Serial Number. The State serial number on boilers shall be not less than 5/16" in height and shall be preceded by the letters "ILL" which shall also be not less than 5/16" in height. Boilers will be identified by a five digit number. The State serial number on pressure vessels shall be not less than 5/16" in height and shall be preceded by the letters "ILL" and the letter "U" which shall also be not less than 5/16" in height. Pressure vessels will be identified by a six digit number. The Inspector shall make certain that the correct Illinois State serial number is affixed to the boiler or pressure vessel at the time of inspection.
- b) First Time Inspection. Effective January 1, 1999, all first time inspections of boilers and pressure vessels shall be performed by the Chief or a Deputy Inspector employed by the Division.
- c) Basis for Extending Certificate.
 - 1) The Chief Inspector is authorized to extend, for a period not exceeding one year, the time within which power boilers are required to be internally inspected, subject to the following conditions and qualifications:
 - A) The analysis and treatment of feedwater for such power boilers shall be under the supervision of a person qualified in the field of water chemistry.
 - B) The analysis and treatment of the boiler feedwater shall be for the purpose of controlling and limiting serious deteriorating, encrusting and sludging factors affecting the safety of the boiler.
 - 2) The owner or user of such power boilers must maintain, for examination by the inspector, accurate records of such chemical and physical laboratory analysis of samples of the boiler water taken at regular intervals of not more than 24 hours operation and of the treatment applied. These records must specify dates and times of analyses, by whom analyzed, and

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the treatment applied at that time, and should be certified by the responsible authority. These records will adequately show the conditions of such water and any constituents or characteristics which are capable of producing corrosion or other deterioration of the boiler or its parts.

- 3) The Chief Inspector is authorized to review the qualifications of the supervisor and the acceptability of supervision in accordance with the foregoing.
 - 4) Application for extension shall be by letter setting forth facts establishing compliance with the foregoing conditions and qualifications, and shall be accompanied by the report of external inspection.
- d) **Unsafe Boilers or Pressure Vessels.** Any boiler or pressure vessel having been inspected and declared unsafe by an inspector shall have the Inspection Certificate suspended.
- e) **Factors of Safety for Existing Installations.** An inspector shall increase the factors of safety if the condition of a boiler or pressure vessel warrants it. If the owner or user does not concur with the inspector's decision, the owner or user may appeal to the Board.
- f) **Frequency of Inspection of Boilers and Pressure Vessels.**
- 1) Power boilers and high temperature water boilers shall receive a certificate inspection annually, which shall be an internal inspection where conditions permit. Such boilers shall also be inspected externally annually while under representative operating conditions, if possible.
 - 2) Low pressure steam and hot water heating boilers and hot water supply boilers shall be inspected both internally and externally every two years where conditions permit and shall receive a certificate inspection every two years. Groups of heating and hot water supply boilers connected together shall be registered as one unit and receive one Inspection Certificate when the following conditions are met:
 - A) No unit exceeds 400,000 BTU input;
 - B) All units being considered in the assembled modular unit are connected to a common header or manifold; and

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- C) No more than 8 units can be grouped together and registered as one unit.
- 3) Inspection of the flame safeguard equipment shall be in conjunction with the regular inspections of boilers.
 - 4) Pressure vessels subject to internal corrosion shall receive a certificate inspection every three years. This inspection shall be external and internal where conditions permit. However, owner users qualified in accordance with Section 15 of the Act shall have the option of using API-510 or the ~~NBICN.B.I.C.~~ for inspection intervals.
 - 5) Pressure vessels not subject to internal corrosion shall receive a certificate inspection every three years. However, owner users qualified in accordance with Section 15 of the Act shall have the option of using API-510 or the ~~NBICN.B.I.C.~~ for inspection intervals.
- g) Inspection and Inspection Certificate Fees.
- 1) If a boiler or pressure vessel shall, upon inspection, be found to be suitable and to conform to this Part, the owner or user shall pay the fees as established by the Board for each boiler and pressure vessel inspected before an Inspection Certificate shall be issued.
 - 2) If the owner or user of each boiler or pressure vessel required to be inspected refuses or fails to allow an inspection to be made or refuses or fails to pay the appropriate ~~fees~~fee(s), the Inspection Certificate shall be suspended by the Chief Inspector until the owner or user complies with the requirements.
 - 3) The owner or user who causes a boiler or pressure vessel to be operated without a valid Inspection Certificate shall be subject to the penalty as provided in the Act.
- h) Inspectors to Have no Other Interests. It is prohibited for any employee of the Division of Boiler and Pressure Vessel Safety to accept any compensation or remuneration from any source for acting as a Consultant, Engineer, Safety Engineer, Safety Specialist, etc., or under any other title. Employees of this Division shall not be engaged in the sale of any article or device that is related to

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boilers or pressure vessels and shall devote their full time to inspection work.

- i) Installing Used or Second-hand Boilers or Pressure Vessels. A certificate inspection shall be made of all used or second-hand boilers or pressure vessels prior to operation in this State. In a case where a boiler or pressure vessel is moved and reinstalled, the fittings and appurtenances shall be upgraded to comply with the ~~rules~~Rules for new installations.
- j) Inspectors to Notify Chief Inspector of defective boilers and pressure vessels. If an inspector finds that a boiler or pressure vessel or any of the appurtenances are in an unsafe condition the inspector shall immediately notify the Chief Inspector and submit a report of the defects.
- k) Insurance Agencies to Notify the Chief Inspector of New, Cancelled or Suspended Risks. All Insurance Agencies shall notify the Chief Inspector within 30 days of all boiler or pressure vessel risks written, cancelled, not renewed or suspended in Illinois.
- l) Manufacturers Data Reports to Be Filed. Effective January 1, 1974, Manufacturers Data Reports on boilers and as amended December 31, 1976, for pressure vessels, which are to be installed in the State of Illinois (unless otherwise exempted by this Part) shall be filed with the Chief Inspector through the National Board. It is intended that each boiler and pressure vessel so filed should be assigned a National Board number.
- m) Boilers and Pressure Vessels without ASME Stamping. If the boiler or pressure vessel does not bear the ASME stamping, then the drawings, data and material showing all details of construction shall be submitted to the Chief Inspector and his approval obtained before installation in this State. The Chief Inspector shall grant his approval if the construction, materials and inspection requirements meet the ~~rules~~Rules except for ASME stamping.
- n) Notification of Inspection. The owner or user shall prepare each boiler or pressure vessel for internal inspection and shall prepare for and apply a hydrostatic test whenever necessary, on the date specified by an inspector, which date shall be not less than 7 days after the date of notification.
- o) Owner to Notify Chief Inspector in Case of Accident. Any owner or user, which includes any person, firm, partnership, corporation, or governmental entity, that knowingly fails to notify the Chief Inspector within 24 hours, or on the next

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business day, of an accident, explosion, event, or incident that serves to render a boiler or pressure vessel inoperative because of damage or failure or that involves any bodily injury or death to any person is guilty of a Class B misdemeanor, if a natural person, or a business offense punishable by a fine of not less than \$501 and not more than \$10,000, if a corporation or governmental entity.

- p) Penalties. Any person, firm, partnership or corporation violating any of the provisions of this Part shall be subject to the penalties provided in the Boiler and Pressure Vessel Safety Act.
- q) Registration of Boilers and Pressure Vessels. All owners or users of boilers and pressure vessels subject to the Act now in use or installed ready for use in the State of Illinois shall notify the Chief Inspector in writing giving the location, type, capacity, age and date of installation.
- r) Removal of Safety Appliances.
 - 1) No person, except under the direction of an inspector, shall attempt to remove or shall do any work upon safety appliances required by this Part while a boiler or pressure vessel is in operation. Should any of these appliances be repaired during an outage of a boiler or pressure vessel, they must be reinstalled and in proper working order before the object is again placed in service.
 - 2) No person shall in any manner load the safety valve or valves to maintain a working pressure in excess of that stated on the Inspection Certificate.
- s) Stamping of Boilers and Pressure Vessels. Each boiler or pressure vessel subject to the Act shall be identified by a serial number of the State of Illinois. The number will be assigned by the Chief Inspector and applied to the boiler or pressure vessel by the inspector at the time of inspection. Also, the Code required stamping shall be kept free of paint and lagging so that it will be plainly visible and easily read by the inspector.
- t) Submission of Inspection Reports. Inspection Reports to be submitted by Special Inspectors:
 - 1) Inspection Reports shall be submitted within 30 days from the date of inspection.

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- 2) All Inspection Reports shall be completed with all pertinent information as required including location and actual conditions observed.
- 3) Validity of Inspection Certificate. No Inspection Certificate issued for a boiler or pressure vessel inspected by a Special Inspector shall be valid after the boiler or pressure vessel for which it was issued shall cease to be insured by a duly authorized insurance company. The Chief Inspector may at any time suspend an Inspection Certificate when the boiler or pressure vessel for which it was issued may not continue to be operated without menace to public safety, or when the boiler or pressure vessel is found not to comply with this Part. A Special Inspector shall have authority to request suspension of an Inspection Certificate for boilers or pressure vessels insured by the employing company. Such suspension of an Inspection Certificate shall continue in effect until such boiler or pressure vessel shall have been made to conform to this Part.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 120.30 Inspectors, Examinations, Certificate of Competency and Commission.

- a) Examinations.
 - 1) Examinations for Certificate of Competency and Commission as an Inspector of Boilers and Pressure Vessels shall be held the first Wednesday of the months of March, June, September and December. Special examinations will be held when considered necessary by the Board.
 - 2) Applicants for examination for a Special Inspector shall have 3 years experience in the construction, maintenance, repair or operation of high pressure boilers and pressure vessels. A credit of 2 years of the required experience will be given to applicants holding a Mechanical Engineering degree from a college of engineering and one year's credit will be given for all other types of engineering degrees.
 - 3) Application for examination for Certificate of Competency and Commission shall be written upon a form to be furnished by the Office of the State Fire Marshal stating the educational background of the applicant, a list of employers, period of employment and position held with each employer. Applications containing willful falsification or untruthful

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statements shall be rejected. If the applicant's education and experience meet the requirements of the Board, the applicant shall be given the written examination dealing with the construction, installation, operation, maintenance and repair of boilers, pressure vessels and their appurtenances. If the applicant is successful in meeting the requirements of the Board, a Certificate of Competency and Commission will be issued by the Office of the State Fire Marshal. An applicant who fails to pass the examination will be permitted to take another written examination.

b) ~~Special Inspector Trainee.~~

- 1) ~~Applicants for Special Inspector Trainee authorization, which will permit on-the-job training, must possess one of the following education and experience qualifications:~~
 - A) ~~A Bachelor's Degree in Engineering from an accredited college or university (deemed to be the equivalent of two years experience in design, construction, in charge of operation or inspection of high pressure boilers and pressure vessels); or~~
 - B) ~~An Associate Degree in Mechanical Technology plus one year of actual experience in design, construction, in charge of operation or inspection of high pressure boilers and pressure vessels; or~~
 - C) ~~A high school diploma or General Equivalency Degree plus two years of practical experience in the construction, installation, repair, operation, maintenance or inspection of high pressure boilers and pressure vessels.~~
- 2) ~~Such applicants must have taken and received a passing grade (70%) upon that examination administered by the Board to applicants for National Board Commissions commencing the first Wednesday of March, June, September and December of each year.~~
- 3) ~~The Office of the State Fire Marshal shall issue an authorization as a Special Inspector Trainee upon the applicant meeting the criteria above.~~
- 4) ~~The Special Inspector Trainee authorization issued by the Office of the State Fire Marshal shall be valid for a period not to exceed fifteen months, shall be nonrenewable, and may be utilized by the holder only while in the~~

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~~continuous employ of the Authorized Inspection Agency by whom the Inspector Trainee is employed at the time of application and then only when all field inspection work so performed is performed while accompanied by an inspector for such Authorized Inspection Agency employer during the first ninety (90) days of such work and while remaining under the supervision of such an employer's inspector for the following year. Further, if the Authorized Inspection Agency is an insurance company, the Special Inspector Trainee may perform field inspection work only upon objects currently covered by insurance issued thereby.~~

- ~~5) Upon completion of one year of experience as a Special Inspector Trainee while in the continuous employ of an Authorized Inspection Agency, the holder of a valid authorization, through such employer(s), may apply to the Office of the State Fire Marshal for the Certificate of Competency.~~

be) Commissions.

- 1) A Commission as an Inspector and an identifying commission card shall be issued by the State Fire Marshal as provided in the Act.
- 2) Commissions issued to inspectors in the employ of insurance companies or of self-insurers shall be held at the office of the employing company. The Commission and the identifying commission card shall be returned to the Chief Inspector when suspended or revoked or the inspector to whom the Commission was issued is no longer employed by the insurance company or self insurer.
- 3) A Commission issued to an Inspector may be suspended or revoked by the State Fire Marshal as provided in the Act.
- 4) Reciprocal Commissions. A Reciprocal Commission as an Inspector may be issued by the State Fire Marshal as provided in the Act.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Collection of Fees
- 2) Code Citation: 92 Ill. Adm. Code 1003
- 3) Section Number: 1003.40 Proposed Action: Amendment
- 4) Statutory Authority: Implements changes to Section 2-124 of the Illinois Vehicle Code (625 ILCS 5/2-124) and is authorized by the Illinois Vehicle Code (625 ILCS 5/2-104(b)).
- 5) A Complete Description of the Subjects and Issues Involved: This amendment will update the fees imposed by the Secretary of State for International Registration Plan (I.R.P.) audits conducted within the State of Illinois due to changes made to the Illinois Vehicle Code by Senate Bill 1903 (PA 93-32) of the 93rd General Assembly.
- 6) Will this rulemaking replace any emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The proposed rulemaking do not require
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Text of the proposed amendments are posted on Secretary of State's web site, www.sos.state.il.us/departments/index/home as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to the:

Secretary of State
Nathan Maddox, Assistant General Counsel
298 Howlett Building
Springfield, IL 62701
217-785-3094
- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking will affect any subject registrants under the

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International Registration Plan that are also small businesses.

- B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of Professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the need for this rulemaking was not anticipated at the time the agendas were prepared.

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1003
COLLECTION OF FEES

Section

1003.10	Definitions
1003.20	Collection and Refund
1003.30	Collection of All Motor Vehicle Fees
1003.40	Audits for Truck License Fees
1003.50	Use of State Comptroller's Offset Authority
1003.60	Bankruptcy Discharge of Fees
1003.70	Invalidity

AUTHORITY: Implementing Sections 2-124 and 3-824 and authorized by Sections 2-101 and 2-104 of the Illinois Vehicle Title & Registration Law [625 ILCS 5/2-124, 3-824, 2-101 and 2-104].

SOURCE: Adopted at 12 Ill. Reg. 14719, effective September 15, 1988; amended at 13 Ill. Reg. 7048, effective May 1, 1989; amended at 28 Ill. Reg. _____, effective _____.

Section 1003.40 Audits for Truck License Fees

- a) All licensees selected by the Department of Accounting Revenue for auditing shall be notified by letter sent by regular mail of the purpose of the audit, the date and location of the audit, the years of licensing to be examined, the records required to be provided for the auditor, and the consequences of non-appearance for the audit (to include assessments at 100% of miles run), suspension of all registration plates and stickers, and collection action filed by the Attorney General of Illinois in the Circuit Court of venue.
- b) The provisions of Section 2-124 of the Act shall apply to all audits.
- c) Illinois based truck licensees shall produce their records and be audited at the Chicago or Springfield, Illinois, offices of the Department of Accounting Revenue. Illinois based truck licensees who fail to appear for a scheduled audit meeting, and who request another appointment for auditing shall report to the Chicago or Springfield offices, whichever is closest to the licensee's office. Requests for reaudits for which 100% assessments have been applied must be submitted to the Department of Accounting Revenue before the 30 day notice

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provided for in Section 2-124(h) and (j) of the Act has expired.

- d) No costs shall be assessed against a licensee for audits conducted at Secretary of State offices, as provided in Section 2-124(d) of the Act.
- e) For Illinois based International Registration Plan (I.R.P.) audits conducted within the State of Illinois except as subsection (d) above, an audit fee of ~~\$100~~~~\$50.00~~ per day or ~~\$50~~~~\$25.00~~ per half day per auditor shall be assessed if an assessment is found to be due and owing the State of Illinois or any I.R.P. jurisdiction. In the case of an audit of an Illinois based International Registration Plan licensee that takes place outside the State of Illinois, transportation costs incurred, such as: airplane, automobile, train, car rental, taxi, etc., shall be assessed in addition to the audit fee of ~~\$100~~~~\$50.00~~ per day or ~~\$50~~~~\$25.00~~ per half day per auditor, and will be assessed regardless of the amount of the assessment or if any assessment is made. The cost of personal or state owned automobile usage shall be equivalent to the reimbursement mileage rate as provided by the State of Illinois travel rules (80 Ill. Adm. Code 3000). If more than one licensee is audited on a single trip, the transportation costs shall be apportioned between the companies based on the amount of time spent at each company.
- f) For audits of non-Illinois based licensees that take place within the State of Illinois except as subsection (d) above, an audit fee of ~~\$100~~~~\$50.00~~ per day or ~~\$50~~~~\$25.00~~ per half day per auditor shall be assessed if any assessment is found to be due and owing the State of Illinois. In the case of an audit of a non-Illinois based licensee that takes place outside the State of Illinois, transportation costs incurred such as: airplane, automobile, train, car rental, taxi, etc., shall be assessed in addition to the audit fee of ~~\$100~~~~\$50.00~~ per day or ~~\$50~~~~\$25.00~~ per half day per auditor if an assessment is found to be due and owing the State of Illinois. The cost of personal or state owned automobile usage shall be equivalent to the reimbursement mileage rate as provided by the State of Illinois travel rules (80 Ill. Adm. Code 3000). If more than the licensee is audited on a single trip, the transportation costs shall be apportioned between the companies based on the amount of time spent at each company.
- g) No charge shall be assessed for an auditor trainee being trained on the job by an auditor. If an auditor trainee performs an audit, the audit fee of ~~\$100~~~~\$50.00~~ per day or ~~\$50~~~~\$25.00~~ per half day per auditor shall be assessed.
- h) A notice of any deficit and the amount of money owed to the Secretary of State shall be sent by regular mail to the truck licensee. Payment is due within 30 calendar days ~~after~~ the date of the written notice or the registration plates shall

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be suspended, unless a hearing is requested, in accordance with Section 2-124(i) of the Act.

- i) The rules at 92 Ill. Adm. Code 1001.Subpart A shall apply to any hearing requested by a truck licensee pursuant to Section 2-124(j) of the Act.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: General Program
- 2) Code Citation: 35 Ill. Adm. Code 1500
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1500.20	Amendment
1500.30	Amendment
1500.40	Amendment
1500.50	Amendment
1500.55	Amendment
1500.70	Amendment
- 4) Statutory Authority: 415 ILCS 135(20)
- 5) Effective date of amendments: June 21, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file at the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the Illinois Register: February 13, 2004; 28 Ill. Reg. 2522
- 10) Has JCAR issued a Statement of Objection to these amendments? Yes, on June 4, 2004; 28 Ill. Reg. 7117. The Agency submitted its Agency Response for JCAR approval on May 27, 2004.
- 11) Differences between proposal and final version:

In the Table of Contents under "AUTHORITY" – Deleted "(a)" after 415 ILCS 135/20

In Section 1500.30(c)(1)(C)	– deleted "equipped"
In Section 1500.30(c)(2)(C)	– deleted "equipped"
In Section 1500.30(c)(3)(A)	– before "100", added "more than"
In Section 1500.30(c)(3)(C)	– deleted "equipped"
In Section 1500.30(c)(4)	– deleted "purchases" and replaced with "uses"

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- In Section 1500.30(c)(4)(C) – deleted "equipped"
In Section 1500.30(c)(5) – deleted "purchases" and replaced with "uses"
In Section 1500.30(c)(5)(C) – deleted "equipped"
In Section 1500.30(c)(6) – deleted "purchases" and replaced with "uses"
In Section 1500.30(c)(6)(C) – deleted "equipped"
In Section 1500.30(c)(7) – deleted "purchases" and replaced with "uses"
In Section 1500.30(c)(7)(C) – deleted "equipped"
In Section 1500.30(c)(8) – deleted "purchases" and replaced with "uses"
In Section 1500.30(c)(8)(C) – deleted "equipped"
In Section 1500.30(c)(9)(C) – deleted "equipped"
In Section 1500.30(c)(10)(C) – deleted "equipped"
In Section 1500.30(c)(11)(C) – deleted "equipped"
In Section 1500.30(c)(12)(C) – deleted "equipped"
In Section 1500.30(c)(13)(C) – deleted "equipped"

In Section 1500.30(d)(2) – changed "may" to "shall"

In Section 1500.30(g) – added:

“The Council may waive the late payment penalty, taking into consideration the following:

- 1) For calendar years 1998, 1999 and 2000, if the drycleaner owner/operator did not receive one of the initial license notification mailings sent by the Illinois Department of Revenue or the Fund during the period of 1997 through 1999.
- 2) If additional license fees are owed due to the incorrect calculation of the annual solvent usage or purchase information and the understatement of the solvent volume was not significant, and the additional license fee is paid in a reasonable time frame; or
- 3) Other reasonable factors.”

In Section 1500.50(d)(1) – deleted "," after year and added "," after 2000

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

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- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any amendments pending to this Part? No
- 15) Summary and purpose of amendments: This rulemaking implements PA 93-201, which changed fees drycleaning facilities pay to fund remedial action of drycleaning solvent releases and established a prioritization schedule in the event funds are not available to settle all current eligible claims.
- 16) Information and questions regarding these adopted amendments shall be directed to:

H. Patrick Eriksen
Administrator
Drycleaner Environmental Response Trust Fund Council of Illinois
PO Box 7380
Bensenville IL 60106-7380
630/741-0022

The full text of the adopted amendments begins on the next page:

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TITLE 35: DRYCLEANER ENVIRONMENTAL RESPONSE
TRUST FUND COUNCIL OF ILLINOIS
SUBTITLE N: DRYCLEANING
CHAPTER 1: DRYCLEANER ENVIRONMENTAL RESPONSE
TRUST FUND COUNCIL OF ILLINOIS

PART 1500
GENERAL PROGRAM

Section

1500.10	General
1500.20	Definitions
1500.30	Drycleaning Facility License
1500.40	Drycleaner Remedial Account
1500.50	Drycleaner Facility Insurance Account
<u>1500.55</u>	<u>Drycleaning Solvent Tax</u>
1500.60	Appeals
1500.70	Forms

AUTHORITY: Implementing and authorized by the Drycleaner Environmental Response Trust Fund Act [415 ILCS 135/20].

SOURCE: Emergency rule adopted at 24 Ill. Reg. 307, effective January 1, 2000, for a maximum of 150 days; emergency expired May 29, 2000; adopted at 24 Ill. Reg. 10162, effective June 26, 2000; amended at 28 Ill. Reg. 9051, effective June 21, 2004.

Section 1500.20 Definitions

"Act" means the Drycleaner Environmental Response Trust Fund Act.

"Administrator" means the Administrator of the Drycleaner Environmental Response Trust Fund Council of Illinois.

"Active drycleaning facility" means a drycleaning facility actively engaged in drycleaning operations and licensed under Section 60 of the Act.

"Agency" means the Illinois Environmental Protection Agency.

"Claimant" means an owner or operator of a drycleaning facility who has applied

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for reimbursement from the remedial account or who has submitted a claim under the insurance account with respect to a release.

"Council" means the Drycleaner Environmental Response Trust Fund Council.

"Drycleaner Environmental Response Trust Fund" or "Fund" means the fund created under Section 10 of the Act.

"Drycleaning facility" means a facility located in this State that is or has been engaged in drycleaning operations for the general public, other than a facility located on a United States military base; an industrial laundry, commercial laundry, or linen supply facility; a prison or other penal institution that engages in drycleaning only as part of a Correctional Industries program to provide drycleaning to persons who are incarcerated in a prison or penal institution or to resident patients of a State-operated mental health facility; a not-for-profit hospital or other health care facility; or a facility located or formerly located on federal or State property.

"Drycleaning operations" means drycleaning of apparel and household fabrics for the general public, as described in Standard Industrial Classification Industry No. 7215 and No. 7216 in the Standard Industrial Classification (SIC) Manual by the Technical Committee on Industrial Classification, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 653-5075 (1987; no later editions or amendments are incorporated).

"Drycleaning machine with a solvent reclaimer" means a petroleum-based or hydrocarbon-based drycleaning machine that utilizes a drying system in which the drycleaning solvent vapors from the drying process are captured and not emitted into the atmosphere.

"Drycleaning machine without a solvent reclaimer" means a petroleum-based or hydrocarbon-based drycleaning machine that uses a transfer process in which the garments are cleaned in one machine and then transferred to a dryer that does not recapture the drycleaning solvent remaining in the garments. The dryer emits the solvent vapors directly into the atmosphere.

"Drycleaning solvent" means any and all nonaqueous solvents, including but not limited to a chlorine-based or petroleum-based~~hydrocarbon-based~~ formulation or

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product, including green solvents, that are-is used as a primary cleaning agent in drycleaning operations.

"Emergency" or "emergency action" means a situation or an immediate response to a situation to protect public health or safety. "Emergency" or "emergency action" does not mean removal of contaminated soils, recovery of free product, or financial hardship. An "emergency" or "emergency action" would normally be expected to be directly related to a sudden event or discovery and would last until the threat to public health is mitigated.

"Focused site investigation" means an investigation designed to identify recognized environmental conditions and related contaminants of concern that may exist at a site and to investigate the environmental conditions and contaminants of concern that are associated with drycleaning solvents. The focused site investigation shall be performed in two phases. A phase I environmental assessment shall be designed and implemented in accordance with the procedures for such establishments set forth in "Standard Practices for Environmental Site Assessments: Phase 1 Environmental Site Assessment Process" (ASTM E 1527-~~0097~~), available from the American Society for Testing and Materials, 1916 Race St., Philadelphia PA 19103, (215) 299-5400 (~~20001997~~; no later editions or amendments are incorporated). The phase I environmental site assessment shall be designed and implemented to address those environmental conditions or contaminants of concern, including drycleaning solvents that may be associated with the site. A focused phase II environmental site assessment shall be designed and implemented to address those environmental conditions or contaminants of concern identified by the phase I environmental site assessment that are associated with drycleaning solvents. A focused phase II environmental site assessment investigation shall generally follow those requirements that are applicable to the phase II investigation as set forth in the Illinois Pollution Control Board's site remediation program requirements (35 Ill. Adm. Code 740.420(b)).

"Green solvent" means a drycleaning solvent evaluated and classified by the Council with assistance from the Agency to be biodegradable that, if released into the environment, would not require remedial action per the Agency or per the United States Environmental Protection Agency.

"Hydrocarbon-based solvent" means the same as a petroleum-based solvent.

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"Inactive drycleaning facility" means a drycleaning facility that is not being used for drycleaning operations and is not registered under the Act.

"Operator" means a person or entity holding a business license to operate a licensed drycleaning facility or the business operation of which the drycleaning facility is a part.

"Owner" means a person who owns or has possession or control of a drycleaning facility at the time a release is discovered, regardless of whether the facility remains in operation, or a parent corporation of such person.

"Person" means an individual, trust, firm, joint stock company, corporation, consortium, joint venture, or other commercial entity.

"Program year" means the period beginning on July 1 and ending on the following June 30.

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or dispersing of drycleaning solvents from a drycleaning facility to groundwater, surface water, or subsurface soils.

"Remedial action" means activities taken to comply with Sections 58.6 and 58.7 of the Environmental Protection Act [415 ILCS 5/58.6 and 58.7] and rules adopted by the Pollution Control Board under those Sections.

"Service provider" means a consultant, testing laboratory, monitoring well installer, soil boring contractor, other contractor, lender, or any other person who provides a product or service for which a claim for reimbursement has been or will be filed against the remedial account or insurance account, or a subcontractor of such a person.

"Tiered Approach to Corrective Action Objectives" or "TACO" means risk based remedial action standards as defined in the Illinois Pollution Control Board's site remediation program requirements (35 Ill. Adm. Code 742).

"Virgin facility" means a drycleaning facility that has never had chlorine-based or petroleum-based drycleaning solvents stored or used at the property prior to it becoming a green solvent drycleaning facility. [415 ILCS 135/5]

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(Source: Amended at 28 Ill. Reg. 9051, effective June 21, 2004)

Section 1500.30 Drycleaning Facility License

- a) *On and after January 1, 1998, every active drycleaning facility must obtain a license from the Council. No person shall operate a drycleaning facility in this State without a license issued by the Council for that facility. (Section 60(a) of the Act)*
- b) *The Council shall issue initial and annual renewal licenses to an active drycleaning facility upon an applicant's submission of a completed application prescribed by the Council (see Section 1500.60(a)) and proof of payment of the required fee to the Department of Revenue (Section 60(b) of the Act) by submittal of the DS-3 Form (prescribed by the Department of Revenue) subject to the following:*
 - 1) The annual license period is January 1 through December 31.
 - 2) The license fee and the DS-3 Form must be submitted to the Department of Revenue 60 days prior to issuance of a license.
 - 3) The Department of Revenue will return the applicant's copy of the DS-3 Form to confirm receipt of the appropriate license fee.
 - 4) The original DS-3 Form returned from the Department of Revenue must be submitted to the Council with the license application or renewal application. Applications submitted without the original DS-3 Form will be returned to the applicant.
 - 5) Upon receipt of a properly completed license application and an original DS-3 Form indicating the appropriate license fee has been received by the Department of Revenue, the Council will process the license application.
 - 6) License fees are non-refundable.
 - 7) Any drycleaning facility that begins operation on or after January 1, 2000 must obtain a license prior to operating the facility.
- c) *On or after January 1, 2004, the ~~The~~ required annual fee for a license is as*

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follows:

- 1) \$500 for a facility that uses:
 - A) 50 gallons or less of chlorine-based or green drycleaning solvents annually; or
 - B) 250 or less gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or
 - C) 500 gallons or less annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. (Section 60(c)(1) of the Act)

- 2) \$1,000 for a facility that uses:
 - A) more than 50 gallons but not more than 100 gallons of chlorine-based or green drycleaning solvents annually; or
 - B) more than 250 gallons but not more than 500 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or
 - C) more than 500 gallons but not more than 1,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. (Section 60(c)(2) of the Act)

- 3) \$1,500 for a facility that uses:
 - A) more than 100 gallons but not more than 150 gallons of chlorine-based or green drycleaning solvents annually; or
 - B) more than 500 gallons but not more than 750 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or
 - C) more than 1,000 gallons but not more than 1,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. (Section 60(c)(3) of the Act)

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- 4) \$2,000 for a facility that uses:
- A) more than 150 gallons but not more than 200 gallons of chlorine-based or green drycleaning solvents annually; or
 - B) more than 750 gallons but not more than 1,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or
 - C) more than 1,500 gallons but not more than 2,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. (Section 60(c)(4) of the Act)
- 5) \$2,500 for a facility that uses:
- A) more than 200 gallons but not more than 250 gallons of chlorine-based or green drycleaning solvents annually; or
 - B) more than 1,000 gallons but not more than 1,250 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or
 - C) more than 2,000 gallons but not more than 2,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. (Section 60(c)(5) of the Act)
- 6) \$3,000 for a facility that uses:
- A) more than 250 gallons but not more than 300 gallons of chlorine-based or green drycleaning solvents annually; or
 - B) more than 1,250 gallons but not more than 1,500 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or
 - C) more than 2,500 gallons but not more than 3,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. (Section 60(c)(6) of the Act)

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- 7) \$3,000 for a facility that uses:
- A) more than 300 gallons but not more than 350 gallons of chlorine-based or green drycleaning solvents annually; or
 - B) more than 1,500 gallons but not more than 1,750 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or
 - C) more than 3,000 gallons but not more than 3,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. (Section 60(c)(7) of the Act)
- 8) \$4,000 for a facility that uses:
- A) more than 350 gallons but not more than 400 gallons of chlorine-based or green drycleaning solvents annually; or
 - B) more than 1,750 gallons but not more than 2,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or
 - C) more than 3,500 gallons but not more than 4,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. (Section 60(c)(8) of the Act)
- 9) \$4,500 for a facility that uses:
- A) more than 400 gallons but not more than 450 gallons of chlorine-based or green drycleaning solvents annually; or
 - B) more than 2,000 gallons but not more than 2,250 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or
 - C) more than 4,000 gallons but not more than 4,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. (Section 60(c)(9) of the Act)

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- 10) \$4,500 for a facility that uses:
- A) more than 450 gallons but not more than 500 gallons of chlorine-based or green drycleaning solvents annually; or
 - B) more than 2,250 gallons but not more than 2,500 gallons annually of hydrocarbon-based solvents used in a drycleaning machine equipped with a solvent reclaimer; or
 - C) more than 4,500 gallons but not more than 5,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. (Section 60(c)(10) of the Act)
- 11) \$4,500 for a facility that uses:
- A) more than 500 gallons but not more than 550 gallons of chlorine-based or green drycleaning solvents annually; or
 - B) more than 2,500 gallons but not more than 2,750 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or
 - C) more than 5,000 gallons but not more than 5,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. (Section 60(c)(11) of the Act)
- 12) \$4,500 for a facility that uses:
- A) more than 550 gallons but not more than 600 gallons of chlorine-based or green drycleaning solvents annually; or
 - B) more than 2,750 gallons but not more than 3,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or
 - C) more than 5,500 gallons but not more than 6,000 gallons annually

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of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. (Section 60(c)(12) of the Act)

- 13) *\$4,500 for a facility that uses:*
- A) *more than 600 gallons of chlorine-based or green drycleaning solvents annually; or*
 - B) *more than 3,000 gallons but not more than 3,250 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or*
 - C) *more than 6,000 gallons of hydrocarbon-based drycleaning solvents annually in a drycleaning machine without a solvent reclaimer. (Section 60(c)(13) of the Act)*
- 14) *\$4,500 for a facility that uses:*
- A) *more than 3,250 gallons but not more than 3,500 gallons annually of hydrocarbon-based solvents in a drycleaning machine with a solvent reclaimer. (Section 60(c)(14) of the Act)*
 - B) *more than 3,500 gallons but not more than 3,750 gallons annually of hydrocarbon-based solvents used in a drycleaning machine equipped with a solvent reclaimer. (Section 60(c)(15) of the Act)*
 - C) *more than 3,750 gallons but not more than 4,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer. (Section 60(c)(16) of the Act)*
- 15) *\$4,500 for a facility that uses more than 4,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer. (Section 60(c)(17) of the Act)*~~*1) \$500 for a facility that purchases: A) 140 gallons or less of chlorine-based drycleaning solvents annually, and does not purchase hydrocarbon-based drycleaning solvents; B) 1400 gallons or less of hydrocarbon-based drycleaning solvents annually (Section 60(c)(i) of the Act), and does not purchase chlorine-based drycleaning solvents; C) both chlorine-based drycleaning solvents*~~

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~~and hydrocarbon-based drycleaning solvents, using a multiplier of 10 for chlorine-based drycleaning solvents to determine an equivalent value based upon one gallon of chlorine-based drycleaning solvents having an equivalent value of 10 gallons of hydrocarbon-based drycleaning solvents, 1400 equivalent value gallons or less combined hydrocarbon-based and chlorine-based, multiplied by 10, drycleaning solvents. 2)\$1,000 for a facility that purchases: A)more than 140 gallons but less than 360 gallons of chlorine-based drycleaning solvents annually, and does not purchase hydrocarbon-based drycleaning solvents; B)more than 1400 gallons but less than 3600 gallons of hydrocarbon-based drycleaning solvents annually (Section 60(e)(2) of the Act), and does not purchase chlorine-based drycleaning solvents; C)both chlorine-based drycleaning solvents and hydrocarbon-based drycleaning solvents, using a multiplier of 10 for chlorine-based drycleaning solvents to determine an equivalent value based upon one gallon of chlorine-based drycleaning solvents having an equivalent value of 10 gallons of hydrocarbon-based drycleaning solvents, more than 1400 equivalent value gallons but less than 3600 equivalent value gallons combined hydrocarbon-based and chlorine-based, multiplied by 10, drycleaning solvents. 3)\$1,500 for a facility that purchases: A)360 gallons or more of chlorine-based drycleaning solvents annually and does not purchase hydrocarbon-based drycleaning solvents; B)3600 gallons of hydrocarbon-based drycleaning solvents annually (Section 60(e)(3) of the Act) and does not purchase chlorine-based drycleaning solvents; C)both chlorine-based drycleaning solvents and hydrocarbon-based drycleaning solvents, using a multiplier of 10 for chlorine-based drycleaning solvents to determine an equivalent value based upon one gallon of chlorine-based drycleaning solvents having an equivalent value of 10 gallons of hydrocarbon-based drycleaning solvents, more than 3600 equivalent value gallons or more combined hydrocarbon-based and chlorine-based, multiplied by 10, drycleaning solvents.~~

16)4) If an applicant submits a license application to operate a facility beginning during a license year, the license fee for the first year shall be prorated as follows:

- A) For a license with an effective date on or after January 1 and before April 1, 100% of the fee is required.
- B) For a license with an effective date on or after April 1 and before

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July 1, 75% of the fee is required.

- C) For a license with an effective date on or after July 1 and before October 1, 50% of the fee is required.
- D) For a license with an effective date on or after October 1 and before January 1 of the following year, 25% of the fee is required.
- d) *For purposes of this Section, the quantity of drycleaning solvents used-purchased annually shall be determined as follows:*
- 1) *In the case of an initial applicant, the quantity of drycleaning solvents that the applicant estimates will be used during his or her initial license year. A fee assessed under this subsection (d)(1) is subject to audited adjustment for that year; or*
 - 2) *In the case of a renewal applicant, the quantity of drycleaning solvents actually used in the preceding license year. (Section 60(c) of the Act) If the amount of drycleaning solvents actually used in the preceding license year cannot be readily calculated, the quantity of drycleaning solvents purchased in the preceding year shall be used to determine the annual license fee. The method used to determine the initial renewal license fee must be used for all subsequent license renewals.*
 - 3) *In the case of an applicant who uses both chlorine-based and hydrocarbon-based solvents, the quantity of drycleaning solvents used annually shall be determined as follows:*
 - A) *using a multiplier of 10 for chlorine-based drycleaning solvents to determine an equivalent value based upon one gallon of chlorine-based drycleaning solvents having an equivalent value of 10 gallons of hydrocarbon-based drycleaning solvents for facilities not using a drycleaning machine equipped with a solvent reclaimer.*
 - B) *using a multiplier of 5 for chlorine-based drycleaning solvents to determine an equivalent value based upon one gallon of chlorine-based drycleaning solvents having an equivalent value of*

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5 gallons of hydrocarbon-based drycleaning solvents for facilities using a drycleaning machine equipped with a solvent reclaimer.

- 4) In the case of an applicant who uses hydrocarbon-based solvents at a facility that has both drycleaning machines with and without a solvent reclaimer, the total usage will be determined by applying the number of drycleaning machines with a solvent reclaimer to the total number of drycleaning machines at the facility to arrive at a percentage of drycleaning machines with a solvent reclaimer. This percentage will be applied to the total gallons of hydrocarbon-based solvent used and multiplied by a factor of 2 to convert the gallonage to the equivalent of a drycleaning machine without a solvent reclaimer.
- e) *The Council may adjust licensing fees annually based on the change in the published Consumer Price Index – All Urban Consumers, U.S. city average, all items; (“CPI-U”) for the 12 months preceding the month the Council adjusts the licensing fee or as otherwise determined by the Council. (Section 60(c) of the Act)*
- f) *A license issued under this Section shall expire one year after the date of issuance and may be renewed on reapplication to the Council and submission of proof of payment of the appropriate fee to the Department of Revenue in accordance with subsections (b) and (c). At least 30 days before payment of a renewal licensing fee is due, the Council shall attempt to:*
- 1) *notify the operator of each licensed drycleaning facility concerning the requirements of this Section; and*
 - 2) *submit a license fee payment form to the licensed operator of each drycleaning facility. (Section 60(d) of the Act)*
- g) *An operator of a drycleaning facility who is required to pay a license fee under the Act and fails to pay the license fee when the fee is due ~~may shall~~ be assessed a penalty of \$5 for each day after the license fee is due and until the license fee is paid. (Section 60(g) of the Act) Penalties totaling \$1,000 or more may be paid in 12 equal monthly installments upon execution by the drycleaner operator of a Council presented agreement. The Council may waive the late payment penalty, taking into consideration the following:*

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- 1) For calendar years 1998, 1999, and 2000, if the drycleaner owner/operator did not receive one of the initial license notification mailings sent by the Illinois Department of Revenue or the Fund during the period of 1997 through 1999;
 - 2) If ~~additional~~ additional license fees are owed due to the incorrect calculation of the annual solvent usage or purchase information and the understatement of the solvent volume was not significant, and the ~~additional~~ additional license fee is paid in a reasonable time frame; or
 - 3) Other reasonable factors.
- h) A license can be transferred from the drycleaning facility operator to a new operator of the same drycleaning facility upon completion of a license transfer form prescribed by the Council and signed by the license holder and transferee. If the drycleaning facility has an active insurance policy issued by the Council, the license can only be transferred if the insurance policy is also transferred.
- i) If a drycleaning facility operator terminates the operation of a licensed drycleaning facility at a specific location, the operator can be re-licensed for a new drycleaning facility location without payment of an additional license fee provided the existing drycleaning facility license is terminated.

(Source: Amended at 28 Ill. Reg. 9051, effective June 21, 2004)

Section 1500.40 Drycleaner Remedial Account

The Council shall have the authority *to provide reimbursement to eligible claimants for remedial action associated with the release of drycleaning solvents from the claimant's drycleaning facility.* (Section 40(a) of the Act)

- a) *The following claimants are eligible for reimbursement from the remedial action account:*
- 1) *The owner or operator of an inactive drycleaning facility who was also the owner or operator of that drycleaning facility when it was an active drycleaning facility.*
 - 2) *The owner or operator of an active drycleaning facility which is licensed*

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by the Council under the Drycleaner Environmental Response Trust Fund Act at the time of application for remedial action benefits. (Section 40(b) of the Act)

- b) To be eligible for reimbursement, a claimant must demonstrate that drycleaning solvent contaminated soil, groundwater or both exceeds Illinois Environmental Protection Agency (Agency) tiered approach to corrective action objectives and all of the following:
- 1) *The source of the release is from the claimant's drycleaning facility. (Section 40(c)(1) of the Act)*
 - 2) *At the time the release was discovered, the claimant and the drycleaning facility were in compliance with all the Agency reporting and technical operating requirements. (Section 40(c)(2) of the Act)*
 - 3) *The claimant reported the release in a timely manner to the Agency in accordance with the Illinois Emergency Planning and Community Right to Know Act [430 ILCS 100]. (Section 40(c)(3) of the Act)*
 - 4) *The claimant has not filed for bankruptcy on or after the date of the discovery of the release. (Section 40(c)(4) of the Act)*
 - 5) *The release must have been discovered on or after July 1, 1997 and before July 1, ~~2006~~2004. (Section 40(c)(7) of the Act)*
 - 6) *The claimant must submit a completed application form as provided by the Council (see Section 1500.70(c)) by June 30, ~~2005~~2004. (Section 40(d) of the Act)*
 - 7) *If the claim is for reimbursement of remedial action expenses at an active drycleaning facility, the claimant must demonstrate continuous financial assurance for environmental liability coverage in the amount of at least \$500,000 beginning the date of award of benefits under the Act or July 1, 2000, whichever is earlier. An uninsured drycleaning facility that has filed an application for insurance with the Fund by January 1, 2004, obtained insurance through that application, and maintained that insurance coverage continuously shall be considered to have conformed with the requirements of this subsection (b)(7). To conform with this*

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requirement, the applicant must pay the equivalent of the total premiums due for the period beginning June 30, 2000 through the date of application plus a 20% penalty of the total premiums due for that period, and the claimant must provide to the Council proof of implementation and maintenance of the following pollution prevention measures: (Section 40(c)(5) and (6) of the Act)

- A) Management of *all drycleaning solvent wastes in accordance with applicable State waste management laws and rules* in accordance with the Environmental Protection Act [415 ILCS 5] and 35 Ill. Adm. Code 722. (Section 40(c)(5)(A) of the Act)
- B) *A prohibition on the discharge of wastewater from drycleaning machines or of drycleaning solvent from drycleaning operations to a sanitary sewer or septic tank or to the surface or to groundwater.* (Section 40(c)(5)(B) of the Act)
- C) *Installation of a containment dike or other containment structure around each machine which is capable of containing a capacity of 110 percent of the drycleaning solvent in the largest tank or vessel in the machine for any leak, spill, or release of drycleaning solvent from that machine.*
- D) *Installation of a containment dike or other containment structure around each item of equipment or drycleaning area in which any drycleaning solvent is utilized, which shall be capable of containing a capacity of 100 percent of the drycleaning solvent capacity of each item of equipment or area for any leak, spill, or release of drycleaning solvent from that item.* (Section 40(c)(5)(C)(I))
- E) *Installation of a containment dike or other containment structure around each portable waste container in which any drycleaning solvent is utilized, which shall be capable of containing a capacity of 100 percent of the drycleaning solvent capacity of the largest portable waste container, or at least 10 percent of the total volume of the portable waste containers stored within the containment device, whichever is greater, for any leak, spill, or release of drycleaning solvent from that item. The portable waste container*

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and containment dike should be located within the drycleaning facility. If the portable waste container is not located within the drycleaning facility, then the portable waste container and the containment device must be located in a structure designed to prevent unauthorized access and prevent exposure to natural elements and provide safety to human health and the environment. (Section 40(c)(5)(C)(I) of the Act)

F) *Petroleum underground storage tank systems that are upgraded in accordance with USEPA upgrade standards pursuant to 40 CFR 280 (1998) for the tanks and related piping systems and use a leak detection system approved by USEPA or the Agency are exempt from this secondary containment requirement. (Section 40(c)(5)(C)(I) of the Act)*

G)~~F)~~ *All diked floor surfaces on which a drycleaning solvent may leak, spill or otherwise be released must be sealed or otherwise rendered impervious to drycleaning solvents. (Section 40(c)(5)(C)(II) of the Act)*

H)~~G)~~ *Chlorine-based* ~~*Chlorine-based*~~ *drycleaning solvents shall be delivered to the drycleaning facility by means of closed, direct-coupled delivery and vapor recovery systems. (Section 40(c)(5)(D) of the Act)*

I)~~H)~~ *All petroleum based drycleaning solvents shall be delivered to the drycleaning facility by means of a direct-coupled delivery system with proper vent lines for receiving the product.*

- c) Subject to Fund limitations, eligibility requirements, prioritization and reimbursement limitations, the Council may reimburse up to but not to exceed *\$300,000 per active drycleaning facility and \$50,000 per inactive drycleaning facility. (Section 40(f)(1) of the Act); 1)\$160,000 per active drycleaning facility for which an eligible claim is submitted during the program year beginning July 1, 1999. (Section 40(f)(1)(A) of the Act) 2)\$150,000 per active drycleaning facility for which an eligible claim is submitted during the program year beginning July 1, 2000. (Section 40(f)(1)(B) of the Act) 3)\$140,000 per active drycleaning facility for which an eligible claim is submitted during the program year beginning July 1, 2001. (Section 40(f)(1)(C) of the Act) 4)\$130,000 per*

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~~active drycleaning facility for which an eligible claim is submitted during the program year beginning July 1, 2002. (Section 40(f)(1)(D) of the Act) \$120,000 per active drycleaning facility for which an eligible claim is submitted during the program year beginning July 1, 2003. (Section 40(f)(1)(E) of the Act) \$50,000 per inactive drycleaning facility. (Section 40(f)(1)(F) of the Act)~~

- d) *An eligible claimant submitting a claim for an active drycleaning facility is responsible for the first \$5,000 of eligible focused site investigation costs and for the first \$10,000 of eligible remedial action costs incurred in connection with the release and is only eligible for reimbursement for costs that exceed those amounts, subject to any other limitations of the Act. (Section 40(e)(1) of the Act)*
- e) *An eligible claimant submitting a claim for an inactive drycleaning facility is responsible for the first \$10,000 of eligible focused site investigation costs and for the first \$10,000 of eligible remedial action costs incurred in connection with the release from that drycleaning facility, and is only eligible for reimbursement for costs that exceed those amounts, subject to any other limitations of the Act. (Section 40(e)(2) of the Act)*
- f) For the purpose of claimant reimbursement, eligible expenses are limited subject to the following:
- 1) For remedial action activities that occurred on or after July 1, 1999, only those costs that are pre-approved by the Council are eligible for reimbursement unless an emergency exists. In the case of an emergency, the Council may reimburse reasonable expenses for remediation services required to mitigate the emergency conditions.
 - 2) For remedial action activities that occurred prior to July 1, 1999, the Council may reimburse costs that the Council determines were reasonable and necessary.
 - 3) To be pre-approved for reimbursement, remedial action activities must be required under the site remediation program. Only services required to obtain a no further remediation letter for the drycleaning solvent of concern, based upon continued land use as a drycleaning facility, are reimbursable.
 - 4) *A contract in which one of the parties to the contract is a claimant, for*

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goods or services that may be payable or reimbursable from the Council, is void and unenforceable unless and until the Council has found that the contract terms are within the range of usual and customary rates for similar or equivalent goods or services within this State and has found that the goods or services are necessary for the claimant to comply with Council standards or with the site remediation program. (Section 40(f)(2) of the Act)

- 5) *The Council may require a claimant to obtain and submit 3 bids and may require that the bids contain specific terms and conditions consistent with the requirements of the site remediation program and the site specific characteristics of the drycleaning facility for which budget approval is requested. Approval of a bid will be both price and scope specific. (Section 40(f)(4) of the Act)*
- 6) *If a claimant has pollution liability insurance coverage other than coverage provided by the insurance account under the Act, that coverage shall be primary. Reimbursement from the remedial account shall be limited to the deductible amounts under the primary coverage and the amount that exceeds the policy limits of the primary coverage, subject to the deductible amounts of the Act. If there is a dispute between the claimant and the primary insurance provider, reimbursement from the remedial action account may be made to the claimant after the claimant assigns all of his or her interests in the insurance coverage to the Council. (Section 40(f)(9) of the Act)*
- 7) Reimbursement of any amount from the Fund for remedial action shall be subject to the Council acquiring by subrogation the rights of any claimant or other person to recover the costs of remedial action for which the Fund has compensated the claimant.
- 8) If, for any reason, the Council determines that an excess payment has been paid from the Fund, the Council may take steps to collect the excess amount.
- 9) *Cost recovery; enforcement.*
 - A) *The Council may seek recovery from a potentially responsible party liable for a release that is the subject of a remedial action*

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and for which the Fund has expended moneys for remedial action. The amount of recovery sought by the Council shall be equal to all moneys expended by the Fund for and in connection with the remediation, including but not limited to reasonable attorneys' fees and costs of litigation expended by the Fund in connection with the release. (Section 50(a) of the Act)

- B) *Except as provided in subsections (f)(9)(C) and (D):*
- i) *The Council shall not seek recovery for expenses in connection with remedial action for a release from a claimant eligible for reimbursement except for any unpaid portion of the deductible. (Section 50(b)(1) of the Act)*
 - ii) *A claimant's liability for a release for which coverage is admitted under the insurance account shall not exceed the amount of the deductible, subject to the limits of insurance coverage. (Section 50(b)(2) of the Act)*
- C) *Notwithstanding subsection (f)(9)(B), the liability of a claimant to the Fund shall be the total costs of remedial action incurred by the Fund, as specified in subsection (f)(9)(A), if the claimant has not complied with the Environmental Protection Act [415 ILCS 5] and its rules or with the Act and its rules. (Section 50(c) of the Act)*
- D) *Notwithstanding subsection (f)(9)(B), the liability of a claimant to the Fund shall be the total costs of remedial action incurred by the Fund, as specified in subsection (f)(9)(A), if the claimant received reimbursement from the Fund through misrepresentation or fraud, and the claimant shall be liable for the amount of the reimbursement. (Section 50(d) of the Act)*
- E) *Upon reimbursement by the Fund for remedial action under the Act, the rights of the claimant to recover payment from a potentially responsible party are assumed by the Council to the extent the remedial action was paid by the Fund. A claimant is precluded from receiving double compensation for the same injury. A claimant may elect to permit the Council to pursue the claimant's cause of action for an injury not compensated by the*

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Fund against a potentially responsible party, provided the Attorney General or his or her designee determines the representation would not be a conflict of interest. (Section 50(e) of the Act)

- F) *This subsection (f)(9) does not preclude, limit, or in any way affect any of the provisions of or causes of action pursuant to Section 22.2 of the Environmental Protection Act [415 ILCS 5/22.2]. (Section 50(f) of the Act)*

10) Upon receipt of a signed, written request from the claimant and verification that the applicable deductibles have been paid by the claimant, the Council will directly pay to the primary service provider the amount of reimbursement due the claimant from the Fund for remedial action activities. The claimant must submit to the Fund a copy of cancelled checks supporting that the applicable deductibles have been paid, along with a signed, written statement from the primary service provider verifying the applicable deductibles have been paid. This request will remain in effect until:

- A) it is rescinded in writing by the claimant; or
- B) the Fund has reimbursed the maximum benefit allowed; or
- C) the claim is closed and the Fund has reimbursed the total amount approved for remedial action activities performed at the facility.

11) Upon enrollment in the Agency's site remediation program and receipt of a signed, written request from the claimant, the Fund may pay the Agency directly, on eligible claims, the cost incurred by the Agency in its oversight of the drycleaning facility with respect to which the claimant obtained a No Further Remediation letter. This request will remain in effect until:

- A) the Fund has reimbursed the maximum benefit allowed; or
- B) the claim is no longer eligible for benefits from the Fund; or

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C) the facility has completed the project with the Agency and all related oversight costs have been paid in full to the Agency.

- g) Prioritization based upon Fund limitations.
- 1) The liability of the Fund is further limited by the monies made available to the Fund, and no remedy shall be provided that would require the Fund to exceed its then current funding limitations to satisfy an award or that would restrict the availability of monies for higher priority sites. *The Council may prioritize the expenditure of funds from the remedial action account whenever it determines that there are not sufficient funds to settle all current claims. In prioritizing, the Council may consider the following:*
 - A) *The degree to which human health is affected by the exposure posed by the release (Section 25(c)(1) of the Act);*
 - B) *The reduction of risk to human health derived from remedial action compared to the cost of the remedial action (Section 25(c)(2) of the Act);*
 - C) *The present and planned uses of the impacted property (Section 25(c)(3) of the Act).*
 - 2) If the Council determines that there are not sufficient funds to settle all current claims and that prioritization is necessary, the Council will provide notice to all eligible claimants of the need for prioritization and the prioritization schedule. The Council may designate cash reserves to pay for focused site investigations performed through June 30, 2006 and to pay for unknown remediation costs associated with claims that have been prioritized. The initial claim prioritization will include all eligible claims as of the prioritization date set by the Council. Subsequent claim prioritizations will include all eligible claims as of the prioritization date set by the Council, excluding all claims that have previously been prioritized. All claims in the initial prioritization must be funded before conducting subsequent prioritizations. This funding methodology will apply to all subsequent prioritizations.
 - 3) The prioritization schedule is as follows:

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- A) First priority will be the abatement of emergency conditions that present an immediate threat to human health and safety, such as explosive vapors in basements or utility conduits and migration of free products into the water supply line or to the off site property.
- B) Second priority will be the drycleaning facilities located in a township without a groundwater ordinance and when the drycleaning solvent contamination of soil and groundwater of such facilities is likely to cause an immediate adverse effect on human health by contaminating potable water resources.
- C) Third priority will be the drycleaning facilities with drycleaning solvent contaminants of soil and groundwater where migration of these contaminants to neighboring properties seems imminent or immediate, which can result in more costly and complicated remediations in the future.
- D) Fourth priority will be drycleaning facilities at which soil and/or groundwater contamination is at concentration higher than soil saturation limits of drycleaning solvents, according to TACO regulations of the Agency. Active remediation is required to address free product drycleaning solvent contamination.
- E) Fifth priority will be the drycleaning facilities in which soil and/or groundwater contamination is higher than the TACO Tier II level but less than the TACO soil saturation limit. Active remediation may be required or a No Further Remediation letter may be achieved through installation of an engineering barrier and/or through the use of institutional controls.
- F) When the Council determines it necessary to prioritize the claims, each individual claim will be ranked using the following numerical ranking system:

$$\text{Ranking Score} = (S1 \times 20) + (S2 \times 10) + (S3 \times 8) + (S4 \times 6) + (S5 \times 4) + (S6 \times 2)$$

Where:

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- S1 ≡ Emergency condition
- S2 ≡ Potable water resources contamination
- S3 ≡ Migration of contaminants through groundwater or through soil/rock fractures to the neighboring properties
- S4 ≡ Facilities with free product solvents
- S5 ≡ Facilities with higher than the TACO Tier II level of solvent contamination
- S6 ≡ Facilities with less than the TACO Tier II level of solvent contamination

i) Emergency condition (S1)

Toxic fumes or explosion possibility, i.e., free product migration, etc.

Points: 5

ii) Potable water resources contamination (S2)

Imminent or immediate risk to public water resources such as public wells, rivers, and surface water reservoirs and lakes

<u>Distance</u>	<u>Points</u>
<u>Within 500 feet</u>	<u>5</u>
<u>Within ¼ mile</u>	<u>4</u>
<u>Within ½ mile</u>	<u>3</u>
<u>Within 1 mile</u>	<u>2</u>
<u>Within 1½ miles</u>	<u>1</u>

iii) Migration of contaminants with groundwater or through soil/rock fractures to the neighboring properties (S3)

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Time period for the migration of contaminants to the neighboring property given seepage velocity of groundwater and size and location of contamination plume

<u>Time</u>	<u>Points</u>
<u>Within 6 months</u>	<u>5</u>
<u>Within 1 year</u>	<u>4</u>
<u>Within 1½ years</u>	<u>3</u>
<u>Within 2 years</u>	<u>2</u>
<u>Within 2½ years</u>	<u>1</u>

iv) Facilities with free product solvents (S4)

The soil at the facility is contaminated with drycleaning solvent higher than TACO soil saturation limits (i.e., PCE > 240 ppm and TCE > 1300 ppm) and/or free product was discovered in on-site wells

<u>Groundwater Ordinance</u>	<u>Points</u>
<u>Rejected or not available</u>	<u>5</u>
<u>Only approved by the township</u>	<u>4</u>
<u>Approved by the Agency and township</u>	<u>3</u>

v) Facilities with higher than the TACO Tier II level of solvent contamination (S5)

Facilities with higher than the TACO Tier II level of solvent contamination but less than soil saturation limits

<u>Groundwater Ordinance</u>	<u>Points</u>
<u>Rejected or not available</u>	<u>5</u>
<u>Only approved by the township</u>	<u>4</u>
<u>Approved by the Agency and township</u>	<u>3</u>

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vi) Facilities with less than the TACO Tier II level of solvent contamination (S6)

Facilities with higher than the TACO Tier I level but less than Tier II level of solvent contamination (i.e., Tier I for PCE & TCE \geq 300 ppb for Class I and 60 ppb for Class II)

<u>Groundwater Ordinance</u>	<u>Points</u>
<u>Rejected or not available</u>	<u>5</u>
<u>Only approved by the township</u>	<u>4</u>
<u>Approved by the Agency and township</u>	<u>3</u>

The highest ranked claims will receive priority funding, subject to an analysis of the claimant's ability to pay for remediation costs that are anticipated to exceed the Fund's maximum benefit cap.

4) The final step in the prioritization process is to analyze each claimant's ability to pay for remedial action costs that are anticipated to exceed the Fund's maximum benefit cap for the facility. This analysis will be done at the completion of the remedial action plan or, in the case of substantial soil and groundwater contamination, at the completion of the focused site investigation. If it is apparent that the cost of remedial action will exceed the benefits available to an eligible drycleaning facility, the Administrator will contact the claimant and ask that the claimant respond in writing as to whether it has the financial resources and is willing to expend those resources to remediate the facility. If the claimant states that it chooses to remediate the facility, the following mechanisms would be deemed acceptable in order to ensure that the claimant has the necessary resources to complete the remedial action once the Fund's maximum benefits have been expended:

A) Escrow 100% of the estimated remedial action costs that will exceed the Fund's remedial benefit cap. Cash or cash equivalents, such as a certificate of deposit, marketable bonds, etc., would be acceptable for escrow; or

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- B) A letter of credit from a federally insured financial institution for 100% of the estimated remedial action costs that will exceed the Fund's remedial benefit cap; or
- C) Personal or corporate guarantees for 100% of the estimated cleanup costs that will exceed the Fund's remedial benefit cap. The guarantees would need to be collateralized by liquid assets.

Any eligible claimant who determines that it has neither the financial resources nor the desire to spend its resources on remediation of the facility will be moved to a new and separate prioritization pool. Funding for these claims will only be made available once the cleanups have been completed on all of the other eligible claims that do not exercise these funding limitations.

- 5) Once a claim has been prioritized, it cannot be removed from the prioritized listing unless the claim becomes ineligible for benefits from the Fund or the claimant refuses to remediate the facility in a timely manner.
- h) Remedial claim benefits for a specific drycleaning facility can be transferred to a successor drycleaning facility operator or owner upon execution of a remedial benefits transfer form prescribed by the Council and signed by the original claimant and the successor claimant and approved by the Council.

(Source: Amended at 28 Ill. Reg. 9051, effective June 21, 2004)

Section 1500.50 Drycleaner Facility Insurance Account

The owner or operator of an active drycleaning facility shall be eligible for up to \$500,000 financial assurance per drycleaning facility from the Council subject to the following limitations:

- a)1) To apply for financial assurance coverage, the owner or operator of an active drycleaning facility must submit a completed application provided by the Council (see Section 1500.70(b)). The Council will not determine who must submit the application. Any insurance policy issued must identify both the owner and the operator and both will be named insureds.
- b)2) Prior to the submission of an insurance application and no later than June 30, ~~2006~~2004 for a drycleaning facility that is active on June 30, ~~2006~~2004, an

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applicant must have a focused site investigation completed that is designed to identify soil and groundwater contamination resulting from the release of drycleaning solvents at the facility based upon the continued use of the facility as a drycleaning facility, consistent with 35 Ill. Adm. Code 740.430 and 435.

- ~~c)3)~~ *The drycleaning facility is participating in and meets all requirements of a drycleaning compliance program approved by the Council. (Section 45(d)(2) of the Act)*
- ~~d)4)~~ Applications must include the annual premium for financial assurance coverage as follows:
- ~~1)A)~~ *For the year, July 1, 1999 through June 30, 2000, \$250 per drycleaning facility; (Section 45(e)(1) of the Act);*
- ~~2)B)~~ *For the year July 1, 2000 through June 30, 2001, \$375 per drycleaning facility; (Section 45(e)(2) of the Act);*
- ~~3)C)~~ *For the year July 1, 2001 through June 30, 2002, \$500 per drycleaning facility; (Section 45(e)(3) of the Act);*
- ~~4)D)~~ *For the year July 1, 2002 through June 30, 2003, \$625 per drycleaning facility; (Section 45(e)(4) of the Act);*
- ~~5)E)~~ *For subsequent years, the applicant applying for coverage shall pay an annual actuarially sound insurance premium as determined by the Council. The Council shall take into consideration risk factor adjustments to reflect the range of risk presented by:*
- ~~A)i)~~ *the type of drycleaning system*
- ~~B)ii)~~ *the type of monitoring system*
- ~~C)iii)~~ *drycleaning volume*
- ~~D)iv)~~ *risk management practices. (Section 45 (e)(5) of the Act)*
- ~~e)5)~~ *If coverage is purchased for any part of a year, the purchaser shall pay the full annual premium for that year. The insurance premium is fully earned upon*

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issuance of the insurance policy. (Section 45(f) of the Act) The insurance premium may be paid in semiannual installments for policies issued on or after June 30, 2003.

- f)6) All insurance policies shall include a *\$10,000 deductible* (Section 45(g) of the Act).
- g)7) *Coverage shall be limited to remedial action costs associated with soil and groundwater contamination resulting from a release of drycleaning solvent at an insured drycleaning facility including third-party liability for soil and groundwater contamination, consistent with the terms of the Council's insurance policy.* (Section 45(c) of the Act)
- h)8) An insurance policy issued by the Council for a specific drycleaning facility location can be transferred to a successor drycleaning facility operator or owner upon execution of a policy transfer form prescribed by the Council and signed by the policy holder and transferee ~~subject to any transfer fee determined by the Council.~~ The insurance policy cannot be transferred unless the drycleaning facility license is also transferred.

(Source: Amended at 28 Ill. Reg. 9051, effective June 21, 2004)

Section 1500.55 Drycleaning Solvent Tax

- a) *On or after January 1, 1998, a tax is imposed on the use of a drycleaning solvent by a person engaged in the business of operating a drycleaning facility in this State at the rate of:*
- 1) *\$10 per gallon of perchloroethylene or other chlorinated drycleaning solvent used in drycleaning operations;*
 - 2) *\$2 per gallon of petroleum-based drycleaning solvent; and*
 - 3) *\$1.75 per gallon of green solvents, unless the green solvent is used at a virgin facility, in which case the rate is \$.35 per gallon. All drycleaning solvents shall be considered chlorinated solvents unless the Council determines that the solvents are petroleum-based solvents or green solvents.* (Section 65(a) of the Act)

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- b) In determining if a drycleaning solvent is a green solvent, the manufacturer and/or distributor of the solvent must present to the Council the solvent's material safety data sheet, the material safety data sheet of the detergents used in conjunction with the solvent, and such other information the Council deems necessary to determine if the solvent should be classified as a green solvent.

(Source: Added at 28 Ill. Reg. 9051, effective June 21, 2004)

Section 1500.70 Forms

- a) The following is a summary of information that shall be completed on the License Application Form to receive a license certificate.
- 1) Drycleaning facility name, address, contact person, phone number and date facility began drycleaning operations.
 - 2) Drycleaner operator information, including name, mailing address, contact person, phone number, type of legal entity (i.e., sole proprietorship), corporation, partnership, Federal ID or social security number, Illinois Business Tax ID number.
 - 3) Information pertaining to the owner of the real estate, including owner name, mailing address, contact person, phone number, type of legal entity, Federal ID or social security number.
 - 4) Information pertaining to the annual fee involving the quantity of drycleaning solvents purchased for the preceding year or estimated to be used in the current year if it is a new drycleaning facility.
 - 5) Information regarding the drycleaning solvent supplier, including name of supplier, contact person, phone number, mailing address, Illinois Business Tax ID number.

The license form must be signed by the applicant and returned with the appropriate application form and proof of payment of license fee in order to receive a license from the Drycleaner Environmental Response Trust Fund Council of Illinois.

- b) The following is general information that must be completed on an insurance

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application form in order to receive pollution liability insurance coverage from the Fund.

- 1) Facility name, address, contact person, drycleaner license number and phone number.
- 2) Operator name, mailing address, contact person, legal entity, type of legal entity, whether the operator is the owner of the land, buildings or both.
- 3) Owner information, including name, mailing address, contact person, type of legal entity.
- 4) Where correspondence regarding this application should be sent.
- 5) Information on the mortgagee, including name, mailing address.
- 6) Site specific information such as:
 - A) Number of drycleaning units not in use or temporarily out of use at the location.
 - B) Site conditions, including distance in feet to the nearest building off premises.
 - C) Distance in feet to nearest water well.
 - D) Distance in feet to nearest water/sewer main.
 - E) Location of the property in terms of residential, commercial or industrial area.
 - F) A diagram of the facility showing location of the building, drycleaning units, stored drycleaning solvents, stored hazardous waste containers, etc., should be listed on the diagram.
 - G) What type of hazardous waste generator facility is at this location and if the facility is operating in accordance with the requirements for the type of hazardous waste generator facility that is indicated.

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- H) Does the facility participate in and meet all the requirements of the Drycleaning Compliance Program approved by the Council. If the answer is yes, the applicant must provide the name of the program and documentation of participation. In addition, the applicant must indicate if the facility is compliant with all the requirements of the Compliance Program.
- I) Does the drycleaning unit have an Illinois EPA air operating permit? If so, the type of permit must be indicated.
- 7) Has a site investigation been conducted to identify soil and groundwater contamination of the facility? If it has, a copy of the entire report should be submitted with the application.
- 8) An indication of whether the applicant has ever reported a release or spill on this site to the Illinois Emergency Management Agency. If the response is yes, the applicant should explain when, what and the current status of the cleanup. If the response is no, the applicant should indicate if he/she is aware of a release or spill that has occurred at this facility that would impact soil and groundwater.
- 9) Specific information on each individual drycleaning unit at the facility, including:
 - A) Date each unit installed.
 - B) Was the unit new at installation?
 - C) Identification of the type of drycleaning solvent currently used.
 - D) Indicate what type of drycleaning unit it is, i.e., dry to dry, transfer, other.
 - E) What is the average amount of drycleaning solvent used per month in each unit?
 - F) Does the unit have a pollution control mechanism on it? If so, identify what type.

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- G) What is the size of each unit, based on pounds of clothes that each unit holds per cycle?
- H) [Generation of drycleaning unit.](#)
- 10) Hazardous Waste
- A) Does the site maintain drycleaning solvent hazardous waste in approved containers that are labeled hazardous waste and properly dated?
- B) Is wastewater from the drycleaning solvent discharged into a sanitary sewer/septic tank service or groundwater?
- C) Are all drycleaning solvent wastes generated at this facility managed in accordance with applicable State waste management laws and rules in accordance with the Environmental Protection Act [415 ILCS 5] and 35 Ill. Adm. Code 722?
- 11) Pollution Prevention Measures
- A) Does the unit have a containment dike or structure around each unit for the entire drycleaning area in which any drycleaning solvent is utilized that is capable of containing a spill or leak?
- B) Is the surface of the dike floor in which the drycleaning solvent may leak, spill or otherwise be released sealed or impervious?
- C) Are regular visual inspections conducted of the unit, solvent containers, waste containers and other areas where the solvent waste is located?
- D) Are the repairs done on a timely basis and a log kept of all repairs?
- E) Is the drycleaning solvent delivered to the facility by means of a closed direct-coupled delivery system?
- 12) An insurance application form must be signed and dated by the applicant.

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- c) The following is a summary of information that shall be completed on a claims form to apply for remedial action or insurance benefits.
- 1) Business facility information including:
 - A) Name and address of property where release occurred and name, address and phone number of person filing claim.
 - B) An insurance policy number, if applicable.
 - C) The number of drycleaning units at this facility, whether they are still in use, and the drycleaning solvents that were stored in the drycleaning units.
 - D) Questions as to other types of drycleaning machines, equipment, or underground or aboveground tanks, besides the drycleaning units, that store drycleaning solvent located at this facility that may contain any product that is chlorine or petroleum based.
 - E) The name of the owner of the land on which the drycleaning units are located.
 - F) The name of the owner of the facility and drycleaning units.
 - G) The name of the owner and operator of the business at the location, including the length of time the business has been in operation and how long the current operator has operated the business.
 - 2) General information about the spill or leak.
 - A) When did the person filing the claim first learn about the spill or leak?
 - B) How was the spill or leak discovered?
 - C) When and how was the problem reported to the Illinois Emergency Management Agency or the Illinois Environmental Protection Agency?

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- D) Information regarding the source of contamination.
 - E) Information regarding an awareness of any person who has suffered bodily injury or property damage as a result of this release.
 - F) Statement regarding whether the contamination has migrated beyond the property.
 - G) Has a site investigation been prepared?
 - H) Have cleanup activities commenced at the site?
 - I) The name of the licensed professional engineer performing remediation on this site, if applicable.
- 3) General Information about other insurance at the facility.
- A) Whether other insurance specifically providing pollution liability coverage has existed for this property. If the response is yes, provide the name of the company, policy number and a copy of the policy.
 - B) Has the incident been reported to the insurance company?
 - C) Has the person filing the claim requested payment from anyone else for costs associated with the claim? If the response is yes, provide information on the payment request from a third party.
- d) The following is a summary of general information that shall be completed on the claim reimbursement request form:
- 1) Claimant information, including name, address, social security or Federal Tax ID number. In addition, site information regarding where the remedial activities were performed, including site name, physical address and city.
 - 2) Contractor information in the form of contractor name, address and telephone number.

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- 3) Remediation activities. An indication of the activities that were completed and the amount being billed at this time.
- 4) Reimbursements from other programs. An indication of whether the claimant has applied for reimbursement from any other source for the invoices being submitted with this form.
- 5) Original invoices.
- 6) A summary of the eligible costs, broken down by cost category, and certification that the information is accurate and complete.
- 7) A schedule of detail to support the cost categories reported.

(Source: Amended at 28 Ill. Reg. 9051, effective June 21, 2004)

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- 1) Heading of the Part: Solid Waste Disposal: General Provisions
- 2) Code citation: 35 Ill. Adm. Code 810
- 3) Section number: 810.103 Adopted action: Amended
- 4) Statutory authority: 415 ILCS 5/7.2, 22.40, and 27
- 5) Effective date of amendment: June 18, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Statement of availability: The adopted amendment, a copy of the Board's opinion and order adopted June 17, 2004, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of proposal published in Illinois Register: April 2, 2004; 28 Ill. Reg. 5577
- 10) Has JCAR issued a Statement of Objection to this amendment? No. Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between proposal and final version: A table that appears in the Board's opinion and order of June 17, 2004 in docket R04-5/R04-15 (consolidated) summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated March 18, 2004. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

The differences are limited to non-substantive changes. The most significant change was the deletion of the definition of, and all references to, "construction and demolition landfill." This is a type of landfill that does not exist in Illinois, and the phrase is not necessary to exempting residential lead-based paint waste from required disposal in a municipal solid waste landfill as household waste. The changes are intended to have no substantive effect. The intent is to integrate the federal amendments into the Illinois

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regulatory scheme without deviation from the substance of the federal amendments and without creating ambiguity in the Illinois regulations.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the April 2, 2004 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of June 17, 2004 in docket R04-5/R04-15 (consolidated), as indicated in item 11 above. The table below indicates JCAR suggestions not incorporated into the text, with a brief explanation for each. See the June 17, 2004 opinion and order in docket R04-5/R04-15 (consolidated) for additional details on the JCAR suggestions and the Board actions with regard to each.

- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and purpose of amendment: The following briefly describes the subjects and issues involved in the larger rulemaking of which the amendments to Part 810 are a single segment. Also affected was 35 Ill. Adm. Code 811, which is covered by a separate notice in this issue of the *Illinois Register*. A comprehensive description is contained in the Board's opinion and order of January 24, 2002, adopting amendments in consolidated docket R04-5/R04-15 (consolidated), which opinion and order is available from the address below.

USEPA amended the federal RCRA Subtitle D MSWLF regulations once during the nominal January 1, 2003 through June 30, 2003 period of docket R04-5. That single action is summarized as follows:

68 Fed. Reg. 36487 (June 18, 2003)

USEPA amended key definitions to allow disposal of residential lead-based paint waste that is not hazardous waste in a construction and demolition landfill that does not accept other household waste.

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USEPA amended the federal RCRA Subtitle D MSWLF regulations once during the nominal July 1, 2003 through December 31, 2003 period of docket R04-15. That single action is summarized as follows:

68 Fed. Reg. 59333 (October 15, 2003)

USEPA amended the rules to add a note referencing the adoption of the Wendell H. Ford Aviation Investment Act prohibition against locating a new landfill within six miles of a certain public airports.

The Board amends the Illinois regulations to incorporate the substance of two sets of federal amendments relating to disposal of residential lead-based paint waste and location of new MSWLF units in the vicinity of public airports.

This proceeding updates the Illinois RCRA Subtitle D municipal solid waste landfill (MSWLF) rules to USEPA amendments that appeared in the Federal Register during the update period of January 1, 2003, through June 30, 2003. Docket R04-15 covers USEPA amendments that appeared in the *Federal Register* during the update period of July 1, 2003, through December 31, 2003.

Specifically, the amendments to Part 810 implement the federal June 18, 2003 amendments relating to disposal of residential lead-base paint waste.

Tables appear in the Board's opinion and order of June 17, 2004 in docket R04-5/R04-15 (consolidated) that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the June 17, 2004 opinion and order in docket R04-5/R04-15 (consolidated).

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 16) Information and questions regarding this adopted amendment shall be directed to: Please reference consolidated Docket R04-5/R04-15 (consolidated) and direct inquiries to the following person:

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Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312-814-6924

Request copies of the Board's opinion and order of June 17, 2004 in docket R04-5/R04-15 (consolidated) at 312-814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

The full text of the adopted amendment begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 810
SOLID WASTE DISPOSAL: GENERAL PROVISIONS

Section	
810.101	Scope and Applicability
810.102	Severability
810.103	Definitions
810.104	Incorporations by Reference

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17, and 28.1 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1 and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15838, effective September 18, 1990; amended in R93-10 at 18 Ill. Reg. 1268, effective January 13, 1994; amended in R90-26 at 18 Ill. Reg. 12457, effective August 1, 1994; amended in R95-9 at 19 Ill. Reg. 14427, effective September 29, 1995; amended in R96-1 at 20 Ill. Reg. 11985, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15825, effective November 25, 1997; amended in R04-5/R04-15 at 28 Ill. Reg. 9090, effective June 18, 2004.

Section 810.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part ~~will be~~ shall be the same as that applied to the same words or terms in the Environmental Protection Act (Act) [415 ILCS 5]:

"Act" means the Environmental Protection Act; [415 ILCS 5].

"Admixtures" are chemicals added to earth materials to improve for a specific application the physical or chemical properties of the earth materials. Admixtures include, but are not limited to: lime, cement, bentonite, and sodium silicate.

"Agency" is the Environmental Protection Agency established by the Environmental Protection Act. (Section ~~3.1053-08~~ of the Act)

"Applicant" means the person submitting an application to the Agency for a

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permit for a solid waste disposal facility.

"Aquifer" means saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients and whose boundaries can be identified and mapped from hydrogeologic data. (Section 3 of the Illinois Groundwater Protection Act [415 ILCS 55/3];)

"Bedrock" means the solid rock formation immediately underlying any loose superficial material such as soil, alluvium, or glacial drift.

"Beneficially usable waste" means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents ~~which that~~ exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

"Board" is the Pollution Control Board established by the Act. (Section ~~3.1303-04~~ of the Act;)

"Borrow area" means an area from which earthen material is excavated for the purpose of constructing daily cover, final cover, a liner, a gas venting system, roadways, or berms.

"Chemical waste" means a non-putrescible solid whose characteristics are such that any contaminated leachate is expected to be formed through chemical or physical processes, rather than biological processes, and no gas is expected to be formed as a result.

"Coal combustion power generating facilities" means establishments ~~that~~which generate electricity by combusting coal and which utilize a lime or limestone scrubber system.

"Contaminated leachate" means any leachate whose constituent violate the standards of 35 Ill. Adm. Code 811.202.

"Dead animal disposal site" means an on-the-farm disposal site at which the burial of dead animals is done in accordance with the Illinois Dead Animal Disposal Act; [225 ILCS 610-1] and regulations adopted pursuant thereto; (8 Ill. Adm. Code 90).

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"Design Period" means that length of time determined by the sum of the operating life of the solid waste landfill facility plus the postclosure care period necessary to stabilize the waste in the units.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water or into any well such that solid waste or any constituent of the solid waste may enter the environment by being emitted into the air or discharged into any waters, including groundwater. (Section ~~3.1853-08~~ of the Act.) If the solid waste is accumulated and not confined or contained to prevent its entry into the environment, or there is no certain plan for its disposal elsewhere, such accumulation ~~will~~shall constitute disposal.

"Disturbed areas" means those areas within a facility that have been physically altered during waste disposal operations or during the construction of any part of the facility.

"Documentation" means items, in any tangible form, whether directly legible or legible with the aid of any machine or device, including but not limited to affidavits, certificates, deeds, leases, contracts or other binding agreements, licenses, permits, photographs, audio or video recordings, maps, geographic surveys, chemical and mathematical formulas or equations, mathematical and statistical calculations and assumptions, research papers, technical reports, technical designs and design drawings, stocks, bonds, and financial records, that are used to support facts or hypotheses.

"Earth liners" means structures constructed from naturally occurring soil material that has been compacted to achieve a low permeability.

"Existing facility" or "Existing unit" means a facility or unit ~~that~~which is not defined in this Section as a new facility or a new unit.

"Existing MSWLF unit" means any municipal solid waste landfill unit that has received household waste before October 9, 1993. (Section ~~3.2853-87~~ of the Act)

"Facility" means a site and all equipment and fixtures on a site used to treat, store or dispose of solid or special wastes. A facility consists of an entire solid or special waste treatment, storage or disposal operation. All structures used in connection with or to facilitate the waste disposal operation ~~will~~shall be considered a part of the facility. A facility may include, but is not limited to, one or more solid waste disposal units, buildings, treatment systems, processing and

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storage operations, and monitoring stations.

"Field capacity" means that maximum moisture content of a waste, under field conditions of temperature and pressure, above which moisture is released by gravity drainage.

"Foundry sand" means pure sand or a mixture of sand and any additives necessary for use of the sand in the foundry process, but does not include such foundry process by-products as air pollution control dust or refractories.

"Gas collection system" means a system of wells, trenches, pipes and other related ancillary structures such as manholes, compressor housing, and monitoring installations that collects and transports the gas produced in a putrescible waste disposal unit to one or more gas processing points. The flow of gas through such a system may be produced by naturally occurring gas pressure gradients or may be aided by an induced draft generated by mechanical means.

"Gas condensate" means the liquid formed as a landfill gas is cooled or compressed.

"Gas venting system" means a system of wells, trenches, pipes and other related structures that vents the gas produced in a putrescible waste disposal unit to the atmosphere.

"Geomembranes" means manufactured membrane liners and barriers of low permeability used to control the migration of fluids or gases.

"Geotextiles" are permeable manufactured materials used for purposes ~~that~~which include, but are not limited to, strengthening soil, providing a filter to prevent clogging of drains, and collecting and draining liquids and gases beneath the ground surface.

"Groundwater" means underground water which occurs within the saturated zone and within geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3 of the Illinois Groundwater Protection Act)

"Household waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters,

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campgrounds, picnic grounds, and day-use recreation areas). (Section ~~3.2303-89~~ of the Act)

"Hydraulic barriers" means structures designed to prevent or control the seepage of water. Hydraulic barriers include, but are not limited to, cutoff walls, slurry walls, grout curtains and liners.

"Inert waste" means any solid waste that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a contaminated leachate, as determined in accordance with 35 Ill. Adm. Code 811.202(b). Such inert wastes ~~will~~shall include only non-biodegradable and non-putrescible solid wastes. Inert wastes may include, but are not limited to, bricks, masonry, and concrete (cured for 60 days or more).

"Iron slag" means slag.

"Land application unit" means an area where wastes are agronomically spread over or disked into land or otherwise applied so as to become incorporated into the soil surface. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a land application unit is not a landfill; however, other Parts of 35 Ill. Adm. Code: Chapter I may apply, and may include the permitting requirements of 35 Ill. Adm. Code 309.

"Landfill" means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground injection well. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, landfills include waste piles, as defined in this Section.

"Lateral expansion" means a horizontal expansion of the actual waste boundaries of an existing MSWLF unit occurring on or after October 9, 1993. A horizontal expansion is any area where solid waste is placed for the first time directly upon the bottom liner of the unit, excluding side slopes on or after October 9, 1993. (Section ~~3.2753-88~~ of the Act)

"Leachate" means liquid that has been or is in direct contact with a solid waste.

"Lift" means an accumulation of waste ~~that~~which is compacted into a unit and over which cover is placed.

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"Low risk waste" means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents that exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

"Malodor" means an odor caused by *one or more contaminant emissions into the atmosphere from a facility that is in sufficient quantities and of such characteristics and duration as to be described as malodorous and which may be injurious to human, plant, or animal life, to health, or to property, or may unreasonably interfere with the enjoyment of life or property.* (Section [3.1153.02](#) of the Act (defining "air pollution"))

"Municipal Solid Waste Landfill Unit" or "MSWLF Unit" means a contiguous area of land or an excavation that receives household waste, and that is not a land application, surface impoundment, injection well, or any pile of non-containerized accumulations of solid, non-flowing waste that is used for treatment or storage. A MSWLF unit may also receive other types of RCRA Subtitle D wastes, such as commercial solid waste, non-hazardous sludge, small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned or operated. a MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion. A sanitary landfill is subject to regulation as a MSWLF if it receives household waste. (Section [3.2853.85](#) of the Act) But, a landfill that receives residential lead-based paint waste and which does not receive any other household waste is not a MSWLF unit.

BOARD NOTE: The final sentence of corresponding 40 C.F.R. 258.2 provides as follows: "A construction and demolition landfill that receives residential lead-based paint waste and which does not receive any other household waste is not a MSWLF Unit." A construction and demolition landfill is a type of landfill that does not exist in Illinois, so the Board omitted the reference to "construction and demolition landfill." A landfill in Illinois that receives residential lead-based paint waste and no other type of household waste would be permitted as a chemical waste landfill or a putrescible waste landfill under Subpart C of 35 Ill. Adm. Code 811, as appropriate.

"National Pollutant Discharge Elimination System" or "NPDES" means the program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits and imposing and enforcing pretreatment requirements under the Clean Water Act (33 [USCU.S.C.](#) 1251 et seq.), Section 12(f) of the ~~Environmental Protection Act~~, and ~~Subpart A of~~ 35 Ill. Adm. Code 309.2, ~~Subpart A~~ and [35 Ill. Adm. Code 310](#).

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"NPDES permit" means a permit issued under the NPDES program.

"New facility" or "New unit" means a solid waste landfill facility or a unit at a facility, if one or more of the following conditions apply:

It is a landfill or unit exempt from permit requirements pursuant to Section 21(d) of the Act that has not yet accepted any waste as of September 18, 1990;

It is a landfill or unit not exempt from permit requirements pursuant to Section 21(d) of the Act that has no development or operating permit issued by the Agency pursuant to 35 Ill. Adm. Code 807 as of September 18, 1990; or

It is a landfill with a unit whose maximum design capacity or lateral extent is increased after September 18, 1990.

BOARD NOTE: A new unit located in an existing facility ~~will be~~ shall be considered a unit subject to 35 Ill. Adm. Code 814, which references applicable requirements of 35 Ill. Adm. Code 811.

"New MSWLF Unit" means any municipal solid waste landfill unit that has received household waste on or after October 9, 1993 for the first time. (Section ~~3.2853-86~~ of the Act)

"One hundred-~~year(100)-year~~ flood plain" means any land area ~~that~~ which is subject to a one percent or greater chance of flooding in a given year from any source.

"One hundred-~~year(100)-year, 24-hour~~24 hour precipitation event" means a precipitation event of a ~~24-hour~~24 hour duration with a probable recurrence interval of once in 100 years.

"Operator" means the person responsible for the operation and maintenance of a solid waste disposal facility.

"Owner" means a person who has an interest, directly or indirectly, in land, including a leasehold interest, on which a person operates and maintains a solid waste disposal facility. The "owner" is the "operator" if there is no other person

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who is operating and maintaining a solid waste disposal facility.

"Perched watertable" means an elevated watertable above a discontinuous saturated lens, resting on a low permeability (such as clay) layer within a high permeability (such as sand) formation.

"Permit area" means the entire horizontal and vertical region occupied by a permitted solid waste disposal facility.

"Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity, or their legal representative, agent or assigns. (Section ~~3.3153.26~~ of the Act)

"Potentially usable waste" means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents that exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

"Poz-O-Tec materials" means materials produced by a stabilization process patented by Conversion Systems, Inc. utilizing flue gas desulfurization (FGD) sludges and ash produced by coal combustion power generation facilities as raw materials.

"Poz-O-Tec monofill" means a landfill in which solely Poz-O-Tec materials are placed for disposal.

"Professional engineer" means a person who has registered and obtained a seal pursuant to ~~the "The Illinois~~ Professional Engineering Practice Act of 1989" [225 ILCS 325].

"Professional land surveyor" means a person who has received a certificate of registration and a seal pursuant to the Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330].

"Putrescible waste" means a solid waste that contains organic matter capable of being decomposed by microorganisms so as to cause a malodor, gases, or other offensive conditions, or which is capable of providing food for birds and vectors. Putrescible wastes may form a contaminated leachate from microbiological degradation, chemical processes, and physical processes. Putrescible waste

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includes, but is not limited to, garbage, offal, dead animals, general household waste, and commercial waste. All solid wastes ~~that which~~ do not meet the ~~definition~~definitions of inert or chemical wastes ~~will be~~shall be considered putrescible wastes.

"Publicly owned treatment works" or "POTW" means a treatment works that is owned by the State of Illinois or a unit of local government. This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastewater. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the unit of local government ~~that which~~ has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

"Recharge zone" means an area through which water can enter an aquifer.

"Residential lead-based paint waste" means waste containing lead-based paint that is generated as a result of activities such as abatement, rehabilitation, renovation, and remodeling in homes and other residences. The term residential lead-based paint waste includes, but is not limited to, lead-based paint debris, chips, dust, and sludges.

"Resource Conservation and Recovery Act" or "RCRA" means the Resource Conservation and Recovery Act of 1976 (P.L. 94-580 codified as 42 USC. §6901 et seq.) as amended. (Section 3.4253.90 of the Act)

"Responsible charge," when used to refer to a person, means that the person is normally present at a waste disposal site; directs the day-to-day overall operation at the site; and either is the owner or operator or is employed by or under contract with the owner or operator to assure that the day-to-day operations at the site are carried out in compliance with any Part of 35 Ill. Adm. Code: Chapter I governing operations at waste disposal sites.

"Runoff" means water resulting from precipitation that flows overland before it enters a defined stream channel, any portion of such overland flow that infiltrates into the ground before it reaches the stream channel, and any precipitation that falls directly into a stream channel.

"Salvaging" means the return of waste materials to use, under the supervision of the landfill operator, so long as the activity is confined to an area remote from the

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operating face of the landfill, it does not interfere with or otherwise delay the operations of the landfill, and it results in the removal of all materials for salvaging from the landfill site daily or separates them by type and stores them in a manner that does not create a nuisance, harbor vectors, or cause an unsightly appearance.

"Scavenging" means the removal of materials from a solid waste management facility or unit ~~that~~^{which} is not salvaging.

"Seismic Slope Safety Factor" means the ratio between the resisting forces or moments in a slope and the driving forces or moments that may cause a massive slope failure during an earthquake or other seismic event such as an explosion.

"Settlement" means subsidence caused by waste loading, changes in groundwater level, chemical changes within the soil, and adjacent operations involving excavation.

"Shredding" means the mechanical reduction in particle sizes of solid waste. Putrescible waste is considered shredded if 90 percent of the waste by dry weight passes a ~~three-inch~~^{3-inch} sieve.

"Significant Modification" means a modification to an approved permit issued by the Agency in accordance with Section 39 of the Act and 35 Ill. Adm. Code 813 that is required when one or more of the following changes (considered significant when that change is measured by one or more parameters whose values lie outside the expected operating range of values as specified in the permit) are planned, occur, or will occur:

An increase in the capacity of the waste disposal unit over the permitted capacity;

Any change in the placement of daily, intermediate, or final cover;

A decrease in performance, efficiency, or longevity of the liner system;

A decrease in efficiency or performance of the leachate collection system;

A change in configuration, performance, or efficiency of the leachate management system;

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A change in the final disposition of treated effluent or in the quality of the discharge from the leachate treatment or pretreatment system;

Installation of a gas management system; or a decrease in the efficiency or performance of an existing gas management system;

A change in the performance or operation of the surface water control system;

A decrease in the quality or quantity of data from any environmental monitoring system;

A change in the applicable background concentrations or the maximum allowable predicted concentrations;

A change in the design or configuration of the regraded area after development or after final closure;

A change in the amount or type of postclosure financial assurance;

Any change in the permit boundary;

A change in the postclosure land use of the property;

A remedial action necessary to protect groundwater;

Transfer of the permit to a new operator;

Operating authorization is being sought to place into service a structure constructed pursuant to a construction quality assurance program; or

A change in any requirement set forth as a special condition in the permit.

"Slag" means the fused agglomerate ~~that~~~~which~~ separates in the iron and steel production and floats on the surface of the molten metal.

"Sole source aquifer" means those aquifers designated pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974; (42 ~~USC~~~~U.S.C~~ 300h-3).

"Solid Waste" means a waste that is defined in this Section as an inert waste, as a

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putrescible waste, as a chemical waste or as a special waste, and which is not also defined as a hazardous waste pursuant to 35 Ill. Adm. Code 721.

"Special waste" means any industrial process waste, pollution control waste or hazardous waste, except as determined pursuant to Section 22.9 of the Act and 35 Ill. Adm. Code 808. (Section ~~3.4753-45~~ of the Act.)

"Static Safety Factor" means the ratio between resisting forces or moments in a slope and the driving forces or moments that may cause a massive slope failure.

"Steel slag" means slag.

"Surface impoundment" means a natural topographic depression, a man-made excavation, or a diked area into which flowing wastes, such as liquid wastes or wastes containing free liquids, are placed. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a surface impoundment is not a landfill. Other Parts of 35 Ill. Adm. Code: Chapter I may apply, including the permitting requirements of 35 Ill. Adm. Code 309.

"Twenty-five-~~year(25)-year, 24-hour~~~~24-hour~~ precipitation event" means a precipitation event of ~~24-hour~~~~24-hour~~ duration with a probable recurrence interval of once in 25 years.

"Uppermost aquifer" means the first geologic formation above and below the bottom elevation of a constructed liner or wastes, where no liner is present, ~~that~~~~which~~ is an aquifer, and includes any lower aquifer that is hydraulically connected with this aquifer within the facility's permit area.

"Unit" means a contiguous area used for solid waste disposal.

"Unit of local government" means a unit of local government, as defined by Article 7, Section 1 of the Illinois Constitution. A unit of local government may include, but is not limited to, a municipality, a county, or a sanitary district.

"Waste pile" means an area on which non-containerized masses of solid, ~~non-flowing~~~~nonflowing~~ wastes are placed for disposal. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a waste pile is a landfill, unless the operator can demonstrate that the wastes are not accumulated over time for disposal. At a minimum, such demonstration ~~must~~~~shall~~ include photographs, records, or other observable or discernable information, maintained on a yearly

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basis, that show that within the preceding year the waste has been removed for utilization or disposal elsewhere.

"Waste stabilization" means any chemical, physical, or thermal treatment of waste, either alone or in combination with biological processes, ~~that~~^{which} results in a reduction of microorganisms, including viruses, and the potential for putrefaction.

"Working face" means any part of a landfill where waste is being disposed of.

"Zone of attenuation" ~~means~~^{is} the three dimensional region formed by excluding the volume occupied by the waste placement from the smaller of the volumes resulting from vertical planes drawn to the bottom of the uppermost aquifer at the property boundary or 100 feet from the edge of one or more adjacent units.

(Source: Amended at 28 Ill. Reg. 9107, effective June 18, 2004)

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- 1) Heading of the Part: Standards for New Solid Waste Landfills
- 2) Code citation: 35 Ill. Adm. Code 811
- 3) Section number: 811.302 Adopted action: Amended
- 4) Statutory authority: 415 ILCS 5/7.2, 22.40, and 27.
- 5) Effective date of amendment: June 18, 2004
- 6) Does this rulemaking contain an automatic repeal date?: No
- 7) Does this amendment contain incorporations by reference? No
- 8) Statement of availability: The adopted amendments, a copy of the Board's opinion and order adopted June 17, 2004, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of proposal published in Illinois Register: April 2, 2004, 28 Ill. Reg. 5594
- 10) Has JCAR issued a Statement of Objection to this amendment? No

Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 11) Differences between proposal and final version:

A table that appears in the Board's opinion and order of June 17, 2004 in docket R04-5/R04-15 (consolidated) summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated March 18, 2004. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

The differences are limited to non-substantive changes. The most significant was the addition of a reference to an exception from the landfill location restriction available from the Federal Aviation Administration. The changes are intended to have no

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substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the April 2, 2004 issue of the Illinois Register, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of June 17, 2004 in docket R04-5/R04-15 (consolidated), as indicated in item 11 above. The table below indicates JCAR suggestions not incorporated into the text, with a brief explanation for each. See the June 17, 2004 opinion and order in docket R04-5/R04-15 (consolidated) for additional details on the JCAR suggestions and the Board actions with regard to each.

- 13) Will this amendments replace any emergency amendment currently in effect? No
- 14) Are there any other amendments pending on this Part? No.
- 15) Summary and purpose of amendment: The amendments to Part 811 are a single segment of a larger rulemaking that also affects 35 Ill. Adm. Code 810, each of which is covered by a separate notice in this issue of the Illinois Register. To save space, a more detailed description of the subjects and issues involved in the larger rulemaking in this Illinois Register only in the answer to question 15 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 810. A comprehensive description is contained in the Board's opinion and order of June 17, 2004, adopting amendments in consolidated docket R04-5/R04-15 (consolidated).

Specifically, the amendments to Part 811 implement the federal October 15, 2003 locating a new landfill within six miles of a certain public airports.

Tables appear in the Board's opinion and order of June 17, 2004 in docket R04-5/R04-15 (consolidated) that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the

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details of those corrections and amendments should refer to the June 17, 2004 opinion and order in docket R04-5/R04-15 (consolidated).

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 16) Information and questions regarding this adopted amendment shall be directed to: Please reference consolidated Docket R04-5/R04-15 (consolidated) and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601
312-814-6924

Request copies of the Board's opinion and order of June 17, 2004 in docket R04-5/R04-15 (consolidated) at 312-814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

The full text of the adopted amendment begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 811
STANDARDS FOR NEW SOLID WASTE LANDFILLS

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section	
811.101	Scope and Applicability
811.102	Location Standards
811.103	Surface Water Drainage
811.104	Survey Controls
811.105	Compaction
811.106	Daily Cover
811.107	Operating Standards
811.108	Salvaging
811.109	Boundary Control
811.110	Closure and Written Closure Plan
811.111	Postclosure Maintenance
<u>811.112</u>	<u>Recordkeeping Requirements for MSWLF Units</u>

SUBPART B: INERT WASTE LANDFILLS

Section	
811.201	Scope and Applicability
811.202	Determination of Contaminated Leachate
811.203	Design Period
811.204	Final Cover
811.205	Final Slope and Stabilization
811.206	Leachate Sampling
811.207	Load Checking

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section	
811.301	Scope and Applicability
811.302	Facility Location

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811.303	Design Period
811.304	Foundation and Mass Stability Analysis
811.305	Foundation Construction
811.306	Liner Systems
811.307	Leachate Drainage System
811.308	Leachate Collection System
811.309	Leachate Treatment and Disposal System
811.310	Landfill Gas Monitoring
811.311	Landfill Gas Management System
811.312	Landfill Gas Processing and Disposal System
811.313	Intermediate Cover
811.314	Final Cover System
811.315	Hydrogeological Site Investigations
811.316	Plugging and Sealing of Drill Holes
811.317	Groundwater Impact Assessment
811.318	Design, Construction, and Operation of Groundwater Monitoring Systems
811.319	Groundwater Monitoring Programs
811.320	Groundwater Quality Standards
811.321	Waste Placement
811.322	Final Slope and Stabilization
811.323	Load Checking Program
811.324	Corrective Action Measures for MSWLF Units
811.325	Selection of remedy for MSWLF Units
811.326	Implementation of the corrective action program at MSWLF Units

SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

Section	
811.401	Scope and Applicability
811.402	Notice to Generators and Transporters
811.403	Special Waste Manifests
811.404	Identification Record
811.405	Recordkeeping Requirements
811.406	Procedures for Excluding Regulated Hazardous Wastes

SUBPART E: CONSTRUCTION QUALITY ASSURANCE PROGRAMS

Section	
811.501	Scope and Applicability
811.502	Duties and Qualifications of Key Personnel

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811.503	Inspection Activities
811.504	Sampling Requirements
811.505	Documentation
811.506	Foundations and Subbases
811.507	Compacted Earth Liners
811.508	Geomembranes
811.509	Leachate Collection Systems

SUBPART G: FINANCIAL ASSURANCE

Section	
811.700	Scope, Applicability and Definitions
811.701	Upgrading Financial Assurance
811.702	Release of Financial Institution
811.703	Application of Proceeds and Appeals
811.704	Closure and Postclosure Care Cost Estimates
811.705	Revision of Cost Estimate
811.706	Mechanisms for Financial Assurance
811.707	Use of Multiple Financial Mechanisms
811.708	Use of a Financial Mechanism for Multiple Sites
811.709	Trust Fund for Unrelated Sites
811.710	Trust Fund
811.711	Surety Bond Guaranteeing Payment
811.712	Surety Bond Guaranteeing Performance
811.713	Letter of Credit
811.714	Closure Insurance
811.715	Self-Insurance for Non-commercial Sites
811.716	Local Government Financial Test
811.717	Local Government Guarantee
811.718	Discounting
811.719	Corporate Financial Test
811.720	Corporate Guarantee

811.APPENDIX A Financial Assurance Forms

811.ILLUSTRATION A	Trust Agreement
811.ILLUSTRATION B	Certificate of Acknowledgment
811.ILLUSTRATION C	Forfeiture Bond
811.ILLUSTRATION D	Performance Bond
811.ILLUSTRATION E	Irrevocable Standby Letter of Credit
811.ILLUSTRATION F	Certificate of Insurance for Closure and/or Postclosure

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	Care
811.ILLUSTRATION G	Operator's Bond Without Surety
811.ILLUSTRATION H	Operator's Bond With Parent Surety
811.ILLUSTRATION I	Letter from Chief Financial Officer
811.APPENDIX B	Section-by-Section correlation between the Standards of the RCRA Subtitle D MSWLF regulations and the Board's nonhazardous waste landfill regulations.

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17 and 28.1 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15861, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12413, effective July 19, 1993; amended in R93-10 at 18 Ill. Reg. 1308, effective January 13, 1994; expedited correction at 18 Ill. Reg. 7504, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12481, effective August 1, 1994; amended in R95-13 at 19 Ill. Reg. 12257, effective August 15, 1995; amended in R96-1 at 20 Ill. Reg. 12000, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15831, effective November 25, 1997; amended in R98-9 at 22 Ill. Reg. 11491, effective June 23, 1998; amended in R99-1 at 23 Ill. Reg. 2794, effective February 17, 1999; amended in R98-29 at 23 Ill. Reg. 6880, effective July 1, 1999; amended in R04-5/R04-15 at 28 Ill. Reg. 9107, effective June 18, 2004.

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section 811.302 Facility Location

- a) No part of a unit ~~may~~ be located within a setback zone established pursuant to Section 14.2 or 14.3 of the Act;
- b) No part of a unit ~~may~~ be located within the recharge zone or within 366 meters (1200 feet), vertically or horizontally, of a sole-source aquifer designated by the United States Environmental Protection Agency pursuant to Section 1424(e) of the Safe Drinking Water Act (42 ~~USC~~ 300f et seq.), unless there is a stratum between the bottom of the waste disposal unit and the top of the aquifer that meets the following minimum requirements:
 - 1) The stratum has a minimum thickness of 15.2 meters (50 feet);
 - 2) The maximum hydraulic conductivity in both the horizontal and vertical directions is no greater than 1×10^{-7} centimeters per second, as determined by in situ borehole or equivalent tests;

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- 3) There is no indication of continuous sand or silt seams, faults, fractures, or cracks within the stratum that may provide paths for migration; and
- 4) Age dating of extracted water samples from both the aquifer and the stratum indicates that the time of travel for water percolating downward through the relatively impermeable stratum is no faster than 15.2 meters (50 feet) in 100 years.
- c) A facility located within 152 meters (500 feet) of the right of way of a township or county road or state or interstate highway ~~must~~shall have its operations screened from view by a barrier of natural objects, fences, barricades, or plants no less than 2.44 meters (~~eight~~8 feet) in height.
- d) No part of a unit ~~may~~shall be located closer than 152 meters (500 feet) from an occupied dwelling, school, or hospital that was occupied on the date when the operator first applied for a permit to develop the unit or the facility containing the unit, unless the owner of such dwelling, school, or hospital provides permission to the operator, in writing, for a closer distance.
- e) The facility ~~may~~shall not be located closer than 1525 meters (5000 feet) of any runway used by piston type aircraft or within 3050 meters (10,000 feet) of any runway used by turbojet aircraft unless the Federal Aviation Administration (~~FAA~~) provides the operator with written permission, including technical justification, for a closer distance.
- f) An owner or operator proposing to locate a new MSWLF unit within a five-mile radius of any airport runway used by turbojet or piston-type aircraft ~~must~~shall notify the affected airport and the ~~Federal Aviation Administration~~(FAA) within ~~seven~~7 days ~~after~~of filing a permit application with Agency in accordance with 35 Ill. Adm. Code 813 for developing a new landfill.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 258.10 (2003), as amended at 68 Fed. Reg. 59333 (October 15, 2003)(1992). USEPA added the following information in a note appended to 40 CFR 258.10: A prohibition on locating a new MSWLF near certain airports was enacted in Section 503 of the federal Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Ford Act) (49 USC 44718(d)). Section 503 prohibits the "construction or establishment" of a new MSWLF after April 5, 2000 within six miles of certain smaller public airports unless the FAA allows an exemption. The

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

FAA administers the Ford Act and has issued guidance in FAA Advisory Circular 150/5200-34, dated August 26, 2000. For further information, please contact the FAA.

(Source: Amended at 28 Ill. Reg. 9107, effective June 18, 2004)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Freedom of Information
- 2) Code Citation: 2 Ill. Adm. Code 1101
- 3) Section Number: 1101.200 Adopted Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and the Freedom of Information Act [5 ILCS 140]
- 5) Effective Date of Amendment: July 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: The Department's Freedom of Information rules at 2 Ill. Adm. Code 1101 are "required rules" as described in Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15]. Pursuant to the Act, "required rules" may be amended and adopted by filing a certified copy with the Secretary of State rather than according to any other rulemaking requirements. Therefore, the Department has not published a notice of proposed amendments concerning these changes to Section 1101.200.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: No First Notice publication is necessary for required rules.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements are necessary, as required rules are not subject to Second Notice requirements.
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any other amendments pending on this Part? No

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- 15) Summary and Purpose of Amendment: This amendment concerning requirements under the Freedom of Information Act clarifies that requests for public records must be submitted to the Department in writing.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 524-0081

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE D: CODE DEPARTMENTS
CHAPTER XVII: DEPARTMENT OF PUBLIC AID

PART 1101
FREEDOM OF INFORMATION

SUBPART A: INTRODUCTION

Section	
1101.50	Summary and Purpose
1101.100	Definitions

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

Section	
1101.150	Person to Whom Requests are Submitted
1101.200	Form and Content of Requests

SUBPART C: PROCEDURES FOR DEPARTMENT RESPONSE
TO REQUESTS FOR PUBLIC RECORDS

Section	
1101.250	Timeline for Department Response
1101.300	Types of Department Responses

SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

Section	
1101.350	Appeal of a Denial
1101.400	Director's Response to Appeal

SUBPART E: PROCEDURES FOR PROVIDING
PUBLIC RECORDS TO REQUESTORS

Section	
1101.450	Inspection of Records at Department Offices
1101.500	Copies of Public Records
1101.550	General Materials Available

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1101.TABLE A	Request for Public Records
1101.TABLE B	Fee Schedule for Duplication of Public Records
1101.TABLE C	Approval of Request for Public Records (Repealed)
1101.TABLE D	Denial of Request for Public Records (Repealed)
1101.TABLE E	Partial Approval of Request for Public Records (Repealed)
1101.TABLE F	Deferral of Response to Request for Public Records (Repealed)
1101.TABLE G	FOIA Appeal Director's Response (Repealed)

AUTHORITY: Implementing and authorized by the Freedom of Information Act [5 ILCS 140] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/2-13].

SOURCE: Adopted and codified at 8 Ill. Reg. 10015, effective July 1, 1984; amended at 10 Ill. Reg. 14709, effective August 29, 1986; amended at 11 Ill. Reg. 8719, effective April 22, 1987; amended at 11 Ill. Reg. 18225, effective November 1, 1987; amended at 13 Ill. Reg. 8885, effective June 1, 1989; amended at 25 Ill. Reg. 674, effective January 1, 2001; amended at 28 Ill. Reg. 9116, effective July 1, 2004.

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

Section 1101.200 Form and Content of Requests

- a) Requests in accordance with the FOIA and this Part shall be made in writing. Such requests may be submitted on FOIA request forms provided by the Department. (See Table A to this Part)
- ~~b) Oral requests will be handled expeditiously. However, the required response times and the appeal procedures contained in the FOIA and this Part do not apply to oral requests.~~
- ~~b)e)~~ The requestor shall provide the following information in a request for public records:
 - 1) The requestor's full name, address and phone number.
 - 2) A brief specific description of the public records sought, including if possible, an example of the document requested.
 - 3) Whether the request is for inspection of public records, copies of public records, or both.

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(Source: Amended at 28 Ill. Reg. 9116, effective July 1, 2004)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Number: 130.552 Adopted Action: New Section
- 4) Statutory Authority: P.A. 93-0022
- 5) Effective Date of Amendment: June 18, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 27 Ill. Reg. 18521; December 12, 2003
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: Grammatical, punctuation or technical changes were made as agreed upon with JCAR.

The following changes were also made:

In Section 130.552(b), added a colon after the word "may", and changed the remainder of this sentence to read:

- 1) List a cumulative total of that distributor's, importing distributor's, or manufacturer of alcoholic liquor's total sales of alcoholic liquor to a retailer within that current calendar month on all invoices provided to that retailer; or
- 2) No later than the 10th day of the month, provide by electronic means a cumulative total of that distributor's, importing distributor's, and manufacturer of alcoholic liquor's total sales of alcoholic liquor to that retailer for the prior calendar month, if the retailer agrees prior to the distributor, importing distributor, or manufacturer using such a method. For purposes of this paragraph, the term "electronic means" includes, but is not limited to, the use of a secure Internet website, e-mail, or facsimile."

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- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No. The emergency amendment expired April 23, 2004.
- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
130.120	Amendment	28 Ill. Reg. 3753, 02/27/04
130.320	Amendment	28 Ill Reg. 3753, 02/27/04
130.325	Amendment	28 Ill. Reg. 3753, 02/27/04
130.331	Amendment	28 Ill. Reg. 3753, 02/27/04
130.332	Amendment	28 Ill. Reg. 3753, 02/27/04
130.335	Amendment	28 Ill. Reg. 3753, 02/27/04
130.340	Amendment	28 Ill. Reg. 3753, 02/27/04
130.345	Amendment	28 Ill. Reg. 3753, 02/27/04
130.350	Amendment	28 Ill. Reg. 3753, 02/27/04
130.351	Amendment	28 Ill. Reg. 3753, 02/27/04
130.551	Amendment	28 Ill. Reg. 3753, 02/27/04
130.341	New Section	28 Ill. Reg. 4106, 03/05/04

- 15) Summary and Purpose of Amendment: This rulemaking implements the requirements of P.A. 93-0022 that require purchases of alcoholic liquor to be reported to the Department by liquor retailers and liquor wholesalers beginning on October 1, 2003. This rulemaking requires liquor stores, taverns, and restaurants that serve alcoholic beverages to report liquor purchases for each month on their ST-1, Sales and Use Tax Return, and to file such returns using the Department’s TeleFile system. Such reporting requirements do not apply to taxpayers that make quarter-monthly sales tax payments or wholesalers or manufacturers of alcoholic liquors. This rulemaking also requires wholesalers and manufacturers of alcoholic liquor to electronically file a statement with the Department on the 10th day of each month showing the total amount of gross receipts from alcoholic liquors sold or distributed to purchasers in the preceding month. As an alternative, the rules allow such wholesalers and manufacturers of alcoholic liquor to electronically file the statement in conjunction with their electronically filed Form RL-26, Liquor Revenue Return, no later than the 15th day of the month. Wholesalers and manufacturers of alcoholic liquor are also required to provide liquor stores, taverns, and restaurants with a copy of such statement by the 10th day of each month. However, the rules allow such wholesalers and manufacturers of alcoholic liquor to provide a cumulative total of sales

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to each retailer on the invoices provided to each retailer or provide such information to each retailer in an electronic format in lieu of providing the statement to those retailers.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Terry D. Charlton
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

Phone: (217) 782-2844

- 16) The full text of the adopted amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section	
130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section	
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol
130.321	Fuel Used by Air Common Carriers in International Flights
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit
130.332	Automatic Vending Machines
130.335	Pollution Control Facilities
130.340	Rolling Stock
130.345	Oil Field Exploration, Drilling and Production Equipment

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- 130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351 Aggregate Manufacturing

SUBPART D: GROSS RECEIPTS

Section

- 130.401 Meaning of Gross Receipts
130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410 Cost of Doing Business Not Deductible
130.415 Transportation and Delivery Charges
130.420 Finance or Interest Charges – Penalties – Discounts
130.425 Traded-In Property
130.430 Deposit or Prepayment on Purchase Price
130.435 State and Local Taxes Other Than Retailers' Occupation Tax
130.440 Penalties
130.445 Federal Taxes
130.450 Installation, Alteration and Special Service Charges
130.455 Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section

- 130.501 Monthly Tax Returns – When Due – Contents
130.502 Quarterly Tax Returns
130.505 Returns and How to Prepare
130.510 Annual Tax Returns
130.515 First Return
130.520 Final Returns When Business is Discontinued
130.525 Who May Sign Returns
130.530 Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations
130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540 Returns on a Transaction by Transaction Basis
130.545 Registrants Must File a Return for Every Return Period
130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel
[130.552 Alcoholic Liquor Reporting](#)
130.555 Vending Machine Information Returns
130.560 Verification of Returns

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SUBPART F: INTERSTATE COMMERCE

Section	
130.601	Preliminary Comments
130.605	Sales of Property Originating in Illinois
130.610	Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

Section	
130.701	General Information on Obtaining a Certificate of Registration
130.705	Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710	Procedure When Security Must be Forfeited
130.715	Sub-Certificates of Registration
130.720	Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725	Display
130.730	Replacement of Certificate
130.735	Certificate Not Transferable
130.740	Certificate Required For Mobile Vending Units
130.745	Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section	
130.801	General Requirements
130.805	What Records Constitute Minimum Requirement
130.810	Records Required to Support Deductions
130.815	Preservation and Retention of Records
130.820	Preservation of Books During Pendency of Assessment Proceedings
130.825	Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

Section	
130.901	Civil Penalties
130.905	Interest
130.910	Criminal Penalties

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SUBPART J: BINDING OPINIONS

- Section
130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

- Section
130.1101 Definition of Federal Area
130.1105 When Deliveries on Federal Areas Are Taxable
130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

- Section
130.1201 General Information
130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

- Section
130.1301 When Lessee of Premises Must File Return for Leased Department
130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

- Section
130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
130.1410 Requirements for Certificates of Resale (Repealed)
130.1415 Resale Number – When Required and How Obtained
130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

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Section

130.1501	Claims for Credit – Limitations – Procedure
130.1505	Disposition of Credit Memoranda by Holders Thereof
130.1510	Refunds
130.1515	Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON
SELLING OUT OR DISCONTINUING BUSINESS

Section

130.1601	When Returns are Required After a Business is Discontinued
130.1605	When Returns Are Not Required After Discontinuation of a Business
130.1610	Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

130.1701	Bulk Sales: Notices of Sales of Business Assets
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SUBPART R: POWER OF ATTORNEY

Section

130.1801	When Powers of Attorney May be Given
130.1805	Filing of Power of Attorney With Department
130.1810	Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

Section

130.1901	Addition Agents to Plating Baths
130.1905	Agricultural Producers
130.1910	Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
130.1915	Auctioneers and Agents
130.1920	Barbers and Beauty Shop Operators
130.1925	Blacksmiths
130.1930	Chiropodists, Osteopaths and Chiropractors
130.1935	Computer Software
130.1940	Construction Contractors and Real Estate Developers

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- 130.1945 Co-operative Associations
- 130.1950 Dentists
- 130.1951 Enterprise Zones
- 130.1952 Sales of Building Materials to a High Impact Business
- 130.1955 Farm Chemicals
- 130.1960 Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
- 130.1965 Florists and Nurserymen
- 130.1970 Hatcheries
- 130.1971 Sellers of Pets and the Like
- 130.1975 Operators of Games of Chance and Their Suppliers
- 130.1980 Optometrists and Opticians
- 130.1985 Pawnbrokers
- 130.1990 Peddlers, Hawkers and Itinerant Vendors
- 130.1995 Personalizing Tangible Personal Property
- 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
- 130.2004 Sales to Nonprofit Arts or Cultural Organizations
- 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
- 130.2006 Sales by Teacher-Sponsored Student Organizations
- 130.2007 Exemption Identification Numbers
- 130.2008 Sales by Nonprofit Service Enterprises
- 130.2009 Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
- 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others
- 130.2011 Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
- 130.2012 Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
- 130.2013 Persons in the Business of Both Renting and Selling Tangible Personal Property – Tax Liabilities, Credit
- 130.2015 Persons Who Repair or Otherwise Service Tangible Personal Property
- 130.2020 Physicians and Surgeons
- 130.2025 Picture-Framers
- 130.2030 Public Amusement Places
- 130.2035 Registered Pharmacists and Druggists
- 130.2040 Retailers of Clothing
- 130.2045 Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
- 130.2050 Sales and Gifts By Employers to Employees
- 130.2055 Sales by Governmental Bodies

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130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065	Sales of Automobiles for Use In Demonstration (Repealed)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2075	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps and Discount Coupons
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments
130.2155	Tax Liability of Sign Vendors
130.2156	Vendors of Steam
130.2160	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians
130.2170	Warehousemen

SUBPART T: DIRECT PAYMENT PROGRAM

Section	
130.2500	Direct Payment Program
130.2505	Qualifying Transactions, Non-transferability of Permit
130.2510	Permit Holder's Payment of Tax
130.2515	Application for Permit
130.2520	Qualification Process and Requirements
130.2525	Application Review
130.2530	Recordkeeping Requirements

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130.2535 Revocation and Withdrawal

130.ILLUSTRATION A Examples of Tax Exemption Card

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568,

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effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; expedited correction at 27 Ill. Reg. 8480, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004.

SUBPART E: RETURNS

Section 130.552 Alcoholic Liquor Reporting

- a) Retailer Liquor Report. Beginning on October 1, 2003, any person that is engaged in the business of selling alcoholic liquor at retail through a liquor store, tavern, or restaurant shall file a monthly statement with the Department listing the total amount paid for alcoholic liquor purchased during the preceding calendar month. The statement shall be filed on such person's Form ST-1, Sales and Use Tax Return, by including the total amount shown on invoices for alcoholic liquor

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delivered during the preceding calendar month. Such Form ST-1 Return shall be filed using the Department's TeleFile program (86 Ill. Adm. Code 770). The requirements of this subsection (a) shall not apply to any person who is a licensed distributor, importing distributor, or manufacturer as those persons are described in Sections 1-3.08, 1-3.15, and 1-3.16 of the Liquor Control Act of 1934. The requirements of this subsection (a) shall not apply to any person who is required to make quarter monthly payments on the 7th, 15th, 22nd, and last day of each month under Section 3 of the Retailers' Occupation Tax Act. [35 ILCS 120/3] For purposes of this subsection (a):

- 1) "Liquor store" means any legal entity that is operated primarily to sell alcoholic liquor at retail to the public. To meet the primary test, the selling price of all the alcoholic liquor sold during a calendar year must exceed 50% of the selling price of all retail sales for that calendar year.
 - 2) "Tavern" means any legal entity that is operated to sell alcoholic liquor at retail to the public for on-premises consumption.
 - 3) "Restaurant" means any legal entity that is operated to sell food and alcoholic liquor at retail to the public for on-premises consumption.
- b) Distributor Liquor Report. Beginning on October 1, 2003, every distributor, importing distributor, and manufacturer of alcoholic liquor, as those persons are described in Sections 1-3.08, 1-3.15, and 1-3.16 of the Liquor Control Act of 1934, shall file, in an electronic format prescribed by the Department, a statement with the Department of Revenue, no later than the 10th day of the month for the preceding month during which transactions occurred showing the total amount of gross receipts from the sale of alcoholic liquor sold or distributed during the preceding calendar month to purchasers; identifying the purchaser to whom it was sold or distributed; the purchaser's tax registration number; and such other information reasonably required by the Department. A copy of the monthly statement shall be provided to the retailer no later than the 10th day of the month for the preceding calendar month during which such transactions occurred. In lieu of such a statement, a distributor, importing distributor, or manufacturer of alcoholic liquor may:
- 1) List a cumulative total of that distributor's, importing distributor's, or manufacturer of alcoholic liquor's total sales of alcoholic liquor to a retailer within that current calendar month on all invoices provided to that retailer; or

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- 2) No later than the 10th day of the month, provide by electronic means a cumulative total of that distributor's, importing distributor's, or manufacturer of alcoholic liquor's total sales of alcoholic liquor to that retailer for the prior calendar month, if the retailer agrees prior to the distributor, importing distributor, or manufacturer using such a method. For purposes of this paragraph, the term "electronic means" includes, but is not limited to, the use of a secure Internet website, e-mail, or facsimile.

The statement required to be filed with the Department under this subsection (b) shall be filed no later than the 10th day of the month for the preceding calendar month in an electronic format prescribed by the Department. If the distributor, importing distributor, or manufacturer files its Form RL-26, Liquor Revenue Return, electronically, the statement required to be filed under this subsection (b) may be filed in conjunction with the electronic filing of the Liquor Revenue Return no later than the 15th day of the month for the preceding calendar month. [35 ILCS 120/3]

(Source: Added at 28 Ill. Reg. 9121, effective June 18, 2004)

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- 1) Heading of the Part: Federal Family Education Loan Program (FFELP)
- 2) Code Citation: 23 Ill. Adm. Code 2720
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2720.10	Amendment
2720.25	Amendment
2720.50	Amendment
2720.70	Amendment
- 4) Statutory Authority: Implementing Sections 80 through 175 of the Higher Education Student Assistance Act [110 ILCS 947/80 through 175]; Title IV, Part B, of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1071 et seq.); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]
- 5) Effective date of amendments: July 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of these adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: February 6, 2004; 28 Ill. Reg. 2008
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposed and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing an

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initiative to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. In addition to making minor technical and grammatical changes throughout this Part, ISAC adopted the following substantive amendments: several citations referencing federal regulations have been added and others updated throughout this Part in order to make it easier for ISAC clients to find the most relevant sections. In Section 2720.25(b), the restriction on eligibility of educational lenders to Illinois institutions has been removed. FFELP is a federal program, and no such restriction is required and, in some cases, may limit ISAC's ability to most effectively service the needs of all of its clients. Also, in Section 2720.70(f), the requirement for a copy of a note to be certified has been removed since it is not required by federal regulations.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Thomas A. Breyer
Deputy Program Officer
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015
847/948-8500
email: tbreyer@isac.org

The full text of the adopted amendments begins on the next page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2720

FEDERAL FAMILY EDUCATION LOAN PROGRAM (FFELP)

SUBPART A: FEDERAL LOAN PROGRAMS: THE FEDERAL STAFFORD LOAN PROGRAM, FEDERAL PLUS PROGRAM, FEDERAL SUPPLEMENTAL LOANS FOR STUDENTS (SLS) PROGRAM, AND FEDERAL CONSOLIDATION LOAN PROGRAM

Section

2720.5	Summary and Purpose
2720.6	Definitions (Repealed)
2720.10	Eligibility for ISAC Loan Guarantees
2720.20	Lender Eligibility
2720.25	Educational Lender Eligibility
2720.30	Institutional Eligibility
2720.35	Holder Eligibility
2720.40	Procedures for Obtaining a Guaranteed Loan
2720.41	One-Lender Requirement
2720.42	One-Holder Requirement
2720.50	Procedures for Disbursement, Delivery and Repayment
2720.55	Federal Consolidation Loan Program
2720.60	Default Aversion Assistance
2720.70	Reimbursement Procedures
2720.80	Student Guarantee Fee
2720.90	Guarantee Transfers

SUBPART B: ILLINOIS DESIGNATED ACCOUNT PURCHASE PROGRAM (IDAPP)

Section

2720.105	Summary and Purpose
2720.120	IDAPP Eligible Loans
2720.130	IDAPP Eligible Lenders

SUBPART C: ISAC ORIGINATED LOANS

Section

2720.200	ISAC Originated Consolidation Loans
2720.210	Illinois Opportunity Loan Program (IOP)

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2720.220 Federal Family Education Loan Program (FFELP) Loans

2720.APPENDIX A Required Activities of Educational Lenders (Repealed)

AUTHORITY: Implementing Sections 80 through 175 of the Higher Education Student Assistance Act [110 ILCS 947/80 through 175]; Title IV, Part B, of the Higher Education Act of 1965, as amended (20 USCA 1071 et seq.); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted at 3 Ill. Reg. 4, p. 38, effective January 26, 1979; amended at 5 Ill. Reg. 8698, effective August 17, 1981; emergency rule and emergency repealer at 6 Ill. Reg. 7558, 7573, effective June 9, 1982, for a maximum of 150 days; new rules adopted at 6 Ill. Reg. 13799, effective October 25, 1982; old rules repealed at 6 Ill. Reg. 15254, effective December 3, 1982; emergency amendment at 7 Ill. Reg. 9942, effective August 8, 1983, for a maximum of 150 days; codified at 7 Ill. Reg. 13309; amended at 8 Ill. Reg. 876, effective January 9, 1984; amended at 8 Ill. Reg. 7286, effective May 18, 1984; amended at 8 Ill. Reg. 17006, effective September 5, 1984; amended at 9 Ill. Reg. 20796, effective January 1, 1986; amended at 11 Ill. Reg. 3181, effective January 29, 1987; emergency amendment at 11 Ill. Reg. 13669, effective August 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14103, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 18370, effective October 23, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20989, effective January 1, 1988; amended at 12 Ill. Reg. 6971, effective April 1, 1988; amended at 12 Ill. Reg. 11520, effective July 1, 1988; emergency amendment at 12 Ill. Reg. 15221, effective September 15, 1988, for a maximum of 150 days; emergency expired February 12, 1989; amended at 13 Ill. Reg. 2872, effective February 16, 1989; amended at 13 Ill. Reg. 8630, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Adm. Code 1720 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2720 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17855; emergency amendment at 14 Ill. Reg. 4266, effective March 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10553, effective July 1, 1990; amended at 14 Ill. Reg. 10941, effective July 1, 1990; emergency amendments at 15 Ill. Reg. 18769, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 4060, effective February 28, 1992; amended at 16 Ill. Reg. 11224, effective July 1, 1992; emergency amendment at 17 Ill. Reg. 2055, effective February 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 10506, effective July 1, 1993; amended at 18 Ill. Reg. 10254, effective July 1, 1994; emergency amendment at 18 Ill. Reg. 15636, effective October 15, 1994, for a maximum of 150 days; emergency expired March 13, 1995; amended at 19 Ill. Reg. 6215, effective April 15, 1995; amended at 19 Ill. Reg. 8320, effective July 1, 1995; amended at 20 Ill. Reg. 9147, effective July 1, 1996; amended at 21 Ill. Reg. 11038, effective July 18, 1997; amended at 22 Ill. Reg. 11051, effective July 1, 1998; amended at 23 Ill. Reg. 7537, effective July 1, 1999; amended at 24 Ill. Reg. 9101, effective July 1, 2000; amended at 25 Ill. Reg. 8369, effective July 1, 2001; amended

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at 26 Ill. Reg. 9998, effective July 1, 2002; amended at 27 Ill. Reg. 10326, effective July 1, 2003; amended at 28 Ill. Reg. 9135, effective July 1, 2004.

SUBPART A: FEDERAL LOAN PROGRAMS:
THE FEDERAL STAFFORD LOAN PROGRAM, FEDERAL PLUS PROGRAM,
FEDERAL SUPPLEMENTAL LOANS FOR STUDENTS (SLS) PROGRAM,
AND FEDERAL CONSOLIDATION LOAN PROGRAM

Section 2720.10 Eligibility for ISAC Loan Guarantees

- a) Applicants may apply for a loan guarantee by submitting a common ED-approved application form or through a comparable electronic process in accordance with federal law. (See 15 USCA 7001 et seq.)
- b) Borrower eligibility requirements for guaranteed loans are established by federal regulations (34 CFR 682.201).
- c) The student must be enrolled, or accepted for enrollment, at an approved postsecondary institution which has certified the applicant as eligible for a guaranteed loan.
- d) An applicant shall not be disqualified for a loan guarantee by ISAC if the lender, the institution, the student, and the borrower meet the eligibility requirements of Title IV, Part B, of the Higher Education Act of 1965, as amended (20 USCA 1071 et seq.), of federal regulations and of this Subpart.
- e) No loan guarantee shall be issued if such loan would exceed the annual or aggregate amount permitted such borrower, as specified by federal regulations (34 CFR 682.204).
- f) The institution shall compute a recommended loan amount for each applicant in accordance with Section 425(a)(1) of the Higher Education Act, as amended. No guaranteed loan may exceed the institution's recommended amount.
 - 1) When certifying loan eligibility for an academic year which will span academic levels, the institution's recommended loan amount shall not exceed the maximum permitted for the applicant's academic level at the time of certification.
 - 2) Should a student borrow in excess of the permitted loan maximums, the student becomes ineligible for federal financial assistance for that

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academic year. (See Section 484 of the Higher Education Act of 1965, as amended (20 USCA 1091) and 34 CFR ~~668.32(g)(2)~~~~668.7(a)(9)~~.)

(Source: Amended at 28 Ill. Reg. 9135, effective July 1, 2004)

Section 2720.25 Educational Lender Eligibility

- a) Educational lenders must meet the eligibility requirements of institutions as outlined in Section 2720.30, Institutional Eligibility, and must meet the eligibility requirements established for lenders as outlined in Section 2720.20, Lender Eligibility. Also, educational lenders must comply with all federal regulations related to the origination, disbursement and servicing of a loan. (See, e.g., 34 CFR 682.601.)
- b) ~~Institutions~~~~Illinois institutions~~ may be approved as lenders if approved by ED and if the following requirements are met.
 - 1) The specific materials to be provided by an institution in seeking approval as an eligible lender are:
 - A) An audited, certified and preferably unqualified annual financial statement prepared by a firm of certified public accountants (CPA). The statement must cover a period of no less than 12 months and be no more than 12 months old at the time of submission. The CPA firm must express an acceptable opinion on the statement, and the statement shall consist of no less than a balance sheet, a statement of profit and loss, and all attendant notes thereto;
 - B) An institutional catalog;
 - C) A statement of the institution's default/delinquency experience as a lender in the Federal Perkins Loan Program, FFELP, and/or Federal Insured Student Loan (FISL) Program (20 USCA 1071 et seq.);
 - D) A statement explaining the source of the institution's lending capital; and
 - E) Any other materials which might be requested by ISAC to show the institution's potential qualifications as a lender.

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- 2) In addition to the above materials, a school which is organized on a for-profit basis will be requested to submit a:
 - A) copy of its student contract;
 - B) description of its admission/sales staff and their functions;
 - C) statement of the institution's drop-out/completion rates;
 - D) sample of the institution's advertising materials; and
 - E) description or copies of student complaints filed with the institution in the last two years. In addition to these materials, ISAC will secure a Dun and Bradstreet Report on the institution, a statement from the Better Business Bureau with regard to any consumer complaints, and a statement from the institution's accrediting association.

- 3) The applications for eligible educational lender status in the programs and the supporting documentation shall be reviewed by ISAC staff. The applicant institution shall be informed of its annual lending limit, as well as any additions to the lender agreement which ISAC determines are prudent in individual instances to protect the default record of ISAC. If the institution is approved as an educational lender, it will execute an Educational Lender Agreement which will include:
 - A) the institution's agreement to comply with statutes, federal regulations and State rules;
 - B) a statement of agreement including, or referring to, the list of required activities of educational lenders as outlined in 34 CFR 682.601;
 - C) a statement of agreement including, or referring to, the federal regulations with respect to loan disbursements and refund application;
 - D) a statement of agreement including, or referring to, the federal regulations definition of "due diligence"; and
 - E) an expiration date of such lending contract which shall not be later

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than the end of the first full fiscal year following the negotiation of the contract, at which time its renewal shall be considered by ISAC.

- c) A loan guarantee shall be canceled if the educational lender fails to comply with federal regulations, statutes, ISAC rules or procedures, provided such failure impairs ISAC's ability to recover the expense of reimbursing the educational lender for the defaulted loan.
- d) ISAC conducts compliance reviews to determine if approved educational lenders are complying with federal regulations, statutes and rules.
- e) Educational lenders that do not maintain the standards of administrative capability or financial responsibility demonstrated in their original applications for participation, or required by federal regulations, may be subject to administrative limitation, suspension or termination proceedings. (See 23 Ill. Adm. Code 2790.)

(Source: Amended at 28 Ill. Reg. 9135, effective July 1, 2004)

Section 2720.50 Procedures for Disbursement, Delivery and Repayment

- a) Disbursement, delivery and repayment procedures are specified in federal regulations. (See 34 CFR 682.206, 34 CFR 682.207, 34 CFR 682.209, and 34 CFR 682.604.)
- b) Prior to disbursement, the borrower shall execute a common ED-approved promissory note for the principal and interest on the loan. The lender shall retain an original or true and exact copy of the promissory note. (See 34 CFR 682.414.)
- c) The lender shall transmit to ED any and all statements and reports necessary to obtain federal interest payments on the borrower's behalf. The lender shall not collect or attempt to collect from the borrower or ISAC any portion of the interest on the loan which is payable by ED.
- d) Except for loans pursuant to Section 2720.55, or loans made under a Blanket Certificate of Loan Guaranty agreement, the lender shall not disburse the proceeds of any loan on the borrower's behalf unless and until the lender shall have received from ISAC evidence of a guarantee. The lender shall inform ISAC of all disbursement dates.
- e) Federal Stafford and Federal PLUS Loan proceeds shall be transmitted directly to

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the institution.

- 1) Federal Stafford Loan checks shall be payable to the student borrower unless the institution requires all Stafford loan checks to be co-payable to the borrower and the institution. Federal PLUS Loan checks shall be co-payable ~~or sent via EFT~~ to the institution and the parent borrower. Federal Stafford or Federal PLUS Loan funds disbursed either via EFT or by Master Check to the institution shall include information identifying the names, Social Security Numbers and the loan amounts of the borrowers who are receiving a portion of the disbursement, and the names and the Social Security Numbers of the students on whose behalf the parents are borrowing.
- 2) Loan proceeds must be disbursed to the institution and delivered to the borrower no later than 120 days after the end of the loan period or 120 days after the date on which the student ceased to be enrolled at least half-time, whichever is earlier. In cases where the student is not at fault, a late disbursement may be made beyond the 120 day period if the institution makes such a request and it is approved by ED. If the loan proceeds are not delivered pursuant to this subsection, the school must request that the loan be canceled and must return any loan proceeds. (See 34 CFR 668.164(g).)
- 3) If the student has withdrawn from enrollment and federal regulations require the institution to submit a refund to the lender, either electronically or in the form of a check payable to the lender on behalf of the borrower, the institution shall provide simultaneous written notice to the borrower of the refund.
 - A) If the institution fails to issue a timely refund, as defined by federal regulations (see 34 CFR 682.607(c) ~~and 668.22(j)~~), the institution shall pay penalty interest.
 - B) The penalty interest shall equal the total amount of interest and special allowance generated by the principal value of the refund amount. The penalty interest shall be computed from the date the refund was due until the date the refund was issued.
 - C) The penalty interest shall be paid to the lender or subsequent holder.

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- f) The borrower shall have the right to prepay without penalty the whole or any part of a loan guaranteed hereunder.
- g) The lender or holder shall notify the borrower of the repayment options available, as specified in 34 CFR 682.209. The lender or holder shall send a repayment schedule to a FFELP borrower no less than 30 days nor more than 240 days before the first payment on the loan is due from the borrower.
- h) The lender or holder shall notify ISAC of payment in full or prepayment in full by the borrower.
- i) In accordance with federal regulations, the lender or holder may extend the maturity date of any note.
- j) Lenders or holders may exercise administrative forbearances, which do not require the agreement of the borrower, as authorized by Section 428(c)(3)(C) of the Higher Education Act of 1965, as amended, and by federal regulations.
- k) Borrowers are entitled to deferments, which extend the maturity date of any note, under conditions established by federal regulations.
- l) ISAC provides lenders or holders with the ED-approved common forms necessary for servicing their guaranteed loan portfolio (e.g., deferment forms, mandatory forbearance forms).
- m) No note shall be sold or transferred by the lender except to an ISAC-approved lender, an ISAC-approved holder, or ISAC.

(Source: Amended at 28 Ill. Reg. 9135, effective July 1, 2004)

Section 2720.70 Reimbursement Procedures

- a) The lender or holder shall request reimbursement from ISAC within 60 days from the date the lender or holder receives a completed request for loan cancellation or discharge due to death, total and permanent disability, attendance at a school that closes, false certification by a school of a borrower's eligibility for a loan, unpaid refunds, or child care provider or teacher loan forgiveness, in accordance with federal regulations and the Higher Education Act of 1965, as amended. (See, e.g., 34 CFR 682.215, ~~682.402~~682.502 and 682.409.)
- b) Requests for default reimbursement must be submitted to ISAC within the time

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frames specified in, and the lender or holder shall be reimbursed in accordance with, federal regulations and the Higher Education Act of 1965, as amended. In the case of a default on a Federal PLUS Loan, the borrower, co-maker and endorser must meet the default criteria contained in federal regulations.

- c) The lender or holder must request ISAC reimbursement for a bankruptcy claim in accordance with federal regulations and the Higher Education Act of 1965, as amended. (See, e.g., 34 CFR 682.402.) The request for reimbursement must be submitted within 30 days after the lender's or holder's receipt of notice that collection on the debt is stayed, or 15 days upon notice of an adversary proceeding for undue hardship. A copy of the restraining order and the appropriate papers must be included. In the case of a bankruptcy involving a Federal PLUS Loan, the borrower, co-maker and endorser must meet the bankruptcy criteria contained in federal regulations.
- d) Prior to reimbursement, the lender or holder must certify compliance with federal due diligence requirements and subsection (h) of this Section.
- e) Prior to reimbursement, the lender or holder must have remitted the guarantee fee established by Section 2720.80.
- f) The lender or holder shall forward to ISAC any payments made by or on behalf of the borrower after default reimbursement and shall advise ISAC of any subsequent information received concerning the borrower. Prior to reimbursement, all original notes or ~~certified~~, true and exact copies of original notes must be properly endorsed and submitted to ISAC. If the notes have been lost or erroneously stamped "Paid in Full," the lender or holder shall execute a Hold Harmless Agreement with ISAC.
- g) No fee or charge to the borrower, other than the maximum interest rate prescribed by ED and the collection charges outlined in federal regulations (see 34 CFR 682.202(f) and (g)), including the student guarantee fee, and the federal loan origination fee, shall be contracted for or received by the lender.
- h) The lender or holder shall make a proper collection effort in accordance with acceptable practices of prudent lending institutions including, but not limited to, the collection activities required by federal regulations. (See, e.g., 34 CFR 682.402, 682.411 and 682.412.)
- i) ISAC shall collect the outstanding amount on the reimbursed guaranteed loan. If the borrower refuses to retire the debt, ISAC shall follow the requirements of

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federal regulations, including, but not limited to, offsets of federal income tax refunds and other payments made by the federal government to the borrower. (See 34 CFR 682.410.)

- j) Should a borrower refuse to retire the debt, ISAC shall direct the State Comptroller to offset any payment from the State Treasurer to the borrower. The funds offset shall be remitted to ISAC and credited against the debt.
- 1) All offsets shall be processed in accordance with 74 Ill. Adm. Code 285.
 - 2) ISAC shall not direct an offset if the borrower has maintained a satisfactory repayment record. (See 23 Ill. Adm. Code 2700.40(a)(1).)
 - 3) ISAC shall notify a borrower of the possibility of an offset no less than 15 days prior to the first offset. ISAC may provide additional notice of subsequent offsets for the same debt. Should the borrower dispute the debt, an appeal must be filed within 15 days after and including the date of the notice. Appeals will be processed in accordance with 23 Ill. Adm. Code 2700.70. If the requested relief is granted, the funds offset shall be returned to the borrower.
 - 4) Funds eligible to be offset include, but are not limited to, State income tax refunds and the wages of State employees.
- k) ISAC shall provide a borrower with an opportunity for an administrative review of the legal enforceability or past-due status of the loan obligation after it pays a default claim but before it reports the default to a credit bureau or assesses collection costs against the borrower, in accordance with federal regulations (34 CFR ~~682.410(b)(5)(ii)(C)~~682.410(b)(5)(ii)(e)).
- l) ISAC may garnish the disposable pay of a borrower if the individual is not currently making required payments, in accordance with Section 488A of the Higher Education Act, as amended.
- m) ISAC requires the lender or holder to submit a request for an increase in claim payment within 90 days after receiving the claim payment. ISAC will provide the lender or holder with a determination on the increase in claim payment within 90 days after receiving the request and supporting documentation.

(Source: Amended at 28 Ill. Reg. 9135, effective July 1, 2004)

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- 1) Heading of the Part: Silas Purnell Illinois Incentive For Access (IIA) Program
- 2) Code Citation: 23 Ill. Adm. Code 2736
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
2736.10	Amendment
2736.20	Amendment
2736.30	Amendment
2736.40	Amendment
- 4) Statutory Authority: Implementing Section 36 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/36 and 20(f)]
- 5) Effective Date of Amendments: July 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: February 6, 2004; 28 Ill. Reg. 2033
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposed and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing an initiative to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. In

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addition to making minor technical and grammatical changes throughout this Part, ISAC adopted the following substantive amendments:

Public Act 93-0455 made several changes to this program, including a name change to the Silas Purnell Illinois Incentive for Access (IIA) Program, which will be effective July 1, 2004. Applicant Eligibility, Section 2736.20, has been amended to reflect the expansion of eligibility to include applicants with an Expected Family Contribution (EFC) of \$500 or less, versus the current eligibility of applicants with a \$0 EFC only. Amendments to Section 2736.30, Program Procedures, reflect an increase in the award amount from \$500 to an amount not to exceed \$1,000 for applicants with an EFC of \$0, and also add a new level of grant, allowing for awards not to exceed \$500 to be given to students with an Expected Family Contribution (EFC) of \$500 or less, but more than \$0. Both award amounts are subject to appropriation. As a result of the increase in the award amount, Section 2736.40, Institutional Procedures, is amended to reflect that grants are to be paid to the institution in two disbursements in an amount not to exceed \$500 each term.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Thomas A. Breyer
Deputy Program Officer
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015

(847) 948-8500
email: tbreyer@isac.org

The full text of the adopted amendments begins on the next page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2736

SILAS PURNELL ILLINOIS INCENTIVE FOR ACCESS (IIA) PROGRAM

Section

2736.10	Summary and Purpose
2736.20	Applicant Eligibility
2736.30	Program Procedures
2736.40	Institutional Procedures

AUTHORITY: Implementing Section 36 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/36 and 20(f)].

SOURCE: Emergency rules adopted at 20 Ill. Reg. 10397, effective August 1, 1996, for a maximum of 150 days; adopted at 20 Ill. Reg. 15067, effective November 15, 1996; old Part repealed, new Part adopted at 21 Ill. Reg. 11110, effective July 18, 1997; amended at 22 Ill. Reg. 11095, effective July 1, 1998; amended at 24 Ill. Reg. 9144, effective July 1, 2000; amended at 25 Ill. Reg. 8402, effective July 1, 2001; amended at 26 Ill. Reg. 10033, effective July 1, 2002; amended at 27 Ill. Reg. 10358, effective July 1, 2003; amended at 28 Ill. Reg. 9147, effective July 1, 2004.

Section 2736.10 Summary and Purpose

- a) The **Silas Purnell** Illinois Incentive for Access (IIA) Program provides grant assistance to freshmen who have a limited ability to pay for college. The purpose of the program is to provide access and retention for this population and, possibly, to reduce their loan debt.
- b) This Part establishes rules which govern the IIA Program. Additional rules and definitions are contained in General Provisions, 23 Ill. Adm. Code 2700.

(Source: Amended at 28 Ill. Reg. 9147, effective July 1, 2004)

Section 2736.20 Applicant Eligibility

- a) A qualified applicant shall be:
 - 1) a citizen or eligible noncitizen;

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- 2) a resident of Illinois;
 - 3) an undergraduate student;
 - 4) officially classified by the institution as a freshman;
 - 5) enrolled at an ISAC-approved institution of higher learning;
 - 6) enrolled in an eligible degree or certificate program (see 23 Ill. Adm. Code 2735.20(a)(4));
 - 7) enrolled on at least a half-time basis throughout the institution's tuition refund/withdrawal adjustment period;
 - 8) making satisfactory academic progress as determined by the institution; and
 - 9) with limited ~~without~~ personal or family financial resources available for expenditure toward educational expenses, as defined by current federal student financial aid methodology (i.e., an \$0 Expected Family Contribution (EFC) of \$500 or less).
- b) A qualified applicant shall not have previously received a baccalaureate degree.
- c) Notwithstanding any other provision of this Section, in calculating an applicant's class level standing for purposes of determining eligibility to receive benefits under this program, an institution shall exclude credit hours earned by the applicant through Advanced Placement or other similar proficiency exams.

(Source: Amended at 28 Ill. Reg. 9147, effective July 1, 2004)

Section 2736.30 Program Procedures

- a) An applicant applies for an IIA grant by using the form which the United States Department of Education (ED) designates as the application form for federal student financial aid. (See 20 USCA 1070a.) This is also the application form used for the Monetary Award Program (MAP) grant. (See 23 Ill. Adm. Code 2735.30(a).)
 - 1) An applicant must authorize ED to release his/her data to ISAC.

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- 2) An applicant, spouse and/or parents of the applicant, as applicable, are required to submit financial information on the application regarding income, asset value and non-taxable income (e.g., Temporary Assistance for Needy Families, public aid, veterans' or Social Security benefits). This information shall be kept confidential.
 - 3) A recipient must report to the institution all additional gift assistance, such as tuition waivers and scholarships.
 - 4) An applicant must file his/her application by the deadline date established by ISAC.
- b) A qualified applicant may receive one grant in an amount not to exceed \$1,000, subject to appropriation, for an applicant with an EFC of \$0; or an amount not to exceed \$500, subject to appropriation, for an applicant with an EFC of \$500 or less, but more than \$0 of up to \$500.
 - c) The application must be complete at the time the grant is awarded. ISAC must have accurate data to properly determine an applicant's eligibility. If changes or corrections are necessary after receipt of corrected data, ISAC shall recalculate awards for those applicants whose applications are not in agreement with their financial records.
 - d) It is the responsibility of IIA grant applicants to gain admission to approved Illinois institutions. Illinois institutions are not obligated to admit IIA applicants.
 - e) IIA grant payment is subject to the limit of dollars appropriated to ISAC by the Illinois General Assembly. If funds are insufficient to pay all claims, grants will be awarded according to the date the completed applications were received until funds have been expended.
 - f) ISAC must submit a written evaluation of the IIA Program to the Governor, the General Assembly and the Board of Higher Education, including a report of the progress made toward the goal of increasing the access and retention rates for IIA grant recipients. Therefore, ISAC may collect data from institutions to comply with this requirement.
 - g) IIA grants are applicable to any expense that is used to calculate the applicant's cost of attendance.

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- h) The IIA grant shall not pay for academic programs intended to prepare a student for the General Educational Development (GED) test or for a high school diploma. (See, e.g., 23 Ill. Adm. Code 215.)
- i) The IIA grant shall not pay for audit courses, credit-by-examination and/or life experience, or noncredit course offerings (except qualifying remedial courses). Such course work cannot be used to meet the half-time requirement. Remedial courses shall be eligible for IIA payment provided the student has been accepted into an eligible degree/certificate program and is taking the remedial courses as a part of that program. Payment shall not be made for more than the equivalent of one year of remedial course work (i.e., 30 semester hours or 45 quarter hours). Repeat courses are eligible for IIA payment.
- j) An institution is obligated to provide IIA recipients the same facilities and instruction, on the same terms, as those provided to other students.

(Source: Amended at 28 Ill. Reg. 9147, effective July 1, 2004)

Section 2736.40 Institutional Procedures

- a) Claims for IIA-eligible students shall be submitted by the institution of record after the institution of record certifies to ISAC that the applicant meets the criteria listed in Section 2736.20, Applicant Eligibility.
- b) IIA grants are paid directly to the institution of record in two disbursements consisting of payments in an amount not to exceed \$500~~of \$250~~ each term.
- c) Notwithstanding the provisions of other ISAC-administered programs, the total amount of a student's gift assistance may not exceed the cost of attendance used to calculate Title IV aid for that student. If a student is receiving both MAP and IIA and the gift assistance exceeds the cost of attendance, IIA should be used first and MAP should be reduced to prevent an overaward. For the purposes of this calculation, federal veterans benefits are not counted as gift assistance.
- d) For institutions with concurrent registration opportunities:
 - 1) the recipient must indicate his/her institution of record on the financial aid application;
 - 2) the institution of record shall distribute the appropriate share of the award to the other institutions. Payment by ISAC will not be made to more than

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- one institution;
- 3) concurrent registration is limited to ISAC-approved institutions of higher learning; and
 - 4) the recipient's academic records at the institution of record must document the total number of credit hours for which the student is enrolled.
- e) If a qualified applicant withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the qualified applicant shall receive the IIA grant payment for that term.
- f) Institutional Processing of Payments
- 1) Institutions may submit their payment requests beginning ten days prior to the start of classes for the term for which they are requesting payment.
 - 2) To provide sufficient time for processing and vouchering through the State Comptroller's Office, all payment requests must be received by ISAC no later than August 1 following the academic year due to the State's fiscal year lapse period ending August 31.
 - 3) Payment requests received after August 1 for the prior academic year will be processed as time and available funds permit. However, final action may require an institution to obtain payment for approved claims through the Illinois Court of Claims. (See the Court of Claims Act [705 ILCS 505].)
 - 4) Within 30 days after receiving payment of any IIA funds, the institution shall credit the recipient's account for the appropriate term.
 - 5) IIA award payments in the name of one recipient cannot be applied to another recipient at the same institution.
 - 6) Following receipt of IIA payments from ISAC for the term, an institution is required to reconcile its records. If the institution determines that refunds are due, they are to be processed and returned to ISAC no later than 60 days following the end of the academic term. Should the payment arrive after the end of the term, the institution will have 60 days following the receipt of payment to complete the reconciliation process and return

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any funds due.

- 7) If the institution does not submit refunds as required by this Section, ISAC will deduct outstanding refunds from subsequent institutional IIA payments.

(Source: Amended at 28 Ill. Reg. 9147, effective July 1, 2004)

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- 1) Heading of the Part: Minority Teachers Of Illinois (MTI) Scholarship Program
- 2) Code Citation: 23 Ill. Adm. Code 2763
- 3) Section Number: 2763.30 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Section 50 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/50 and 20(f)]
- 5) Effective date of amendment: July 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: February 6, 2004; 28 Ill. Reg. 2041
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposed and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing an initiative to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. In addition to making minor technical and grammatical changes throughout this Part, ISAC adopted the following substantive amendments: a minor change has been adopted to Section 2763.30(a)(2) to reflect that renewal applications will be made available to all

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qualified applicants who were awarded MTI Scholarships during the preceding year, rather than just those who actually received Scholarships. This is a somewhat more inclusive group, since some applicants may be selected to receive MTI awards, but may not have awards claimed and paid on their behalf.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Thomas A. Breyer
Deputy Program Officer
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015
847/948-8500
email: tbreyer@isac.org

The full text of the adopted amendment begins on the next page:

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NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2763

MINORITY TEACHERS OF ILLINOIS (MTI) SCHOLARSHIP PROGRAM

Section

2763.10	Summary and Purpose
2763.20	Applicant Eligibility
2763.30	Program Procedures
2763.40	Institutional Procedures

AUTHORITY: Implementing Section 50 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/50 and 20(f)].

SOURCE: Emergency rules adopted at 15 Ill. Reg. 15621, effective October 11, 1991, for a maximum of 150 days; emergency expired on March 9, 1992; adopted at 16 Ill. Reg. 7048, effective April 21, 1992; emergency amendments adopted at 16 Ill. Reg. 16326, effective September 28, 1992, for a maximum of 150 days; emergency expired on February 25, 1993; emergency amendment at 17 Ill. Reg. 175, effective January 1, 1993, for a maximum of 150 days; emergency expired on May 30, 1993; amended at 17 Ill. Reg. 10585, effective July 1, 1993; amended at 18 Ill. Reg. 10325, effective July 1, 1994; amended at 19 Ill. Reg. 8361, effective July 1, 1995; amended at 20 Ill. Reg. 9221, effective July 1, 1996; amended at 20 Ill. Reg. 9221, effective July 1, 1996; old Part repealed, new Part adopted at 21 Ill. Reg. 11174, effective July 18, 1997; amended at 22 Ill. Reg. 11141, effective July 1, 1998; amended at 24 Ill. Reg. 9181, effective July 1, 2000; amended at 27 Ill. Reg. 10385, effective July 1, 2003; amended at 28 Ill. Reg. 9155, effective July 1, 2004.

Section 2763.30 Program Procedures

- a) A completed ISAC application for the MTI Scholarship Program must be postmarked on or before March 1 immediately preceding the regular school year for which the scholarship is being requested, in order to receive priority consideration for an award.
 - 1) Applications are available from qualified institutions of higher learning, State legislative and Congressional offices, and ISAC's Springfield, Deerfield and Chicago offices.
 - 2) ISAC will make renewal applications available to all qualified students

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who ~~were awarded~~received MTI Scholarships during the preceding regular school year.

- 3) If the application is incomplete, ISAC will notify the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will only be considered for processing as of the date when the application is complete and received at ISAC's Deerfield office.
- b) At least 30 percent of the funds appropriated for scholarships awarded under this Section in each fiscal year shall be reserved for male qualified applicants. *If the Commission does not receive enough applications from qualified male minorities on or before January 1 of each fiscal year to award 30% of the funds appropriated for these scholarships to qualified male minority applicants, then the Commission may award a portion of the reserved funds to qualified female minority applicants.* [110 ILCS 947/50]
- c) Notwithstanding the provisions of subsection (b) of this Section, awards will be made first to renewing applicants.
- d) No recipient may receive more than 8 semesters/12 quarters of scholarship assistance under this program.
- e) Scholarship funds are applicable towards up to two semesters/three quarters of study within a regular school year.
- f) The total number of scholarships awarded in a given fiscal year is contingent upon available funding. If appropriated funds are insufficient to provide all qualified applicants with a scholarship, available funds shall be allocated in accordance with subsections (b) and (c) of this Section and on the basis of the dates that the completed applications are received in ISAC's Deerfield office. However, preference may be given to qualified applicants enrolled at or above the junior level.
- g) Qualified applicants may be required to furnish the postsecondary institution at which they are enrolled with a copy of their high school transcripts, any other documentation verifying high school graduation, or a copy of their GED certificates.
- h) Prior to receiving scholarship assistance under this Part, the qualified applicant must sign a Teaching Agreement/Promissory Note that is submitted to ISAC. The

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Teaching Agreement/Promissory Note shall include the following stipulations:

- 1) the recipient pledges to teach, on a full-time equivalent basis, for one year for each year of scholarship aid received, or for any portion of a year for which aid was received, under this Part;
 - 2) the recipient shall begin teaching within one year following the completion of the program for which the recipient received assistance under this Part, and shall teach on a continuous basis for the required period of time;
 - 3) the teaching requirement will be fulfilled at a nonprofit Illinois public, private or parochial preschool, elementary school or secondary school at which no less than 30 percent of the enrolled students are minority students, as certified by the Illinois State Board of Education (ISBE);
 - 4) if the teaching requirement is not fulfilled, the scholarship converts to a loan and the recipient must repay the entire amount of the scholarships prorated according to the fraction of the teaching obligation not completed, plus interest at a rate of interest equal to five percent and, if applicable, reasonable collection fees;
 - 5) the recipient agrees to provide ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.); and
 - 6) the recipient promises to use the proceeds of the scholarship for educational expenses.
- i) A recipient of a scholarship awarded under this Part shall not be in violation of the agreement entered into pursuant to Section 2763.30(h) during periods in which the recipient:
- 1) serves, for not more than three years, as a member of the United States Armed Forces;
 - 2) is enrolled on a full-time basis as a graduate student in a course of study related to the field of teaching at an institution of higher learning;
 - 3) is temporarily totally disabled, for not more than three years, as established by the sworn affidavit of a licensed physician;

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- 4) is actively seeking but unable to find full-time employment as a teacher at a school that satisfies the criteria set forth in subsection (h)(3) of this Section for one continuous period not to exceed two years, and is able to provide evidence of that fact; or
 - 5) is taking additional courses, on at least a half-time basis, needed to obtain certification as a teacher in Illinois.
- j) If a recipient is required to repay any portion of the scholarship, the repayment period shall be completed within ten years after the scholarship converts to a loan. This ten-year period may be extended if the recipient:
- 1) serves, for not more than three years, as a member of the United States Armed Forces;
 - 2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician;
 - 3) is seeking and unable to find full-time employment, for one continuous period not to exceed two years, and is able to provide evidence of that fact; or
 - 4) withdraws from a course of study leading to certification as a teacher but is enrolled full-time in another academic discipline.
- k) During the time a recipient qualifies for any of the extensions listed in subsection (j) of this Section, he or she shall not be required to make payments and interest shall not accrue.
- l) A recipient shall enter repayment status on the earliest of the following dates:
- 1) the first day of the first calendar month after the recipient has ceased to pursue a course of study leading to certification as a teacher at the preschool, elementary or secondary level, but not before six months have elapsed after the cessation of at least half-time enrollment in such a course of study;
 - 2) the date the recipient informs ISAC that he or she does not plan to fulfill the teaching obligation; or

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- 3) the day after the latest date upon which the recipient must have begun teaching after completing the postsecondary education for which the scholarship was awarded.

- m) A recipient shall not be required to repay the amount of the scholarships received if he or she becomes permanently totally disabled as established by the sworn affidavit of a qualified physician (see, e.g., 34 CFR 653.42(k)(1)), or if his or her representative provides ISAC with a death certificate or other evidence that the recipient has died.

(Source: Amended at 28 Ill. Reg. 9155, effective July 1, 2004)

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- 1) Heading of the Part: Illinois Future Teacher Corps (IFTC) Program
- 2) Code Citation: 23 Ill. Adm. Code 2764
- 3) Section Number: 2764.30 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Section 52 of the Higher Education Student Assistance Act [110 ILCS 947/52] and authorized by Sections 20(f) and 52 of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 52]
- 5) Effective date of amendment: July 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of this adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: February 6, 2004; 28 Ill. Reg. 2048
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposed and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing an initiative to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. In addition to making minor technical and grammatical changes throughout this Part, ISAC

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adopted the following substantive amendments: a minor change has been adopted to Section 2764.30(b)(2) to reflect that renewal applications will be made available to all qualified applicants who were awarded IFTC scholarships during the preceding year, rather than just those who actually received scholarships. This is a somewhat more inclusive group, since some applicants may be selected to receive IFTC awards, but may not have awards claimed and paid on their behalf. Section 2764.30(k)(3) is amended to clarify that the teaching requirement under this program must be fulfilled at a nonprofit Illinois public, private or parochial preschool or an Illinois public elementary or secondary school.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Thomas A. Breyer
Deputy Program Officer
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015
847/948-8500
email: tbreyer@isac.org

The full text of the adopted amendment begins on the next page:

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NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSIONPART 2764
ILLINOIS FUTURE TEACHER CORPS (IFTC) PROGRAM

Section

2764.10	Summary and Purpose
2764.20	Applicant Eligibility
2764.30	Program Procedures
2764.40	Institutional Procedures

AUTHORITY: Implementing Section 52 of the Higher Education Student Assistance Act [110 ILCS 947/52] and authorized by Sections 20(f) and 52(h) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 52(h)].

SOURCE: Emergency rules adopted at 19 Ill. Reg. 976, effective February 1, 1995, for a maximum of 150 days; emergency expired on June 30, 1995; adopted at 19 Ill. Reg. 11367, effective August 1, 1995; amended at 20 Ill. Reg. 9141, effective July 1, 1996; old Part repealed at 21 Ill. Reg. 11027 and new Part adopted at 21 Ill. Reg. 11029, effective July 18, 1997; amended at 22 Ill. Reg. 11043, effective July 1, 1998; amended at 24 Ill. Reg. 9095, effective July 1, 2000; amended at 27 Ill. Reg. 10395, effective July 1, 2003; emergency amendment at 27 Ill. Reg. 14860, effective September 10, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 1749, effective January 25, 2004; amended at 28 Ill. Reg. 9162, effective July 1, 2004.

Section 2764.30 Program Procedures

- a) All applicants must complete and file the form which the U.S. Department of Education (ED) designates as an application for federal student financial aid for the purpose of determining the Expected Family Contribution (EFC) which is used as a selection criterion for this award. (See Section 483 of the Higher Education Act of 1965, as amended (20 USCA 1070a).)
- b) A completed ISAC application for the IFTC Program must be postmarked on or before March 1 immediately preceding the academic year for which the scholarship is being requested, in order to receive priority consideration for an award.
 - 1) ISAC applications are available from qualified institutions of higher

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learning, State legislative and Congressional offices, and ISAC's Springfield, Deerfield and Chicago offices.

- 2) ISAC will make renewal applications available to all qualified students who ~~were awarded~~ received assistance under this Part during the preceding academic year.
 - 3) If the student section of an ISAC application is incomplete, ISAC will notify the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will be considered for processing as of the date when the application is complete and received at ISAC's Deerfield office.
- c) ISAC shall select the recipients from among qualified applicants who filed timely applications based on a combination of the following criteria:
- 1) cumulative grade point averages, prioritized from the highest to the lowest. All grade point averages will be converted to a four-point scale;
 - 2) Expected Family Contribution (EFC), from the lowest to the highest;
 - 3) minority students shall receive priority consideration; and
 - 4) recipients of assistance under this Part during the previous academic year shall receive first priority consideration provided the student:
 - A) continues to maintain a cumulative grade point average of no less than 2.5 on a 4.0 scale;
 - B) maintains his or her status as a qualified applicant, as outlined in Section 2764.20(a) of this Part, Applicant Eligibility;
 - C) maintains satisfactory academic progress as determined by the institution; and
 - D) has submitted an application on a timely basis.
 - 5) Preference may also be given to qualified applicants enrolled in teacher shortage disciplines, which shall include early childhood education.

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- d) If all other criteria are equal, priority consideration will be given to the qualified applicant who submitted his or her completed application to ISAC on the earliest date.
- e) A recipient may receive up to 4 semesters/6 quarters of scholarship assistance under this program.
- f) Scholarship funds are applicable toward two semesters/three quarters of half-time and full-time study within an academic year.
- g) The total number of scholarships awarded in a given fiscal year is contingent upon available funding.
- h) To the extent necessary to administer this program within the limits of the State appropriation, the Commission may adjust the priority consideration factors and scholarship amounts established by this Section.
- i) ISAC shall publish guidelines for the awarding of IFTC scholarships.
- j) Notice of eligibility shall be sent by ISAC to each qualified applicant who is selected to receive an IFTC scholarship. A notice will be sent by ISAC to each qualified applicant who is not selected to receive an IFTC scholarship.
- k) Prior to receiving scholarship assistance for any academic year, the qualified applicant must sign a Teaching Agreement/Promissory Note that is submitted to ISAC. The Teaching Agreement/Promissory Note shall include the following stipulations:
 - 1) the recipient pledges to teach, on a full-time basis, for a period of not less than five years and in accordance with any additional commitment to teach in a teacher shortage discipline and/or at a hard-to-staff school, as applicable;
 - 2) the recipient shall begin teaching within one year following completion of the postsecondary education degree or certificate program for which the scholarship was awarded, and shall teach on a continuous basis for the required period of time;
 - 3) the teaching requirement will be fulfilled at ~~a non-profit~~ Illinois public, private or parochial preschool, or an Illinois public elementary or

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secondary school and if the award made under this Part was for teaching at a hard-to-staff school, the school must qualify for teacher loan cancellation under Section 465(a)(2)(A) of the HEA (see 20 USCA 1087ee);

- 4) if the teaching requirement is not fulfilled, the scholarship converts to a loan and the recipient must repay the entire amount of the scholarships prorated according to the fraction of the teaching obligation not completed, plus interest at a rate equal to five percent and, if applicable, reasonable collection fees;
 - 5) the recipient agrees to provide ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.); and
 - 6) the recipient promises to use the proceeds of the scholarship for educational expenses.
- l) A recipient of a scholarship awarded under this Part shall not be in violation of the agreement entered into pursuant to Section 2764.30(k) during period in which the recipient:
- 1) serves, for not more than three years, as a member of the United States Armed Forces; or
 - 2) is enrolled full-time in a graduate course of study related to the field of teaching at an institution of higher learning; or
 - 3) is temporarily totally disabled, for not more than three years, as established by the sworn affidavit of a qualified physician; or
 - 4) is actively seeking but unable to find full-time employment as a teacher at a school that satisfies the criteria set forth in subsection (k)(3) of this Section for one continuous period not to exceed two years, and is able to provide evidence of that fact.
- m) If a recipient is required to repay any portion of the scholarship, the repayment period shall be completed within ten years after the scholarship converts to a loan. This ten-year period may be extended if the recipient:

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- 1) serves, for not more than three years, as a member of the United States Armed Forces; or
 - 2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician; or
 - 3) is pursuing a graduate course of study and is enrolled on a full-time basis for one continuous period of time not to exceed three years; or
 - 4) is seeking and unable to find full-time employment for one continuous period not to exceed two years and is able to provide evidence of that fact; or
 - 5) withdraws from a course of study leading to certification/approval in a teacher shortage discipline, but is enrolled at least half-time as an undergraduate for one continuous period of time not to exceed three years.
- n) During the time a recipient qualifies for any of the extensions listed in subsection (m) of this Section, he or she shall not be required to make payments and interest shall not accrue.
- o) A recipient shall enter repayment status on the earliest of the following dates:
- 1) the first day of the first calendar month after the recipient has ceased to pursue a course of study leading to certification as a teacher, but not until six months have elapsed after the cessation of at least half-time enrollment in such a course of study;
 - 2) the date the recipient informs ISAC that he or she does not plan to fulfill the teaching obligation; or
 - 3) the day after the latest date upon which the recipient must have begun teaching after completing the postsecondary education for which the scholarship was awarded.
- p) A recipient shall not be required to repay the amount of the scholarships received if he or she becomes permanently totally disabled, as established by the sworn affidavit of a licensed physician (see, e.g., 34 CFR 653.42(k)(1)), or if his or her representative provides ISAC with a death certificate or other evidence that the recipient has died.

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- q) Renewal recipients may receive a subsequent award even if their discipline is no longer on the approved list of teacher shortage disciplines.

(Source: Amended at 28 Ill. Reg. 9162, effective July 1, 2004)

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- 1) Heading of the Part: Illinois Special Education Teacher Tuition Waiver (SETTW) Program
- 2) Code Citation: 23 Ill. Adm. Code 2765
- 3)

<u>Section numbers:</u>	<u>Adopted Action:</u>
2765.10	Amendment
2765.30	Amendment
- 4) Statutory Authority: Implementing Section 65.15 of the Higher Education Student Assistance Act [110 ILCS 947/65.15] and authorized by Sections 20(f) and 65.15(a)(2) of the Higher Education Student Assistance Act
- 5) Effective Date of Amendments: July 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposal Published in Illinois Register: February 6, 2004; 28 Ill. Reg. 2056
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposed and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing an initiative to increase the level of standardization in procedures, format and terminology

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throughout our programmatic rules, in order to make them easier for our clients to use. In addition to making minor technical and grammatical changes throughout this Part, ISAC adopts the following substantive amendments:

To more accurately capture statutory changes contained in Public Act 92-0845, but not fully reflected previously, amendments have been adopted to Sections 2765.10(a) and 2765.30(i) to clarify that the teaching commitment under this program may be fulfilled at a nonprofit public, private or parochial preschool, elementary or secondary school in Illinois.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Thomas A. Breyer
Deputy Program Officer
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

(847) 948-8500
email: tbreyer@isac.org

The full text of the adopted amendments begins on the next page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2765

ILLINOIS SPECIAL EDUCATION TEACHER TUITION WAIVER (SETTW) PROGRAM

Section

2765.10	Summary and Purpose
2765.20	Applicant Eligibility
2765.30	Program Procedures
2765.40	Institutional Procedures

AUTHORITY: Implementing Section 65.15 and authorized by Sections 20(f) and 65.15(a)(2) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.15].

SOURCE: Adopted at 19 Ill. Reg. 8354, effective July 1, 1995; amended at 20 Ill. Reg. 9194, effective July 1, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11129, effective July 18, 1997; amended at 22 Ill. Reg. 11107, effective July 1, 1998; amended at 24 Ill. Reg. 9159, effective July 1, 2000; amended at 26 Ill. Reg. 10037, effective July 1, 2002; amended at 27 Ill. Reg. 10405, effective July 1, 2003; amended at 28 Ill. Reg. 9170, effective July 1, 2004.

Section 2765.10 Summary and Purpose

- a) The Illinois Special Education Teacher Tuition Waiver (SETTW) Program encourages current teachers and academically talented students to pursue careers as Illinois public, private or parochial preschool or elementary or secondary school teachers in any area of Special Education.
- b) This Part establishes the rules which govern the Illinois SETTW Program. Additional rules and definitions are contained in General Provisions, 23 Ill. Adm. Code 2700.

(Source: Amended at 28 Ill. Reg. 9170, effective July 1, 2004)

Section 2765.30 Program Procedures

- a) A completed ISAC application for the Illinois SETTW Program must be postmarked on or before March 1 immediately preceding the academic year for which the tuition waiver is being requested, in order to receive priority

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consideration for an award.

- b) ISAC applications for the Illinois SETTW Program are available from eligible institutions; the offices of Regional Superintendents of Education in Illinois; State legislative and federal Congressional offices; and ISAC's Springfield, Deerfield and Chicago offices.
- c) If the student section of an application is incomplete, ISAC will notify the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will be considered for processing as of the date when the student section is complete and received in ISAC's Deerfield office.
- d) Before March 1 of each year, principals of public, private and parochial high schools in Illinois will provide the names of all students in their high school who are anticipated to be qualified applicants.
- e) ISAC shall award 250 Illinois Special Education Teacher Tuition Waivers annually as follows:
 - 1) A maximum of 40 tuition waivers may be awarded annually to qualified applicants who hold valid teaching certificates that are not in the discipline of Special Education. If more than 40 applicants qualify under these provisions, a lottery shall be used to select 40 recipients;
 - 2) A minimum of 210 tuition waivers shall be awarded annually to high school graduates (or students scheduled to graduate) who rank in the upper half of their class. Any of the 40 tuition waivers not awarded pursuant to subsection (d)(1) of this Section shall be awarded to this group;
 - 3) ISAC shall select recipients, who do not hold valid teaching certificates, from among qualified applicants based on the highest ACT or SAT I test scores from the time periods set forth in Section 2760.20(b), (c) and (d), as converted according to the Illinois Standard Test Score table (see 23 Ill. Adm. Code 2760.30(b)(1) and (2)).
 - 4) A lottery will be used to determine recipients if the number of qualified applicants sharing the same Illinois Standard Test Score exceeds the number of tuition waivers to be awarded.
- f) Notice of eligibility will be sent by July 1 to each qualified applicant who is

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selected to receive a tuition waiver. The qualified applicant is then responsible for providing a copy of the notice of eligibility to the institution. All other qualified applicants will be notified that they were not selected.

- g) Tuition waivers are applicable towards credit for any semester/quarter within an academic year.
- h) A recipient shall be exempt from paying tuition and mandatory fees for up to four calendar years.
- i) Prior to receiving assistance, the qualified applicant must sign a Teaching Agreement/Promissory Note, which must be submitted to ISAC. The Teaching Agreement/Promissory Note shall include the following stipulations:
 - 1) the recipient pledges to begin teaching on a full-time basis, in the field of Special Education, within one year following graduation from or termination of enrollment in a teacher education program, at a nonprofit, public, private or parochial preschool, elementary or secondary school in Illinois and to continue teaching for at least 2 of the 5 years immediately following;
 - 2) if the teaching requirement is not fulfilled, the tuition waiver converts to a loan and the recipient must repay the entire amount of the tuition waiver (prorated according to the fraction of the teaching obligation not completed), plus interest at a rate equal to 5% per annum; and
 - 3) the recipient agrees to provide ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.).
- j) The five-year time period during which the teaching requirement must be fulfilled may be extended if the recipient:
 - 1) serves, for not more than three years, as a member of the United States Armed Forces;
 - 2) is enrolled full-time in an academic program related to the field of teaching, leading to a graduate or postgraduate degree;
 - 3) is temporarily totally disabled for a period of time not to exceed three

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years, as established by the sworn affidavit of a qualified physician;

- 4) is actively seeking but unable to find full-time employment as a teacher at an Illinois public, private, or parochial school for one continuous period not to exceed two years, and is able to provide evidence of that fact; or
 - 5) is taking additional courses, on at least a half-time basis, needed to obtain certification as a teacher in Illinois.
- k) A recipient may be granted a leave of absence by the president of the institution, or his/her designee, for the following reasons:
- 1) earning funds to defray the recipient's educational expenses;
 - 2) illness of the recipient or a member of the recipient's immediate family, as established by the sworn statement of a licensed physician; or
 - 3) military service.
- l) A recipient must complete his or her course of study within six years including leaves of absence. A recipient must remain enrolled on a continuous basis during the regular school year for four years, unless granted a leave of absence. However, a leave of absence granted for military service shall not be considered part of the six years within which a recipient must complete a degree.
- m) A recipient shall enter repayment status on the earliest of the following dates:
- 1) the first day of the first calendar month after the recipient has ceased to pursue a course of study leading to initial certification as a teacher in Special Education, but not until six months have elapsed after the cessation of at least half-time enrollment in such a course of study;
 - 2) the date the recipient informs ISAC that he or she does not plan to fulfill the teaching obligation; or
 - 3) the latest date upon which the recipient must have begun teaching in order to complete the teaching obligation within five years after completing the postsecondary education for which the waiver was awarded.
- n) If a recipient is required to repay any portion of the tuition waiver, the repayment

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period shall be completed within five years after the tuition waiver converts to a loan. The five-year period may be extended if the recipient:

- 1) serves, for not more than three years, as a member of the United States Armed Forces;
 - 2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician;
 - 3) is pursuing a graduate or postgraduate degree and is enrolled on a full-time basis for one continuous period of time not to exceed three years;
 - 4) is seeking and unable to find full-time employment for one continuous period not to exceed two years and is able to provide evidence of that fact;
or
 - 5) withdraws from a course of study leading to a teacher certification in Special Education but remains enrolled on a full-time basis in another academic discipline.
- o) During the time a recipient qualifies for any of the extensions listed in subsection (n) of this Section, he or she shall not be required to make payments and interest shall not continue to accrue.
- p) A recipient shall not be required to pay the amount of the tuition and fees waived if he or she becomes permanently totally disabled, as established by the sworn affidavit of a licensed physician (see, e.g., 34 CFR 653.42(k)(1)); or if his or her representative provides ISAC with a death certificate or other evidence that the recipient has died.
- q) A recipient must be enrolled in a special education program within ten days after the beginning of the term for which the tuition waiver was initially awarded. If the recipient fails to comply with this requirement, s/he will forfeit the tuition waiver and ISAC will award it to another qualified applicant.

(Source: Amended at 28 Ill. Reg. 9170, effective July 1, 2004)

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- 1) Heading of the Part: Illinois Prepaid Tuition Program
- 2) Code Citation: 23 Ill. Adm. Code 2775
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2775.20	Amendment
2775.40	Amendment
- 4) Statutory Authority: Implementing the Illinois Prepaid Tuition Act [110 ILCS 979] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]
- 5) Effective Date of Amendments: July 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of these adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: February 6, 2004; 28 Ill. Reg. 2064
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposed and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing an initiative to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. In

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addition to making minor technical and grammatical changes throughout this Part, ISAC adopted the following substantive amendments:

Rules for the College Illinois! Prepaid Tuition Program are amended to reflect statutory changes contained in Public Act 93-0056. In Section 2775.20, Definitions, the definition of "Nonpublic Institution of Higher Education" is amended to delete the provision excluding College Illinois! prepaid tuition benefits from being used at schools principally used to provide sectarian instruction, religious teaching, or professional religious training. An amendment is also adopted to Section 2775.30(c) to reflect that the statutory limits on installment contracts being payable over a five-year period, or 10 years for a 120 credit-hour contract, have now been removed.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Thomas A. Breyer
Deputy Program Officer
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

(847) 948-8500
email: tbreyer@isac.org

The full text of the adopted amendments begins on the next page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2775

ILLINOIS PREPAID TUITION PROGRAM

Section

2775.10	Summary and Purpose
2775.20	Definitions
2775.30	Participant Eligibility
2775.40	Program Procedures
2775.50	Contract Terms and Conditions
2775.60	Scholarships, Grants or Monetary Assistance
2775.70	Disclosure

AUTHORITY: Implementing the Illinois Prepaid Tuition Act [110 ILCS 979] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 16652, effective September 11, 1998, for a maximum of 150 days; adopted at 23 Ill. Reg. 2591, effective February 1, 1999; amended at 24 Ill. Reg. 9154, effective July 1, 2000; amended at 25 Ill. Reg. 8410, effective July 1, 2001; amended at 26 Ill. Reg. 10043, effective July 1, 2002; amended at 28 Ill. Reg. 9177, effective July 1, 2004.

Section 2775.20 Definitions

"Illinois Community College" – A public community college as defined in Section 1-2 of the Public Community College Act.

"Illinois Prepaid Tuition Contract" or "Contract" – A contract entered into between the Illinois Student Assistance Commission, on behalf of the State of Illinois, and a purchaser under Section 45 of the Illinois Prepaid Tuition Act to provide for the higher education of a qualified beneficiary.

"Illinois Prepaid Tuition Program" or "Program" – The college savings and investment program created in Section 15 of the Illinois Prepaid Tuition Act.

"Illinois Prepaid Tuition Trust Fund" – The repository of all moneys received by the Commission, including all contributions, appropriations, interest and dividend payments, gifts, or other financial assets received in connection with operation of

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the Illinois Prepaid Tuition Program.

"Illinois Public University" – Any campus of: the University of Illinois, Illinois State University, Chicago State University, Governors State University, Southern Illinois University, Northern Illinois University, Eastern Illinois University, Western Illinois University or Northeastern Illinois University.

"MAP-eligible Institution" – A public institution of higher education or a nonpublic institution of higher education whose students are eligible to receive need-based student financial assistance through Monetary Award Program (MAP) grants administered by the Illinois Student Assistance Commission under the Higher Education Student Assistance Act and whose students also are eligible to receive benefits under Section 529(a) of the Internal Revenue Code of 1986, as specified by the federal Small Business Act of 1996 and subsequent amendments to this federal law.

"Member of the Family" or "Immediate Family" – Member of the family as defined in the Internal Revenue Code, Section 529(e)(2), as amended, means an individual who bears a relationship to a qualified beneficiary as follows: son or daughter, or a descendant of either; stepson or stepdaughter; brother, sister, stepbrother, stepsister, half-brother, or half-sister; father or mother or an ancestor of either; stepfather or stepmother; son or daughter of a brother or sister; brother or sister of the father or mother; son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law, the spouse of any of the above; the spouse; or any first cousin. In determining whether any of these relationships exist, a legally adopted child of an individual shall be treated as a child of such individual by blood.

"Nonpublic Institution of Higher Education" – Any MAP-eligible educational organization, other than a public institution of higher education, that provides a minimum of an organized 2-year program at the postsecondary level and that operates in conformity with standards substantially equivalent to those of public institutions of higher education. ~~This excludes any educational organization used principally for sectarian instruction, as a place of religious teaching or worship, or for any religious denomination for the training of ministers, rabbis, or other professional persons in the field of religion.~~

"Public Institution of Higher Education" – An Illinois public university or Illinois community college.

"Purchaser" – Any person that has contracted to make payments under an Illinois

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prepaid tuition contract in accordance with State and federal laws.

"Qualified Beneficiary" – An individual designated as the recipient of the benefits of a prepaid tuition contract, provided he/she: has been a resident of this State for at least 12 months prior to the date of the application; or is a nonresident, so long as the purchaser has been a resident of the State for at least 12 months prior to the date of the application; or is less than one year of age and whose parent or legal guardian has been a resident of the State for at least 12 months prior to the date of the application.

"Registration Fees" – The charges derived by combining tuition and mandatory fees.

(Source: Amended at 28 Ill. Reg. 9177, effective July 1, 2004)

Section 2775.40 Program Procedures

- a) Application/Master Agreement
 - 1) The application period for purchases of contracts for the prepayment of postsecondary registration fees shall commence and terminate on dates set annually and announced publicly by the Commission.
 - 2) After receipt and approval of the purchaser's application/master agreement, a participation and payment schedule shall be mailed to the purchaser. The contract itself shall be comprised of the application/master agreement, participation and payment schedule.
 - 3) Each prepaid tuition contract must have one person designated as purchaser and one person designated as qualified beneficiary.
- b) Contract Prices and Fees

The Commission shall annually review contract prices and adjust prices for new contracts, referencing annual changes in registration fees at Illinois public universities and Illinois community colleges. An implied interest rate for installment payment plans will be calculated annually, and subsequently approved or reaffirmed by the Commission as part of its pricing policy for the program. The Commission shall also approve annually a schedule of administrative fees or changes to fees for the program, including, but not limited to, application, late payment, cancellation and monthly maintenance fees.

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- c) **Payment Options**
All contributions must be made in cash or its equivalent. Purchasers may make payments through a variety of means. Automated clearinghouse checks, payroll deductions or payments via coupon books will be acceptable. Payments are due in accordance with conditions set forth in the contract. Payments may be made by lump sum or by installments. ~~All installment contracts shall be for a period of five years, except that contracts for at least 120 credit hours may be payable, by installments, over a 10-year period.~~ No penalty shall be assessed for early payment of installment contracts.
- d) **Delinquency and Default**
For monthly payment plans, failure to make full payment within 15 days after the due date shall result in assessment of a late fee and suspension of the qualified beneficiary's rights under the plan. For lump sum and annual payment plans, failure to make full payment within 30 days after the due date shall result in assessment of a late fee and suspension of the qualified beneficiary's rights under the plan. If an account is delinquent for 210 days after the scheduled payment date, the account is canceled and the purchaser is sent the appropriate refund amount.
- e) **Termination**
There are two types of contract termination, involuntary and voluntary:
- 1) Involuntary termination shall occur upon a finding of fraud in the verification of residency of a qualified beneficiary at the time of application or the nonpayment of any appropriate payments due within established time frames.
 - 2) Voluntary termination shall occur within 30 days after receiving written notice of a purchaser's desire to cancel a contract.
- f) **Refunds**
Generally, no refund shall exceed the amount paid into the Illinois Prepaid Tuition Trust Fund by the purchaser and no refund shall be authorized under any prepaid tuition contract for any term partially attended but not completed. Refunds shall be made payable to the order of the purchaser only. The Commission shall authorize refunds in excess of the amount paid into the Illinois Prepaid Tuition Trust Fund only for contracts held for at least three years under the following conditions:
- 1) When a qualified beneficiary is awarded a grant or scholarship, the terms

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of which duplicate the benefits covered by his or her prepaid tuition contract, then the moneys paid for the purchase of the contract shall be returned to the purchaser, in term installments that coincide with the matriculation of the qualified beneficiary.

- A) If the qualified beneficiary is enrolled at an Illinois Public University or Illinois Community College, the refund will be equal to the institution's current in-state or in-district registration fees, less any registration fees not covered by the scholarship and any applicable service fees.
 - B) If the qualified beneficiary is enrolled at a non-public or out-of-state institution, the refund will be equal to the current mean-weighted average of registration fees at Illinois Public Universities or Illinois Community Colleges, depending on the plan purchased under the contract, less the registration fees not covered by the scholarship and any applicable service fees.
- 2) In the event of death or total disability of the qualified beneficiary, moneys paid for the purchase of the contract shall be returned to the purchaser together with all accrued earnings.
 - 3) In cases where a public university plan contract is converted for usage at an Illinois community college, then the amount refunded shall be on a term-by-term basis. The refund should be the current value of the original contract minus the current value of the contract after conversion.
 - 4) In all instances of a voluntary contract cancellation, the amount refunded shall be the original purchase price of the contract plus two percent compounded annually, less a cancellation fee.

(Source: Amended at 28 Ill. Reg. 9177, effective July 1, 2004)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of June 15, 2004 through June 21, 2004 and have been scheduled for review by the Committee at its July 13, 2004 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
7/28/04	<u>Secretary of State</u> , Procedures and Standards (92 Ill. Adm. Code 1001)	4/16/04 28 Ill. Reg. 6033	7/13/04
7/31/04	<u>Department of Children and Family Services</u> , Department Advisory Groups (89 Ill. Adm. Code 428)	12/5/03 27 Ill. Reg. 18290	7/13/04
8/1/04	<u>Pollution Control Board</u> , Sound Emission Standards and Limitations for Property Line- Noise-Sources (35 Ill. Adm. Code 901)	11/21/03 27 Ill. Reg. 17349	7/13/04
8/4/04	<u>Department of Revenue</u> , Retailers' Occupation Tax (86 Ill. Adm. Code 130)	2/27/04 28 Ill. Reg. 3753	7/13/04

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Children's Mental Health Screening, Assessment and Support Services

Code Citation: 59 Ill. Adm. Code 131

<u>Section Numbers:</u>	131.10	131.20	131.30	131.40	
		131.50	131.60	131.70	APPENDIX A

Date Originally Published in the Illinois Register: 3/19/04
28 Ill. Reg. 4826

At its meeting on June 15, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking of the Department of Human Services and recommended that the Department of Children and Family Services (DCFS) clearly state in its own rules that it will be operating its children's mental health screening, assessment and support program in accordance with these Department of Human Services (DHS) rules or that DHS either not adopt this Part or repeal it at a later date and DHS and DCFS adopt a Joint Rule governing their children's mental health screening, assessment and support programs.

The agency should respond to this Recommendation, in writing, within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF HUMAN SERVICES

Heading of the Part: Children's Mental Health Screening, Assessment and Support Services

Code Citation: 59 Ill. Adm. Code 131

Section Numbers: 131.10 131.20 131.30 131.40
 131.50 131.60 131.70 APPENDIX A

Date Originally Published in the Illinois Register: 3/19/04
28 Ill. Reg. 4826

At its meeting on June 15, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Department of Children and Family Services (DCFS) clearly state in its own rules that it will be operating its children's mental health screening, assessment and support program in accordance with these Department of Human Services (DHS) rules or that DHS either not adopt this Part or repeal it at a later date and DHS and DCFS adopt a Joint Rule governing their children's mental health screening, assessment and support programs.

The agency should respond to this Recommendation, in writing, within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION

Heading of the Part: Procedures

Code Citation: 92 Ill. Adm. Code 107

Section Numbers: 107.3 107.601

Date Originally Published in the Illinois Register: 3/26/04
28 Ill. Reg. 5200

At its meeting on June 15, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Department of Transportation seek the repeal of 430 ILCS 30/9. That statute sets out rulemaking provisions that predate and conflict with the Illinois Administrative Procedure Act, thereby causing confusion over which provisions must be followed.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION

Heading of the Part: Hazardous Materials Transportation: General Information, Regulations and Definitions

Code Citation: 92 Ill. Adm. Code 171

Section Numbers: 171.15 171.1000

Date Originally Published in the Illinois Register: 3/26/04
28 Ill. Reg. 5211

At its meeting on June 15, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Department of Transportation seek the repeal of 430 ILCS 30/9. That statute sets out rulemaking provisions that predate and conflict with the Illinois Administrative Procedure Act, thereby causing confusion over which provisions must be followed.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION

Heading of the Part: Hazardous Materials Table and Hazardous Materials Communications

Code Citation: 92 Ill. Adm. Code 172

Section Number: 172.2000

Date Originally Published in the Illinois Register: 3/26/04
28 Ill. Reg. 5218

At its meeting on June 15, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Department of Transportation seek the repeal of 430 ILCS 30/9. That statute sets out rulemaking provisions that predate and conflict with the Illinois Administrative Procedure Act, thereby causing confusion over which provisions must be followed.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION

Heading of the Part: Shippers General Requirements for Shipments and Packagings

Code Citation: 92 Ill. Adm. Code 173

Section Number: 173.3000

Date Originally Published in the Illinois Register: 3/26/04
28 Ill. Reg. 5224

At its meeting on June 15, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Department of Transportation seek the repeal of 430 ILCS 30/9. That statute sets out rulemaking provisions that predate and conflict with the Illinois Administrative Procedure Act, thereby causing confusion over which provisions must be followed.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION

Heading of the Part: Carriage by Public Highway

Code Citation: 92 Ill. Adm. Code 177

Section Number: 177.2000

Date Originally Published in the Illinois Register: 3/26/04
28 Ill. Reg. 5231

At its meeting on June 15, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Department of Transportation seek the repeal of 430 ILCS 30/9. That statute sets out rulemaking provisions that predate and conflict with the Illinois Administrative Procedure Act, thereby causing confusion over which provisions must be followed.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION

Heading of the Part: Specifications for Packagings

Code Citation: 92 Ill. Adm. Code 178

Section Number: 178.2000

Date Originally Published in the Illinois Register: 3/26/04
28 Ill. Reg. 5237

At its meeting on June 15, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Department of Transportation seek the repeal of 430 ILCS 30/9. That statute sets out rulemaking provisions that predate and conflict with the Illinois Administrative Procedure Act, thereby causing confusion over which provisions must be followed.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION

Heading of the Part: Specifications for Tank Cars

Code Citation: 92 Ill. Adm. Code 179

Section Number: 179.2000

Date Originally Published in the Illinois Register: 3/26/04
28 Ill. Reg. 5251

At its meeting on June 15, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Department of Transportation seek the repeal of 430 ILCS 30/9. That statute sets out rulemaking provisions that predate and conflict with the Illinois Administrative Procedure Act, thereby causing confusion over which provisions must be followed.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION

Heading of the Part: Continuing Qualification and Maintenance of Packaging

Code Citation: 92 Ill. Adm. Code 180

Section Number: 180.2000

Date Originally Published in the Illinois Register: 3/26/04
28 Ill. Reg. 5256

At its meeting on June 15, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Department of Transportation seek the repeal of 430 ILCS 30/9. That statute sets out rulemaking provisions that predate and conflict with the Illinois Administrative Procedure Act, thereby causing confusion over which provisions must be followed.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO EMERGENCY RULEMAKING

ILLINOIS RACING BOARD

Heading of the Part: Medication

Code Citation: 11 Ill. Adm. Code 603

Section Number: 603.70

Date Originally Published in the Illinois Register: 5/28/04
28 Ill. Reg. 7565

At its meeting on June 15, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Racing Board amend its companion proposed rules (11 Ill. Adm. Code 603; 28 Ill. Reg. 7533) to state the standards the Board will use to determine whether a trainer will be fined and suspended or fined or suspended.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

NOTICE OF FAILURE TO REMEDY

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND COUNCIL OF ILLINOIS

- 1) Heading of the Part: General Program
- 2) Code Citation: 35 Ill Adm Code 1500
- 3)

<u>Section Numbers:</u>	<u>Action:</u>
1500.20	Objection
1500.30	Objection
1500.40	Objection
1500.50	Objection
1500.55	Objection
1500.70	Objection
- 4) Notice of Proposal published in Illinois Register: 28 Ill. Reg. 2522 - 2/13/04
- 5) Date JCAR issued Statement of Objection: 5/18/04
- 6) Summary of Action taken by the Agency: Refusal to Modify or Withdraw Rulemaking
- 7) JCAR Action: The rulemaking reflects statute revising the structure by which license fees will be imposed and exercises the Council's statutory authority to exceed the fees and taxes set by statute. The quantity of solvent purchased the previous year must be used to determine a renewal applicant's license fee if the amount used cannot be readily calculated. The Joint Committee objected to the Council enforcing policy not yet adopted in rule by assessing license fees and solvent taxes in excess of those statutorily provided prior to adoption of the rulemaking. Although the Council has statutory authority to adjust the fees and taxes established by the statute, it should have established that policy through proper rulemaking, with full disclosure and opportunity to comment, before putting those policies into effect. While the Council argued that it notified the industry of these proposed amendments, under the IAPA a rule cannot be enforced until it is adopted. At its meeting on June 15, 2004, the Joint Committee voted to issue a Notice of Failure to Remedy.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

NOTICE OF FAILURE TO REMEDY

DEPARTMENT OF PUBLIC HEALTH

- 1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 300
- 3) Section Number: 300.120 Action: Objection
- 4) Notice of Proposal published in Illinois Register: 27 Ill. Reg. 14162 – 8/29/03
- 5) Date JCAR issued Statement of Objection: 3/23/04
- 6) Summary of Action taken by the Agency: Refusal to Modify or Withdraw Rulemaking
- 7) JCAR Action:

The rulemaking implements PA 93-32, which allows DPH to charge the following fees to facilities: 0-49 beds – \$500; 50-90 beds – \$750; and more than 100 beds – \$1000 plus \$10 per licensed bed. Previously, the fee regardless of the number of beds was \$200 annually and homes for the aged were exempt. The Joint Committee objected to the rulemaking because it believed that the intent of the General Assembly was that facilities with more than 100 beds would be charged \$1000 plus \$10 per bed over 100 beds. At its meeting on June 15, 2004, the Committee voted to issue a Notice of Failure to Remedy.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

NOTICE OF FAILURE TO REMEDY

DEPARTMENT OF PUBLIC HEALTH

- 1) Heading of the Part: Sheltered Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 330
- 3) Section Number: 330.120 Action: Objection
- 4) Notice of Proposal published in Illinois Register: 27 Ill. Reg. 14164 – 8/29/03
- 5) Date JCAR issued Statement of Objection: 3/23/04
- 6) Summary of Action taken by the Agency: Refusal to Modify or Withdraw Rulemaking
- 7) JCAR Action:

The rulemaking implements PA 93-32, which allows DPH to charge the following fees to facilities: 0-49 beds – \$500; 50-90 beds – \$750; and more than 100 beds – \$1000 plus \$10 per licensed bed. Previously, the fee regardless of the number of beds was \$200 annually and homes for the aged were exempt. The Joint Committee objected to the rulemaking because it believed that the intent of the General Assembly was that facilities with more than 100 beds would be charged \$1000 plus \$10 per bed over 100 beds. At its meeting on June 15, 2004, the Committee voted to issue a Notice of Failure to Remedy.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

NOTICE OF FAILURE TO REMEDY

DEPARTMENT OF PUBLIC HEALTH

- 1) Heading of the Part: Illinois Veterans' Homes Code
- 2) Code Citation: 77 Ill. Adm. Code 340
- 3) Section Number: Action:
340.1120 Objection
- 4) Notice of Proposal published in Illinois Register: 27 Ill. Reg. 14166 – 8/29/03
- 5) Date JCAR issued Statement of Objection: 3/23/04
- 6) Summary of Action taken by the Agency: Refusal to Modify or Withdraw Rulemaking
- 7) JCAR Action:

The rulemaking implements PA 93-32, which allows DPH to charge the following fees to facilities: 0-49 beds – \$500; 50-90 beds – \$750; and more than 100 beds – \$1000 plus \$10 per licensed bed. Previously, the fee regardless of the number of beds was \$200 annually and homes for the aged were exempt. The Joint Committee objected to the rulemaking because it believed that the intent of the General Assembly was that facilities with more than 100 beds would be charged \$1000 plus \$10 per bed over 100 beds. At its meeting on June 15, 2004, the Committee voted to issue a Notice of Failure to Remedy.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

NOTICE OF FAILURE TO REMEDY

DEPARTMENT OF PUBLIC HEALTH

- 1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 350
- 3) Section Number: 350.1230 Action: Objection
- 4) Notice of Proposal published in Illinois Register: 27 Ill. Reg. 14168 – 8/29/03
- 5) Date JCAR issued Statement of Objection: 3/23/04
- 6) Summary of Action taken by the Agency: Refusal to Modify or Withdraw Rulemaking
- 7) JCAR Action:

The rulemaking implements PA 93-32, which allows DPH to charge the following fees to facilities: 0-49 beds – \$500; 50-90 beds – \$750; and more than 100 beds – \$1000 plus \$10 per licensed bed. Previously, the fee regardless of the number of beds was \$200 annually and homes for the aged were exempt. The Joint Committee objected to the rulemaking because it believed that the intent of the General Assembly was that facilities with more than 100 beds would be charged \$1000 plus \$10 per bed over 100 beds. At its meeting on June 15, 2004, the Committee voted to issue a Notice of Failure to Remedy.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

NOTICE OF FAILURE TO REMEDY

DEPARTMENT OF PUBLIC HEALTH

- 1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 390
- 3) Section Number: 390.120 Action: Objection
- 4) Notice of Proposal published in Illinois Register: 27 Ill. Reg. 14170 – 8/29/03
- 5) Date JCAR issued Statement of Objection: 3/23/04
- 6) Summary of Action taken by the Agency: Refusal to Modify or Withdraw Rulemaking
- 7) JCAR Action:

The rulemaking implements PA 93-32, which allows DPH to charge the following fees to facilities: 0-49 beds – \$500; 50-90 beds – \$750; and more than 100 beds – \$1000 plus \$10 per licensed bed. Previously, the fee regardless of the number of beds was \$200 annually and homes for the aged were exempt. The Joint Committee objected to the rulemaking because it believed that the intent of the General Assembly was that facilities with more than 100 beds would be charged \$1000 plus \$10 per bed over 100 beds. At its meeting on June 15, 2004, the Committee voted to issue a Notice of Failure to Remedy.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

- 1) Heading of the Part: Licensing Standards for Day Care Centers
- 2) Code Citation: 89 Ill. Adm. Code 407
- 3)

<u>Section Number</u>	<u>Proposed Action</u>
407.370	Amend
- 4) Date Notice of Proposed Amendments Published in the *Illinois Register*: June 11, 2004, 28 Ill. Reg. 7771
- 5) Reason for the withdrawal: This rulemaking was previously published in the *Illinois Register* on April 23, 2004 at 28 Ill. Reg. 6271 and was refiled for publication in error. There are no differences, substantive or otherwise, between this version and the previously published version.

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Administration and Operation of the State Employees' Retirement System of Illinois
- 2) Code Citation: 80 Ill. Adm. Code 1540
- 3)

<u>Section Numbers</u> 1540.80	<u>Proposed Action</u> : Amendment
-----------------------------------	---------------------------------------
- 4) Date Notice of Proposed Amendments Published in the Illinois Register: June 18, 2004, 28 Ill. Reg. 8829
- 5) Reason for the Withdrawal: This rulemaking inadvertently repeated a proposed rulemaking published the previous week in Issue 25 of the *Illinois Register* at 28 Ill. Reg. 8454.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

- 1) Heading of Part: Illinois Dead Animal Disposal Act
- 2) Code Citation: 8 Ill. Adm. Code 90
- 3) Register Citation to Notice of Proposed Amendments: 28 Ill. Reg. 8792; June 25, 2004
- 4) Date, Time and Location of Public Hearing:

Thursday, July 8, 2004 at 10:00 a.m.
Illinois Department of Agriculture
Agriculture Building, Auditorium
State Fairgrounds, 8th & Sangamon
Springfield, IL 62794-9281

- 5) Other Pertinent Information:

Each person presenting oral testimony shall provide a written copy of such testimony at the time the oral testimony is presented.

Individuals who are unable to attend the public hearing but wish to comment on the proposed amendments should submit written comments to:

Department of Agriculture
Attention: Linda Rhodes
P.O. Box 19281
Springfield, IL 62794-9281

217/785-5713; FAX #: 217/785-4505.

In order for mailed comments to be available for consideration at the public hearing, please mail no later than July 2, 2004. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2004 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): Pay Plan, 80 Ill. Admin. Code 310

1) Rulemaking:

A) Description: Projected amendments to the Department of Central Management Services' Pay Plan include the following revisions to the following sections:

In Sections 310.80, 310.100, 310.110, 310.130, 310.220, 310.290, 310.450, 310.530, and 310.540, and Appendices B, C, D, and G, changes in fiscal year and salaries as approved by the Governor.

In various sections, changes to the format of the Pay Plan will reduce duplicate information and provide easier access to information contained within the Pay Plan.

In appropriate sections, changes to reinforce compliance with the Illinois Equal Pay Act of 2003 (Public Act 93-0006).

In Section 310.280, Designated Rate, changes in salaries, the addition of new positions, and deletion of positions no longer utilized as approved by the Governor.

In Section 310.Appendix A, Negotiated Rates of Pay, Tables changes in the collective bargaining agreements.

B) Statutory Authority: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

C) Scheduled meeting/hearing dates: Interested persons may send specific criticisms, suggestions, and/or comments to the Department of Central Management Services in writing during the First Notice Period of the Pay Plan amendments.

D) Date agency anticipates First Notice: Amendments to Section 310.280, Designated Rate, will be filed as the Governor approves changes throughout the year.

Peremptory amendments on new Collective Bargaining Agreements will be filed as negotiations are completed.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2004 REGULATORY AGENDA

Amendments to Sections 310.80, 310.100, 310.110, 310.130, 310.220, 310.290, 310.450, 310.530, and 310.540, and Appendices B, C, D, and G, will be filed as the Governor approves changes for the next fiscal year.

- E) Affect on small businesses, small municipalities or not for profit corporations: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code under the Governor. They do not set out guidelines that are to be followed by local or other jurisdictional bodies within the State.
- F) Agency contact person for information:
- Ms. Dawn DeFraties
Deputy Director
Bureau of Personnel
Department of Central Management Services
503 William G. Stratton Building
Springfield IL 62706
217/524-8773
- G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues regarding State employee salary rates and policies.

DEPARTMENT OF PROFESSIONAL REGULATION

JULY 2004 REGULATORY AGENDA

- a) Part Heading and Code Citation: Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985 (68 Ill. Adm. Code 1175)

1) Rulemaking:

A) Description: Various technical and clean-up changes will be proposed.

B) Statutory Authority: [225 ILCS 410]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed barbers, cosmetologists, estheticians, nail technicians, shops and salons may be affected.

F) Agency contact person for information:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax: 217/782-7645

G) Related rulemakings and other pertinent information:
None.

- b) Part Heading and Code Citation: Collection Agency Act (68 Ill. Adm. Code 1210)

1) Rulemaking:

A) Description: Ethical standards for this industry and a definition of "reasonable costs" will be proposed.

B) Statutory Authority: [225 ILCS 425]

DEPARTMENT OF PROFESSIONAL REGULATION

JULY 2004 REGULATORY AGENDA

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed collection agencies will be affected.

F) Agency contact person for information:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax: 217/782-7645

G) Related rulemakings and other pertinent information:
None.

c) Part Heading and Code Citation: Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993 (68 Ill. Adm. Code 1240)

1) Rulemaking:

A) Description: The entire Part is being rewritten due to the sunset reauthorization contained in PA 93-438 which superseded and repealed the previous Act.

B) Statutory Authority: [225 ILCS 446]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: July 2004

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed private detectives, security contractors, alarm contractors and locksmiths, their agencies and their employees and applicants for licensure under this Act may be affected.

DEPARTMENT OF PROFESSIONAL REGULATION

JULY 2004 REGULATORY AGENDA

F) Agency contact person for information:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax: 217/782-7645

G) Related rulemakings and other pertinent information:

None.

d) Part Heading and Code Citation: Environmental Health Practitioner Licensing Act (68 Ill. Adm. Code 1247)1) Rulemaking:

A) Description: Various technical amendments may be proposed.

B) Statutory Authority: [225 ILCS 37]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed environmental health practitioners may be affected.

F) Agency contact person for information:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax: 217/782-7645

e) Part Heading and Code Citation: Funeral Directors and Embalmers Licensing Code (68 Ill. Adm. Code 1250)

DEPARTMENT OF PROFESSIONAL REGULATION

JULY 2004 REGULATORY AGENDA

- 1) Rulemaking:
 - A) Description: Technical amendments may be proposed.
 - B) Statutory Authority: [225 ILCS 41]
 - C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.
 - D) Date agency anticipates First Notice: Unknown
 - E) Effect on small businesses, small municipalities or not for profit corporations: Licensed funeral directors and embalmers may be affected.
 - F) Agency contact person for information:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax: 217/782-7645
 - G) Related rulemakings and other pertinent information: None.
- f) Part Heading and Code Citation: Interior Design Profession Title Act (68 Ill. Adm. Code 1255)
 - 1) Rulemaking:
 - A) Description: A Code of Conduct may be added; technical revisions may also be addressed.
 - B) Statutory Authority: [225 ILCS 310]
 - C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.
 - D) Date agency anticipates First Notice: Unknown

DEPARTMENT OF PROFESSIONAL REGULATION

JULY 2004 REGULATORY AGENDA

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed interior designers may be affected.

F) Agency contact person for information:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax: 217/782-7645

G) Related rulemakings and other pertinent information: None.

g) Part Heading and Code Citation: Illinois Landscape Architecture Act of 1989 (68 Ill. Adm. Code 1275)

1) Rulemaking:

A) Description: Technical amendments may be proposed.

B) Statutory Authority: [225 ILCS 315]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Landscape architects may be affected.

F) Agency contact person for information:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax: 217/782-7645

DEPARTMENT OF PROFESSIONAL REGULATION

JULY 2004 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information:
None.
- h) Part Heading and Code Citation: Nursing and Advanced Practice Nursing Act (68 Ill. Adm. Code 1300 and 1305)
- 1) Rulemaking:
- A) Description: Various technical amendments may be proposed.
- B) Statutory Authority: [225 ILCS 65]
- C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.
- D) Date agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not for profit corporations: Licensed practical nurses, registered nurses and APNs and applicants for licensure may be affected.
- F) Agency contact person for information:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax: 217/782-7645
- G) Related rulemakings and other pertinent information: None.
- i) Part Heading and Code Citation: Optometric Practice Act of 1987 (68 Ill. Adm. Code 1320)
- 1) Rulemaking:
- A) Description: Technical revisions to various sections may be made.

DEPARTMENT OF PROFESSIONAL REGULATION

JULY 2004 REGULATORY AGENDA

- B) Statutory Authority: [225 ILCS 80]
- C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.
- D) Date agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not for profit corporations: Licensed optometrists may be affected.
- F) Agency contact person for information:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax: 217/782-7645
- G) Related rulemakings and other pertinent information:
None.
- j) Part Heading and Code Citation: Pharmacy Practice Act of 1987 (68 Ill. Adm. Code 1330)
- 1) Rulemaking:
- A) Description: Rules may be proposed concerning the administration of medication by pharmacists. Various technical/clean-up changes may also be made.
- B) Statutory Authority: [225 ILCS 85]
- C) Schedule meeting/hearing date: No hearings have been scheduled.
- D) Date agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not for profit corporations: Licensed pharmacists, pharmacy technicians, and pharmacies may be affected.

DEPARTMENT OF PROFESSIONAL REGULATION

JULY 2004 REGULATORY AGENDA

F) Agency contact person for information:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax: 217/782-7645

G) Related rulemakings and other pertinent information:

None.

k) Part Heading and Code Citation: Podiatric Medical Practice Act of 1987 (68 Ill. Adm. Code 1360)1) Rulemaking:

A) Description: Various technical/clean-up changes may be made.

B) Statutory Authority: [225 ILCS 100]

C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed podiatrists may be affected.

F) Agency contact person for information:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax: 217/782-7645

G) Related rulemakings and other pertinent information: None.

DEPARTMENT OF PROFESSIONAL REGULATION

JULY 2004 REGULATORY AGENDA

- l) Part Heading and Code Citation: Clinical Social Work and Social Work Practice Act (68 Ill. Adm. Code 1470)
- 1) Rulemaking:
- A) Description: Various technical/clean-up changes may be made.
- B) Statutory Authority: [225 ILCS 20]
- C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.
- D) Date agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not for profit corporations: Licensed social workers and clinical social workers may be affected.
- F) Agency contact person for information:
- Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax: 217/782-7645
- G) Related rulemakings and other pertinent information: None.
- m) Part Heading and Code Citation: Veterinary Medicine and Surgery Practice Act of 1994 (68 Ill. Adm. Code 1500 and 1505)
- 1) Rulemaking:
- A) Description: Technical/clean-up changes may be made in these Parts.
- B) Statutory Authority: [225 ILCS 115]

DEPARTMENT OF PROFESSIONAL REGULATION

JULY 2004 REGULATORY AGENDA

C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed veterinarians and veterinary technicians and applicants for licensure may be affected.

F) Agency contact person for information:

Department of Professional Regulation

Attention: Barb Smith

320 West Washington, 3rd Floor

Springfield, IL 62786

217/785-0813 Fax: 217/782-7645

G) Related rulemakings and other pertinent information:
None.

ILLINOIS ADMINISTRATIVE CODE

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