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OF GOVERNMENTAL
AGENCIES



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50	December 4, 2006	December 15, 2006
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BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Noninstructional Capital Improvements and Community College Locally-Funded Capital Projects
- 2) Code Citation: 23 Ill. Adm. Code 1040
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1040.10	Amend
1040.20	Amend
1040.22	New
1040.25	New
1040.27	New
1040.30	Repeal
- 4) Statutory Authority: Implementing Sections 8 and 9.11 and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/8, 9.05 and 9.11].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking reflects statutory changes to the Public Community College Act that eliminated the requirement for Board of Higher Education approval of locally-funded community college projects. In addition, the proposed amendments incorporate comprehensive guidelines for public universities seeking noninstructional capital project approval (e.g., required documentation, criteria for approval, and submission information).
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Illinois Board of Higher Education, "Noninstructional Capital Project Guidelines," August 20, 2002. Available at <http://www.ibhe.org/Board/agendas/2002/August/Item%205.pdf>
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporation by reference? Yes. Section 1040.22 (a) incorporates the "Postsecondary Education Facilities Inventory and Classification Manual (FICM): 2006 Edition" published by the U.S. Department of Education (NCES 2006-160).
- 10) Are there any other proposed rulemakings pending on this Part? No

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objectives: The proposed amendment does not create or expand a State mandate as defined in Section 3 of the State Mandate Act [30 ILCS 805].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Sandi Gillilan, Administrative Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, 2nd Floor
Springfield, Illinois 62701

217/557-7352
- 13) 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
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2006

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

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1040

APPROVAL OF NONINSTRUCTIONAL CAPITAL PROJECTS IMPROVEMENTS AND COMMUNITY COLLEGE LOCALLY FUNDED CAPITAL PROJECTS

Section	
1040.10	Purpose
1040.20	Definition of Terms
<u>1040.22</u>	<u>Required Documentation</u>
<u>1040.25</u>	<u>Criteria for Approval</u>
<u>1040.27</u>	<u>Submission Process</u>
1040.30	Noninstructional Capital Improvements and Community College Locally-Funded Capital Projects <u>(Repealed)</u>

AUTHORITY: Implementing Sections 8 and 9.11 and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/8, 9.05 and 9.11].

SOURCE: Amended and effective April 15, 1976; rules repealed and new rules adopted and codified at 8 Ill. Reg. 16899, effective September 4, 1984; amended at 30 Ill. Reg. _____, effective _____.

Section 1040.10 Purpose

The agency's process, requirements and criteria for the submission and approval of noninstructional capital projects at State supported institutions improvements and locally funded community college construction projects are set forth in this Part.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1040.20 Definition of Terms

"Board" means the Board of Higher Education.

"Buildings, additions and/or structures" means are those facilities with roofs and/or walls that have foundations.

"Capital budget categories" means are the main categories of proposed capital

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projects for which approval is requested. The categories include: buildings, additions and/or structures; land; equipment; utilities; remodeling and rehabilitation; site improvements; and planning.

~~A "community college" is an Illinois public community college.~~

"Equipment" ~~means~~ includes expenditures for the acquisition, replacement, or increase of visible tangible personal property of a nonconsumable nature, with a unit value of \$51.00 or more, ~~that which~~ is not included in the category of categories buildings, additions, and/or structures or remodeling and rehabilitation.

~~A "Governing Board" means is the Board of Trustees of a State supported institution of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Governors of State Colleges and Universities or the Board of Regents of Regency Universities.~~

"Land" ~~means~~ includes expenditures for real property and expenditures for the acquisition of real property, including easements of record and expenses directly and necessarily related to the such purchase or acquisition. "Land" shall include existing buildings and/or structures.

~~A "locally funded capital project" is a capital project which has been totally funded from local community college district funds or from any other source and for which State funds have not been appropriated.~~

~~A "Noninstructional noninstructional capital project improvement" means the construction, remodeling, renovation, purchase, or modification of facilities or properties used in whole or part for purposes other than classroom education. is a project which is constructed primarily for other than classroom educational purposes. Repair and maintenance projects, defined by the Illinois State Comptroller as ordinary and necessary projects needed to keep an asset serviceable through its expected life, are excluded.~~

"Planning" ~~means~~ includes the architectural and engineering design required for the planning of buildings, additions and/or structures or specific major remodeling projects.

~~A "Program program statement" means is a statement setting forth the broad parameters within which architects and planners must work and describing in~~

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detail the space requirements, activities, functions, relationships and space needs to be incorporated into a new or remodeled facility.

~~"State supported institutionsPublic universities"~~ means ~~are~~ the public universities of the State of Illinois: University of Illinois; Southern Illinois University; Chicago State University; Eastern Illinois University; Governors State University; Illinois State University; Northeastern Illinois University; Northern Illinois University; and Western Illinois University. ~~the universities under the governance of the Board of Governors of State Colleges and Universities; and the several Regency Universities under the jurisdiction of the Board of Regents.~~

~~"Reimbursements" are funds appropriated by the State for the purpose of paying the State's share of previously built locally financed community college capital projects approved by the Illinois Community College Board and the Illinois Board of Higher Education.~~

"Remodeling and rehabilitation" means ~~includes~~ capital improvements that ~~which~~ have the primary objective of restoring or upgrading a structure or facility to its original operating condition or improving the existing functional capability or capacity of the structure or facility.

"Scope" means ~~is~~ the parameters of the project, including square footage, quantification of work and programmatic use.

~~The "Scopescope statement"~~ means ~~of a project is~~ a narrative statement containing background and justification for at ~~the~~ project; quantification of work items and cost breakdowns; identification of dependent relationships between the proposed project and any other; and desired completion date of the project.

"Site improvements" means ~~include~~ modification to real estate for earth movement and clearance, drainage, streets and walkways, parking, finish grading, seeding and landscaping, and all other improvements to real estate not included in other categories.

"Total projects costs" means ~~includes~~ all costs related to the capital budget categories ~~listed above~~ and the designation of source of funds for those ~~such~~ costs.

"Utilities" means ~~include~~ systems for distributing or disbursing utility services outside the five-foot boundary line of existing or proposed buildings, additions and/or structures.

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(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1040.22 Required Documentation

All requests for approval of new or revised noninstructional capital projects shall contain the following:

- a) Project Scope
 - 1) Provide a narrative description of the requested project using the following descriptors: buildings, additions, structures, land, equipment, utilities, remodeling, renovation, site improvements, and planning. Include the name and location of all facilities and properties.
 - 2) Provide quantified information. For acquisitions, include the size of parcels of property and the size of facilities (gross square feet). For remodeling, include the assignable square feet to be remodeled by room use classifications. Comply with guidelines for measuring gross and assignable areas identified in the "Postsecondary Education Facilities Inventory and Classification Manual (FICM): 2006 Edition" published by the U.S. Department of Education (NCES 2006-160), no further editions or amendments are included. Other information could include seating capacity, parking capacity, age of facilities, number of rooms, length of utility tunnels (linear feet), and roof size (square feet).
 - 3) For remodeling and renovation projects, distinguish between upgrades to and replacement of existing components and systems.
 - 4) Describe activities, functions, or entities the completed project will house or accommodate.
 - 5) Describe the allocation of completed space, by type, using classifications identified in the FICM.
 - 6) Provide the appraised value of any property or existing structures proposed for acquisition. Include the date and source of the appraisal.

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- 7) Explain how existing space will be reused after it is vacated. Briefly describe any projects, including a cost estimate and project timeline, that must be completed before the space can be reused for a new purpose.
 - 8) Identify any dependent relationship between the requested project and other on-going or anticipated capital projects.
 - 9) Provide a project schedule, including dates for design start, beginning construction, project bids and final completion.
- b) Project Rationale
- 1) State how the project will meet the noninstructional objectives of the institution. What is its relationship to the institution's mission and master plan? How does the project advance statewide goals?
 - 2) If a project upgrades or otherwise alters the use of existing space, describe the current condition of the existing space.
 - 3) Describe the capacity and utilization of space currently available to the institution to meet the noninstructional objectives of the proposed project. Describe by space type (room use code) and function.
 - 4) If a project adds assignable space to the institution (via new construction or adaptation of existing space for a new purpose), describe the factors or conditions (e.g., enrollment growth, change in enrollment mix, insufficient or inadequate space of a certain type, etc.) that justify the request. Explain why the proposed project must be undertaken.
- c) Project Financing
- 1) Provide the total project cost allocated by major component, including land acquisition, building, remodeling, renovation, planning and design, utilities, equipment purchases, and financing. What is the estimated cost per square foot? If the cost per square foot is greater than the current industry average, what factors are contributing to the increased cost? How much will each factor contribute? Indicate the source and date of cost estimates.

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- 2) Describe how the institution plans to finance the project (by dollar amount for each fund source). A description should be provided for how the institution plans to finance capital costs, as well as any related operating and maintenance costs.
 - 3) If a project is supported by an increase in student fees, provide the total annual increase required and the date the new or increased fees will become effective. Indicate if the institution's Board of Trustees has approved fee increases supporting the project. If not, when is approval anticipated? Does the institution foresee sunseting the relevant fee increase when it has served its original purpose?
 - 4) If the proposed project will generate the need for additional operations and maintenance funding, provide an estimate of the annual costs. Describe how these costs will be financed.
 - 5) Provide a summary of projected annual revenues and expenses for the programs that will be housed in the space completed by the project. Annual revenues should include reallocations, lease payments, fee revenue, and other revenues as specified. Expenses should include annual debt service requirements, operations and maintenance, reserve funds, and other obligations as specified. Identify interest rate assumptions for proposed revenue bond sales.
 - 6) If a project is funded in whole or part by private donations, indicate if funding has been secured or pledged. What revenues are currently available? Outline the proposed time schedule for the capital campaign.
 - 7) If a project is funded in whole or part by incurring debt, provide a projection of the amount of borrowing and a schedule of interest and principal payments to retire the debt. Indicate the source of funds for paying debt service.
- d) Constituency Input in the Decisionmaking Process
- 1) Provide a brief description of the institution's decisionmaking process. If advisory or review committees were created, briefly describe their membership, objectives and activities.

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- 2) Provide a copy of the governing board's resolutions and minutes reflecting approval of the project scope, project financing, including total project cost, and source of funds. Documentation should reflect approval dates.
- 3) If the requested project requires new fees or significant restructuring of an existing fee program, describe the process used to inform and consult students. Has the student fee increase plan for the project been submitted to a student referendum? If so, provide a copy of the resolution presented to the students. Indicate the total number of students eligible to vote, the number voting, the numbers supporting and opposing the plan, and the date the referendum was held. If a student referendum was not held, what plans exist to consult students regarding this proposal?
- 4) Identify any other governmental approvals still required for the proposed project and the status of those approvals. Include environmental, historical preservation, and special permits of any kind. Do not include routine building permits.

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 1040.25 Criteria for Approval

To be approved, noninstructional capital projects must be consistent with the master plan for higher education and with instructional buildings that are provided for therein [110 ILCS 205/8]. In making the determination, the Board shall consider the following criteria:

- a) Projects must be consistent with the mission and scope of the institution.
- b) Projects must provide for needed additional or replacement space, provide for more efficient utilization of existing space, or maintain or improve existing space. In determining whether these criteria are met, the following information shall be reviewed:
 - 1) Current and projected programmatic needs.
 - 2) Current and projected space utilization rates.
- c) Projects must be economically feasible. A project will be determined to be economically feasible if all legal requirements are met and if it is demonstrated that funds are available to finance the construction and operation of the project.

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In determining whether a project is economically feasible, the following information shall be reviewed:

- 1) Proposed source of funds for construction of the project (e.g., existing revenues in site and construction funds, gifts, revenue bonds, private loans, student fees, parking fees, etc.) and the availability of funds from that source. If it is necessary to repay the original source of funds, the source and projections of funds to repay that original source will be reviewed.
- 2) Proposed source and availability of funds to cover increased operations and maintenance costs associated with construction of the project.
- d) All required documentation in accordance with Section 1040.22 must be submitted.

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 1040.27 Submission Process

- a) All requests for approval of noninstructional capital projects shall be submitted in writing to the Executive Director of the Board no later than 45 days prior to the desired Board approval date to provide sufficient time for staff review and agenda item preparation. A schedule of Board meeting dates is available at www.ibhe.org.
- b) An electronic submission of the request should be directed to appropriate fiscal staff.
- c) Additional data shall be requested if all submission requirements have not been met.
- d) Background data substantiating the changes in annual operations and maintenance cost may be needed if the estimates do not appear reasonable in light of current campus expenditures.

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 1040.30 Noninstructional Capital Improvements and Community College Locally-Funded Capital Projects (Repealed)

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

a) ~~Submission Requirements~~

- 1) ~~All requests for approval of new or revised noninstructional capital improvements and locally funded community college construction projects shall contain the following:~~
 - A) ~~A description of the project including the scope and justification for its need.~~
 - B) ~~A classification of the project into the appropriate budget category.~~
 - C) ~~A statement showing the total project cost, source of the cost estimate and the anticipated source of funds.~~
 - D) ~~An estimate of the changes in the annual operations and maintenance costs (including utility costs).~~
 - E) ~~For noninstructional capital improvement projects either governing board or local community college district board of trustees and Illinois Community College Board resolutions approving the expenditure of funds and the source of funds are required.~~
 - F) ~~For locally funded community college construction projects, the following are required:~~
 - i) ~~Local community college board of trustees resolution approving the expenditure of funds and the source of funds.~~
 - ii) ~~Certification from the Executive Director of the Illinois Community College Board indicating that the project has been approved by the Illinois Community College Board or its authorized representative.~~
 - iii) ~~A program statement for all projects for which state reimbursement may be requested in the future.~~
- 2) ~~All requests for approval of noninstructional capital improvements and locally funded community college projects shall be submitted 45 days prior to the desired approval date to allow sufficient time for review of the~~

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~~project by staff. Additional data shall be requested if all submission requirements have not been met. Background data substantiating the changes in annual operations and maintenance cost may be needed if the estimates do not appear reasonable in light of current campus expenditures.~~

- b) ~~Criteria for Approval. The following criteria will form the basis for approval of projects:~~
- ~~1) Projects must be consistent with the mission and scope of the institution.~~
 - ~~2) Projects must provide for needed additional or replacement space, more efficient utilization of existing space, or maintain or improve existing space. In determining whether or not these criteria are met, the following information shall be reviewed:~~
 - ~~A) current and projected programmatic needs~~
 - ~~B) current and projected space utilization rates~~
 - ~~3) Projects must be economically feasible. A project will be determined to be economically feasible if all legal requirements are met and if it is demonstrated that funds are available to finance the construction and operation of the project. In determining whether or not a project is economically feasible, the following information shall be reviewed:~~
 - ~~A) Proposed source of funds for construction of the project (e.g., existing revenues in site and construction funds, gifts, revenue bonds, private loans, student fees, parking fees, etc.) and the availability of funds from that source. If it is necessary to repay the original source of funds, the source and projections of funds to repay that original source will be reviewed.~~
 - ~~B) Proposed source and availability of funds to cover increased operations and maintenance costs associated with construction of the project.~~
 - ~~4) All required documentation as outlined in "Submission Requirements" must be submitted.~~

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 30 Ill. Reg. _____, effective _____)

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Nurse Educator Fellowship Program
- 2) Code Citation: 23 Ill. Adm. Code 1105
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1105.100	New
1105.200	New
1105.300	New
1105.400	New
1105.500	New
1105.600	New
1105.700	New
- 4) Statutory Authority: Implementing and authorized by Section 9.32 of the Board of Higher Education Act [110 ILCS 205/9.32].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements the provisions of P.A. 94-1020 that amends the Board of Higher Education Act [110 ILCS 205/9.32] to establish a nurse educator fellowship program. The intent of the program is to ensure the retention of well-qualified nursing faculty by providing a salary supplement to nursing faculty via a competitive award process. Illinois institutions of higher learning that offer accredited nursing programs and are approved by the Illinois Department of Financial and Professional Regulation are eligible to nominate nursing faculty for the Program.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The proposed rulemaking does not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805/3].

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED RULES

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:
- Sandi Gillilan, Administrative Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, Illinois 62701
- 217/557-7352
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: No obligations have been proposed that will affect small businesses, small municipalities and not for profit corporations. The Program provides Fellowship funds to well-qualified nursing faculty as determined by a competitive award process.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two 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 Rules is identical to that of the Emergency Rules found in this issue of the *Illinois Register*, which begins on page 14363:

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Household Goods Carriers
- 2) Code Citation: 92 Ill. Adm. Code 1457
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1457.10	Amendment
1457.90	Amendment
1457.150	Amendment
1457.330	Amendment
1457.450	Amendment
1457.600	Amendment
1457.610	Amendment
1457.650	Amendment
1457.920	Amendment
- 4) Statutory Authority: Implementing Sections 18c-1202 and 18c-2107 and authorized by Section 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202 and 18c-2107].
- 5) A Complete Description of the Subjects and Issues Involved: These amendments revise the rules of the Illinois Commerce Commission relating to licenses issued to intrastate household goods carriers.

The specific changes include that: the Commission must consider whether an applicant for a household goods license has operated illegally in the past and been the subject of administrative citations or civil penalties; items audited by the Commission's Compliance Office during the temporary household goods authority period are outlined; hearings regarding the denial of a permanent household goods authority must be held within 45 days and a final order must be entered within 120 days or the license is denied by operation of law; after a 6 month license extension period has ended, the applicant must cease operating regardless of whether a request for a hearing has been received; advertising as a household goods carrier is prohibited until the Commission has granted an authority to operate; household goods carriers cannot accept barter as payment; during a mediation, both shippers and carriers are required to participate in good faith; claims for loss or damage must be filed in 90 days instead of 9 months; bills of lading and freight bills must be consecutively numbered; and a copy of the Commission's consumer guide must be provided to the shipper.

Minor wording and grammatical changes are also being made.

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency amendments currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* with:

Steven L. Matrisch
Office of Transportation Counsel
Transportation Division
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

(217) 782-6447
smatrisc@icc.state.il.us

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: These amendments will affect small businesses that are currently licensed or will be licensed by the Illinois Commerce Commission as household goods carriers in the State of Illinois and that are small businesses as defined in the Illinois Administrative Procedure Act. These amendments will not affect any small municipalities or not for profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the Commission did not anticipate the need at that time.

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER III: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER a: COMMERCIAL TRANSPORTATION GENERALLYPART 1457
HOUSEHOLD GOODS CARRIERS

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AUTHORITY: Implementing Sections 18c-1202 and 18c-2107 and authorized by Section 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202 and 18c-2107].

SOURCE: Adopted at 24 Ill. Reg. 17072, effective November 1, 2000; amended at 28 Ill. Reg. 3840, effective March 1, 2004; amended at 28 Ill. Reg. 13003, effective October 1, 2004; amended at 30 Ill. Reg. _____, effective _____.

SUBPART A: APPLICATIONS

Section 1457.10 Application for Temporary Household Goods Authority

- a) Application for temporary household goods authority shall be filed on forms provided by the Commission.
- b) Public notice of application for temporary household goods authority shall be published in the official State newspaper and the Certificate of Publication must be received by the Commission no more than 30 days after the application has been filed. The published notice must include the docket number assigned to the application by the Commission.
- c) An application for temporary authority cannot be filed unless an application for permanent authority has been filed or is filed concurrently with the application for temporary authority.
- d) The applicant shall have 60 days from the issuance of the order granting a temporary authority to file the following with the Commission:
 - 1) Rates applicable to the full extent of the grant of temporary authority;
 - 2) If applicable, proof of insurance as required in compliance with the Workers' Compensation Act [820 ILCS 305];
 - 3) Proof of liability insurance, and any cargo and C.O.D. affidavits or bonds/insurance required; and
 - 4) Payment of franchise fees for each truck to be operated under the temporary authority.
- e) Failure to submit the above within the specified 60 day period will result in the order granting the temporary authority being vacated and the application being

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dismissed.

- f) Temporary authority shall not be granted unless the application and the evidence presented at hearing demonstrate that a public need exists for the requested service and that the applicant is fit, willing, and able to provide the service requested.
- g) Fitness shall be determined in accordance with the provisions of Subpart B of this Part. Evidence that applicant has conducted household goods moves without Commission authority, been assessed civil penalties, or received administrative citations shall be considered by the Commission in determining the applicant's fitness to operate.
- h) In determining whether a public need exists for the requested service the Commission shall consider demographic statistics, supporting shipper testimony, or any other evidence presented that is material and relevant.
- i) An applicant may operate as a household goods carrier under a temporary authority for up to one year after the service date of the order granting temporary authority. During that year of operation, the temporary authority holder shall be subject to:
 - 1) A compliance audit conducted by the Commission;
 - 2) A review of any and all consumer complaints against the temporary authority holder.
- j) The compliance audit shall include, but not be limited to, a review of:
 - 1) proof of proper insurance
 - 2) claims/complaints filed by shippers
 - 3) business organization records
 - 4) proper documentation of moves including estimates, bills of lading, inventories and claims
 - 5) liability provisions on estimates and bills of lading

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- 6) operation within scope of authority
 - 7) compliance with rate and tariff provisions
 - 8) distribution of the Commission's consumer brochure
 - 9) advertising
 - 10) equipment leases
 - 11) documentation in vehicles
 - 12) carrier identification on vehicles and documents
- kj) If substantial violations of the rules and regulations of the Commission are found in either the compliance audit or the consumer complaint review conducted under subsection (i) of this Section, notice of denial of permanent authority revocation shall be sent to the temporary authority holder, together with a copy of the audit report and documents referred to in the audit report.
- 1) The temporary authority holder shall have 30 days from the service date of the notice of denial of permanent authority revocation to submit a written request to the Commission for either or both of the following:
 - A) A six month extension of its temporary authority to allow opportunity to come into compliance with the rules and regulations of the Commission;
 - B) A formal hearing regarding the allegations of violations.
 - 2) The hearing on denial of permanent authority shall be held no later than 45 days after the request is received by the Commission.
 - 3) Failure of the Commission to enter a final order within 120 days after the request for a hearing on denial of permanent authority shall constitute denial of permanent authority by operation of law.
 - 4)2) The Motor Carrier Employee Board shall act on requests for extensions of temporary authorities. A temporary authority holder shall be allowed only one six-month extension of its temporary operating authority.

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- A) During the six-month extension, the Commission will conduct a compliance audit of the temporary authority holder and a review of consumer complaints against the temporary authority holder.
- B) The six-month extension shall terminate six months after the date granting the extension.
- C) If during the six-month extension period the temporary authority holder is found to be in substantial non-compliance with the Commission's rules and regulations, the applicant shall cease operating immediately, notwithstanding whether a hearing has been requested pursuant to subsection (k)(1)(B) of this Section.
- 5) The Motor Carrier Employee Board shall act on applications for permanent authority following receipt of Staff recommendations.
- ~~k~~) A temporary authority shall be converted to a permanent authority upon expiration if the authority holder is found to have operated in substantial compliance with the rules and regulations of the Commission.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART B: FITNESS STANDARDS

Section 1457.90 Continued Fitness Standards

- a) Personnel Standards
- 1) No household goods carrier shall permit any driver, helper, and/or packer to be used in the transportation of any household goods shipment or in the performance of accessorial services unless that person is trained in the movement of household goods.
 - 2) No household goods carrier shall knowingly permit drivers, helpers and/or packers to go on duty who are under the influence of alcoholic beverages or liquors of any kind, or narcotics, or habit-forming drugs not prescribed by a physician. Nor shall the use of these substances be allowed while the employees are on duty. Knowledge by the carrier is deemed to exist if known to the foreman or other manager of the crew.

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- b) Equipment Standards
- 1) Equipment and facilities utilized by a household goods carrier for the transportation of household goods shall be maintained in a manner that is sufficient to protect the goods from damage or breakage. The interior of those vehicles used to transport household goods shipments shall be clean and free from vermin and debris.
 - 2) For shipments transported at hourly rates, the household goods carrier shall determine the number of men and the size and the number of motor vehicle equipment that is appropriate to provide safe and timely transportation services for the requested movement. If the carrier deviates from its initial determination as stated in the carrier's written estimate, the shipper shall not be charged for any resulting excess charges in unless the shipper is informed and agrees in writing. A notation shall be placed on the bill of lading indicating the number of men and motor vehicles initially estimated and the number actually furnished and used for the move.
- c) Advertising Standards
- 1) For purposes of this Section, the term "advertisement" means any advertisement, solicitation, or other communication with the public in relation to the offer or sale of Illinois intrastate household goods transportation service. The term shall include advertisement by radio, television, internet, computer media or any other medium. The term shall not include a simple listing of household goods carriers' names, addresses, and telephone numbers, as in a telephone directory.
 - 2) Each household goods carrier shall include, and shall require each of its agents to include, in every advertisement the full name of the originating household goods carrier as it appears on the carrier's license from the Commission. The advertisement shall also identify the carrier by showing the characters "ILL.C.C." followed by the license number assigned to the household goods carrier by the Commission.
 - 3) Household goods carriers who are duly authorized agents for other licensed carriers, including carriers operating under the jurisdiction of the Federal Motor Carrier Safety Administration, may advertise and represent themselves as such an agent.

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- 4) The following advertising practices shall not be conducted by household goods carriers:
- A) Household goods carriers shall not advertise rates unless the following caveats are included in the advertisement:
 - i) "Rates effective (date), subject to change"; and
 - ii) "Actual charges governed by applicable tariffs, this advertisement notwithstanding";
 - B) Household goods carriers shall not misrepresent the scope of services offered and made available to the public under authority of the license issued by the Commission;
 - C) Household goods carriers shall not advertise that their operations are conducted at addresses or locations where duly authorized employees are not on duty during all business hours. The location of a telephone answering service does not constitute an address or location where duly authorized employees are on duty; ~~and~~
 - D) Household goods carriers shall not advertise or otherwise offer to provide insurance or storage of personal property for compensation unless the carrier is duly licensed to engage in the offered activity by the appropriate agency of the State of Illinois; ~~and-~~
 - E) No applicant for household goods authority shall advertise by any means until authority to operate has been issued by the Commission.
- 5) Violation of this subsection (c) shall subject a carrier to sanctions permitted under 625 ILCS 5/18c-1704.
- d) Standards for Forms of Payment
- 1) Household goods carriers shall accept payment tendered in the following forms:
 - A) Cash;

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- B) Cashier's check; or
 - C) Money order.
- 2) A household goods carrier may accept payment in other forms, including personal checks and credit cards, if to do so does not result in a practice that circumvents the statutory requirement that a carrier charge no more or less than the rate in the applicable tariff. No household goods carrier shall accept barter as payment.
- 3) A household goods carrier shall not refuse to accept any ordinary form of payment unless, before rendition of the service, the carrier has advised the shipper, in writing, that it would not accept payment in the form tendered.
- e) Notification of any delay in pickup or delivery shall be given to the shipper by telephone, e-mail, fax, or in person, at the carrier's expense, as soon as it becomes apparent that the delay will occur, provided the shipper has given information sufficient for the communication.
- f) All household goods carriers shall hold themselves out to provide a guaranteed delivery service at the tariff charge. The term "guaranteed delivery" shall mean that a carrier providing service shall perform delivery on a specified date.
- g) No household goods carrier shall accept a shipment of household goods for transportation that is subject to the minimum weight, distance, or time provisions of the carrier's tariff without first having advised the shipper of the minimum weight, distance, or time provisions. Failure to advise the shipper, in writing, of the provisions shall void the minimum rate application.
- h) All household goods carriers shall maintain on file with the Commission all required insurance coverage including, where applicable, insurance in compliance with the Workers' Compensation Act [820 ILCS 305].

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART C: INSURANCE OR BOND COVERAGE

Section 1457.150 Shipper Valuation Coverage

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- a) A household goods carrier's liability for loss or damage in the absence of a shipper's release, except as provided in subsection (b) is limited to the greater of:
- 1) Two dollars per pound per shipment times the weight of the shipment in pounds; or
 - 2) The lump sum value declared in writing by the shipper.
- b) The shipper, by his or her own handwriting, may agree to have a shipment valued for loss or damage purposes at 30 cents per pound per article. To release the shipment at 30 cents per pound per article, the shipper must insert the words "30 cents per pound per article" and his or her signature on the bill of lading.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART E: RESOLUTION OF HOUSEHOLD GOODS DISPUTES

Section 1457.330 Mediation

If a shipper and carrier are unable to resolve a dispute, either party may request the Commission staff's participation in the dispute resolution process as a mediator.

- a) ~~Both shippers and carriers~~ ~~Carriers~~ are required to participate in mediation in good faith. "Good faith participation" includes participation by a representative of the carrier who has authority to agree to settlement. However, the fact that a settlement is not achieved does not in itself constitute evidence of lack of good faith participation.
- b) Mediation may take any form or employ any process to which the parties and the mediator agree. Mediation will terminate when the parties reach an agreement about all issues in dispute, when the shipper withdraws as a participant, or when the staff mediator determines that there is no reasonable likelihood that the parties will reach an agreement on any issues remaining in dispute.
- c) At the conclusion of mediation, the staff mediator will prepare a memorandum for the parties reflecting the terms of their agreement. If any issues remain unresolved, the staff mediator will give the parties a written opinion as to the merits of the issues remaining in dispute, based on the information available to the staff mediator and the applicable law. The opinion expressed by the staff mediator shall not be binding on the Commission.

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(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART G: CLAIMS FOR LOSS OR DAMAGE

Section 1457.450 Limitations for Filing a Claim

- a) Any limitation for the filing of claims for loss or damage to a shipment must allow at least 90 days~~9 months~~ after the shipment is delivered or scheduled to be delivered for the filing of a claim by the shipper with the carrier.
- b) Any limitations on the filing of suits by the shipper for loss or damage to a shipment must allow at least 2 years from the date of written notice by the carrier that it declined to pay the claim.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART I: BILLS OF LADING OR OTHER FORMS

Section 1457.600 Bills of Lading and Freight Bills

- a) Issuance of the bill of lading. At the time a shipment is picked up, all carriers shall issue a bill of lading indicating the commodities transported, the weight or other unit used to compute freight charges, the points of origin and destination, and the names of the consignor and consignee.
- b) Information required on the bill of lading. Whenever a bill of lading is issued in compliance with subsection (a) of this Section, the carrier shall show, in addition to the information specified in subsection (a), the following information:
 - 1) The names of the carriers participating in the transportation of the shipment;
 - 2) The name, physical address, and telephone number of the office of the carrier who should be contacted in relation to the shipment, should there be a need for contact;
 - 3) The name, physical address, and telephone number of a person to whom notification provided for in Section 1457.90(e) shall be given, except when this cannot be obtained from the shipper;

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- 4) With regard to pickup and delivery the:
 - A) Agreed pickup date;
 - B) Actual pickup date;
 - C) Agreed delivery date or the agreed period of time within which delivery of the shipment is expected at the final destination;
- 5) Where applicable, the estimated amount due to the carrier to obtain possession of a Collect on Delivery (C.O.D.) shipment;
- 6) A statement that, unless the shipper expressly releases the shipment to a value of 30 cents per pound per article, the carrier's maximum liability for loss of or damage to the shipment shall be an amount equal to \$2 for each pound of weight in the shipment or the lump sum value declared by the shipper on this form, whichever is greater.
- c) Issuance of a freight bill. After rendition of the service, all carriers shall issue to the person responsible for payment of freight charges a freight bill indicating the total charge for transportation service.
- d) The bill of lading and the freight bill may be combined in a single document.
- e) The bill of lading and freight bill shall each be consecutively numbered.
- f) Bill of lading contract terms. The contractual provisions governing shipments under this Part shall include, as implied terms, the provisions in the governing tariffs of each carrier.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1457.610 Estimate of Charges

- a) Estimates of the charges in relation to the transportation of household goods shall be based upon an inspection of the goods or upon a shipper's description of the goods, by telephone or other means, confirmed in writing prior to rendition of the service.

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- b) Estimates of the charges in relation to the transportation of household goods shall be on a Commission approved household goods estimate form. The Commission shall approve any form that:
- 1) Is identified at the top of the first page as an "Estimate of Charges";
 - 2) Identifies on the first page the name of the carrier as it appears on its Commission license, the address of the carrier at which employees of the carrier are on duty during business hours, and the telephone number of the carrier;
 - 3) Identifies on the first page the name of the shipper and receiver and the addresses at which the goods are to be picked up and delivered;
 - 4) Specifies the number of pieces of equipment and personnel to be used for the transportation of the shipment;
 - 5) Specifies, for hourly rated shipments, the number of hours, including travel time, estimated for the transportation of the shipment;
 - 6) Specifies, for weight rated shipments, the weight and distance estimated for the transportation of the shipment;
 - 7) Includes the description and estimated charges for any accessorial services, including packing, packing materials, valuation, storage, warehouse handling or other charges contained within the carrier's lawfully filed tariffs;
 - 8) Specifies the total estimated cost for the transportation of the shipment;
~~and~~
 - 9) Contains an area verifying that a copy of the Commission's consumer guide to household goods moves was provided to the shipper; and
 - 109) Does not contain provisions contrary to this Part.
- c) A signed copy of the estimate shall be delivered to the shipper before rendition of the service, and a copy shall be maintained by the carrier as part of its records.
- d) If the total tariff charges for any shipment exceed the estimated charges plus 10%,

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the shipper shall become entitled to credit terms from the carrier tendering the shipment for delivery to cover that portion of the total charges that exceeds 110% of the estimated charges. The carrier, in such event, shall advise the shipper that he/she has up to 30 days to pay these additional charges amounting to the balance between the applicable tariff charges and the estimate for the move plus 10%.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1457.650 Information Pamphlets for Shippers

Each carrier shall provide to each non-commercial shipper, free of charge, and prior to rendition of service, a copy of the Commission's [consumer guide to public information pamphlet for household goods movers/shippers](#).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART L: EQUIPMENT LEASES

Section 1457.920 General Leasing Requirements

- a) Leasing permitted only in compliance with this Subpart. Authorized carriers may perform regulated transportation in equipment they do not own only in accordance with this Subpart.
- b) Written lease required. Each lease covered by this Subpart must be in writing.
- c) Parties and signatures. A lease subject to this Subpart must be between the owner of the equipment (the lessor) and the licensed carrier to which the equipment, with or without driver, is leased (the lessee). The lease must be signed by each party or its authorized representative.
- d) Filing and review requirements.
 - 1) Filing requirement. The original and 2 copies of each completed (signed and dated) lease to which this Subpart applies must be filed with the Commission's Transportation Division at the following address:

Illinois Commerce Commission
Transportation Division
527 East Capitol Avenue

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~~P.O. Box 19280~~

Springfield IL 62701

- 2) Filing fee requirement. A filing fee as prescribed in Subpart Q shall be remitted with each lease.
 - 3) No operations shall be conducted under a lease to which this Subpart applies until a copy of the completed lease has been filed with or mailed to the Commission's Transportation Division.
 - 4) Operations may be conducted under the lease after filing or transmittal but before completion of review. A copy of the lease and an attached affidavit stating that the lease has been transmitted to the Commission, indicating the date of transmittal and stating that the lease is under review, are to be carried in the vehicle covered by the lease.
- e) Receipts for equipment. Receipts, specifically identifying the equipment to be leased and stating the date and time of day possession is transferred, shall be given as follows:
- 1) When possession of the equipment is taken by the authorized carrier, it shall give the owner of the equipment a receipt.
 - 2) When possession of the equipment by the authorized carrier ends, it shall give the owner of the equipment a receipt.
- f) Identification of equipment. Authorized carriers shall identify the leased equipment as being in their service as follows:
- 1) During the period of the lease, the carrier shall identify the equipment by attaching a placard with the identification of the lessee in compliance with Section 18c-4701 of the Law;
 - 2) During the entire period of the lease, a copy of the executed lease shall be carried in each motor vehicle covered by the lease. The lease must bear a Transportation Division stamp showing that the lease was approved or that no deficiency was found or have attached to it the affidavit prescribed in subsection (d)(4).
- g) Records of equipment use. Authorized carriers shall keep records of equipment

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use as follows:

- 1) General equipment use records. Each authorized carrier shall prepare and keep documents covering each trip for which the equipment is used in the carrier's service. These documents shall contain the name and address of the owner of the equipment, the point of origin, the time and date of departure, and the point of final destination. These documents shall be preserved as part of the carrier's records.
 - 2) Trip lease records. If the equipment is being leased for a period less than 30 days, the authorized carrier shall carry a copy of the lease records described in subsection (g)(1) in the leased equipment while it is operated under the lease. Records carried in the vehicle must also identify the lading.
 - 3) Permanent lease records. If the equipment is being leased for periods of 30 days or more, the authorized carrier may keep the records identifying the lading at its terminals or principal office as part of its records, rather than in the leased equipment.
- h) A copy of the completed written lease shall be retained as part of the carrier/lessee's records.
- i) Cancellation. In the event that a carrier wishes to cancel a lease prior to the expiration date, it may file a notice of cancellation at the address for filing leases under Section 1457.920(d)(1). Otherwise, the lease shall remain in effect for purposes of the Law until the expiration date, or the date on which the lease expires by operation of Section 1457.940(a)(2), whichever occurs first. No fee is required for filing a notice of cancellation.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Affordable Housing Tax Credit Program
- 2) Code Citation: 47 Ill. Adm. Code 355
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
355.103	Amendment
355.106	Amendment
355.204	Amendment
355.205	Amendment
355.206	Amendment
355.207	Amendment
355.208	Amendment
355.209	Amendment
355.301	Amendment
355.302	Amendment
355.303	Amendment
355.306	Amendment
355.307	Amendment
355.311	New Section
355.403	Amendment
355.406	Amendment
355.502	Amendment
355.601	Amendment
- 4) Statutory Authority: Authorized by Section 7.28 of the Illinois Housing Development Act [20 ILCS 3805/7.28]
- 5) A Complete Description of the Subjects and Issues Involved: These amendments involve the administration of the affordable housing tax credit program.
- 6) Published Studies or reports, and sources of underlying data, used to make this rulemaking:
None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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- 11) Statement of Statewide Policy Objectives: The proposed amendments do not create, expand or modify a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this rulemaking: Interested parties may submit comments, data, views or arguments concerning this rulemaking in writing to:

Richard B. Muller, Esq.,
401 North Michigan Avenue
Suite 700
Chicago, Illinois 60611

312/836-5327
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed amendments will have a favorable impact on small to midsize real estate developers, contractors, and employers participating in the employer assisted housing program.
 - B) Reporting, bookkeeping or other procedures required for compliance: No new requirements
 - C) Types of Professional skills necessary for compliance: No new requirements.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The proposed amendments were not anticipated; however, tax credit program users requested certain clarifications to the Part.
- 15) Does this amendment require the review of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25]? No

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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITYPART 355
ILLINOIS AFFORDABLE HOUSING TAX CREDIT PROGRAM

SUBPART A: GENERAL RULES

Section	
355.101	Authority
355.102	Purpose and Objectives
355.103	Definitions
355.104	Compliance with Federal Law
355.105	Forms and Procedures for the Program
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AUTHORITY: Section 7.28 of the Illinois Housing Development Act [20 ILCS 3805/7.28].

SOURCE: Adopted by emergency rulemaking at 25 Ill. Reg. 15636, effective November 29, 2001, for a maximum of 150 days; adopted at 26 Ill. Reg. 5902, effective April 15, 2002; emergency amendment at 26 Ill. Reg. 7325, effective April 26, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13220, effective August 20, 2002; emergency amendment at 27 Ill. Reg. 5033, effective March 10, 2003, for a maximum of 150 days; emergency expired August 6, 2003; amended at 27

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Ill. Reg. 14310, effective August 21, 2003; amended at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL RULES

Section 355.103 Definitions

As used in this Part, the following words or terms mean:

"Act": The Illinois Housing Development Act [20 ILCS 3805].

"Affordable Housing Project": A housing project that is either:

a rental project in which at least 25% of the units that have rents (including tenant-paid heat) that do not exceed, on a monthly basis, 30% of the gross monthly income of a Household earning the maximum income for a Low-Income Household in the geographical area in which the Affordable Housing Project is located and that are occupied by persons and families who qualify as Low-Income Households; or

a unit for sale to Low-Income Households and who will pay no more than 30% of their gross household income for mortgage principal, interest, property taxes, and property insurance upon the purchase of the unit.

"Affordable Housing Restrictions": The income and occupancy restrictions for an Affordable Housing Project required by Section 7.28 and this Part, or those set forth in the Application for the Affordable Housing Project, whichever are more stringent.

"Affordable Housing Tax Credits": Affordable Housing Tax Credits, as authorized by Section 7.28 and Section 214 of the Illinois Income Tax Act.

"Affordable Housing Tax Credit Ceiling": The aggregate amount of Affordable Housing Tax Credits available for Allocation in a State fiscal year.

"Agency": The Authority, the City of Chicago or any other municipality that may subsequently be designated by law as an agency for the Allocation of Affordable Housing Tax Credits.

"Agency Affordable Housing Tax Credit Ceiling": That portion of the

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Affordable Housing Tax Credit Ceiling that is available for Allocation by an Agency. That amount is 24.5% of the Affordable Housing Tax Credit Ceiling for the City of Chicago, and 75.5% of the Affordable Housing Tax Credit Ceiling for the Authority.

"Agency Head": The Executive Director of the Authority or the Housing Commissioner of the City of Chicago.

"Allocation": An award by an Agency of Affordable Housing Tax Credits in connection with an Affordable Housing Project, an Employer-Assisted Housing Project or Technical Assistance.

"Applicant": The Sponsor (and any other affiliated entities) applying for an Allocation.

"Application": An application to an Agency for a Reservation and an Allocation submitted by an Applicant, including the required supporting documentation.

"Authority": The Illinois Housing Development Authority.

"Certificate": The certificate issued by an Agency evidencing an Allocation. The Certificate shall state the effective date of the Allocation.

"Compliance Period": The period during which an Affordable Housing Project is obligated to comply with the Affordable Housing Restrictions, as set forth in the Application. The Compliance Period for each Affordable Housing Project shall be a minimum of 10 years from the date of the initial certificate of occupancy from the municipality in which the Affordable Housing Project is located, except for:

Single Family Projects in which a Sponsor provides construction subsidies or down payment and closing cost assistance to Low-Income Households or Employer-Assisted Housing Projects purchasing a Single Family Residence, in which case the Compliance Period shall be 5 years from the date of the closing of the purchase of the Single Family Residence, and

Hardship cases, as provided in Section 355.404 of this Part.

"Donation": Money, securities, or real or personal property that is provided without consideration to a Sponsor and that is used for:

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costs associated with purchasing, rehabilitating constructing, or providing or obtaining financing for an Affordable Housing Project, including fees for attorneys, architects, accountants, surveyors and appraisers;

Technical Assistance; or

General Operating Support of the Sponsor; or

an Employer-Assisted Housing Project.

"Donor": An individual or entity, other than the Federal government, the State government, any local municipality or any agency, board commission, corporation or authority of the Federal government, the State government or any local government, except as provided in Section 355.311 of this Part, making a Donation.

"Employer-Assisted Housing Project": A project that involves Donations made to a Sponsor that are used for down payment and closing cost assistance, reduced-interest mortgages, mortgage guarantee programs, rental subsidies, or individual development account savings plans that are:

provided by the Sponsor to the employers'~~an employer to its~~ employees to assist them to secure~~in securing~~ housing near the employer's work place; and

restricted to housing near such work place; and

restricted to employees who qualify as Moderate-Income Households.

"General Operating Support": Any cost incurred by a Sponsor, directly or indirectly, in connection with an Affordable Housing Project or an Employer-Assisted Housing Project. Such costs may include a proportionate amount of the general overhead expenses of the Sponsor.

"Gross Household Income": The total annualized income of a Household from whatever source derived and before taxes or withholdings.

"Household": A single person, family or unrelated persons living together.

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"Initial Closing Date": The date on which all legal requirements for the funding of an Affordable Housing Project have been met, as determined by the funding sources for the Affordable Housing Project, and the funds are made available to the Affordable Housing Project for distribution.

"Low-Income Household": A Household whose adjusted income is less than or equal to 60% of the median income of the geographical area of the Household's prospective residence, adjusted for family size, as such adjusted income and median income for the geographical area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 USC 1437).

"Material Participation": An individual or entity provides personal services to tenants or prospective tenants of a Multifamily Housing Project or rental Single Family Project, or professional services to a Multifamily Housing Project, on a regular, continuous, and substantial basis for more than 300 hours during each year during the Compliance Period. This requirement will be satisfied if the Sponsor is the owner, or holds a controlling interest in the entity that is the owner, of the project; or is the managing general partner, or holds a controlling interest in the entity that is the managing general partner, of a limited partnership that is the owner of the project; or is the managing member, or holds a controlling interest in the entity that is the managing member, of the limited liability company that is the owner of the project.

"Members": The Members of the Authority.

"Moderate-Income Household": A Household whose adjusted income is less than 120% of the median income of the geographical area of the Household's Employer-Assisted Housing Project, adjusted for family size, as such adjusted income and median income for the geographical area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 USC 1437).

"Multifamily Housing Project": An Affordable Housing Project comprised of one or more buildings (other than Single Family Residences) containing an aggregate of five or more rental units.

"Program": The Illinois Affordable Housing Tax Credit Program.

"Regulatory Agreement": The Illinois Affordable Housing Tax Credit Regulatory |

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Agreement to be recorded against rental Affordable Housing Projects and Employer Assisted Housing Projects.

"Reservation": An Agency's conditional reservation of Affordable Housing Tax Credits for a Sponsor. A Reservation shall be valid for a period no longer than 24 months from the date of the Reservation Letter. If the Affordable Housing Tax Credits so reserved have not been allocated within that 24 month period, the Reservation shall expire and shall not be renewed.

"Reservation Letter": The letter from an Agency to a Sponsor conditionally reserving Affordable Housing Tax Credits.

"Section 7.28": Section 7.28 of the Act.

"Single Family Project": An Affordable Housing Project consisting of:

the construction of Single Family Residences; or

the rehabilitation of a 2, 3, or 4 unit buildings; upon completion of rehabilitation, the units are sold or rented; or

the rehabilitation of Single Family Residences, which are then sold or rented; or

the rehabilitation of buildings containing more than 4 units; upon completion of rehabilitation, the units are sold as condominiums; or

the financing of Single Family Residences using junior mortgages with a below market interest rate; or

construction subsidies to lower the purchase price of Single Family Residences.

"Single Family Residence": A house, condominium, townhouse or other residence used for occupancy by a single Household as its primary residence.

"Sponsor": A not-for-profit organization that is:

organized under the General Not For Profit Corporation Act of 1986 [805 ILCS 105] for the purpose of constructing or rehabilitating affordable

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housing units in this State; or

organized for the purpose of constructing or rehabilitating affordable housing units and has been issued a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under provisions of the Internal Revenue Code; or

an organization designated as a community development corporation by the United States Government under Title VII of the Economic Opportunity Act of 1964; ~~or:~~

a limited liability company that has a not-for-profit organization as its sole member.

"State": The State of Illinois.

"Technical Assistance": Any cost incurred by a Sponsor for:

planning for an Affordable Housing Project or an Employer-Assisted Housing Project, or

assistance with an Application, or

counseling services provided to prospective purchasers of a Single Family Residence in connection with a Single Family Project or an Employer-Assisted Housing Project, except as provided in Section 355.408 of this Part.

"Very Low-Income Household": A Household whose adjusted income is less than or equal to 50% of the median income of the geographical area of the Household's prospective residence, adjusted for family size, as such adjusted income and median income for the geographical area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 USC 1437).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 355.106 Fees and Charges

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In connection with an Application, an Agency may collect a fee from the Applicant Sponsor in an amount not to exceed ~~\$500~~200, payable when the Application is submitted. In connection with a Reservation~~an Allocation~~, an Agency may collect a fee from the Applicant Sponsor in an amount not to exceed ~~3%~~\$500, ~~payable on or before the date~~ of the Allocation Reservation, payable by the due date specified in the Reservation Letter. The Agency may assess a modification fee for changes in the owner, the name of the owner or the characteristics of an Affordable Housing Project, such as unit type, distribution or population to be served. ~~The Allocation fee shall include a credit for the amount of any Application fee paid.~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART B: AFFORDABLE HOUSING TAX CREDIT ALLOCATIONS

Section 355.204 Agency Review

The Agency shall review each complete Application and approve or reject it. The Agency's review of an Application shall include, but not be limited to, the following criteria (where applicable):

- a) Section 7.28 Requirements. The ability of the Affordable Housing Project to meet the requirements of Section 7.28 and this Part throughout the Compliance Period;
- b) Financial Feasibility. The financial feasibility of the Affordable Housing Project, taking into ~~the~~ consideration the existing housing for Low-Income Households and Very Low-Income Households in the geographical area in which the Affordable Housing Project will be located, the cost of the Affordable Housing Project, the projected income and operating expense of the Affordable Housing Project, and all sources of financing for the Affordable Housing Project, including owner's equity;
- c) Sponsor's Ability. The ability of the Sponsor to successfully construct the Multifamily Housing Project or the rental Single Family Project and place it in service, taking into consideration the construction or other schedule submitted with the Application, the Sponsor's experience in the development, construction and/or rehabilitation of housing, and the size and scope of the Affordable Housing Project; or the ability of the Sponsor to provide the Technical Assistance; or the ability of the Sponsor to implement the Employer-Assisted Housing Project;
- d) Site Control. Evidence of site control, satisfactory to the Agency, for the

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Affordable Housing Project, which shall include, but not be limited to, a purchase contract, an option to purchase, or a letter of intent from a prospective Donor of real property or from a governmental agency;

- e) Donations. The amount of the proposed or anticipated Donation and the Sponsor's plan for obtaining the Donation;
- f) Location. The need for housing for Low-Income and Very Low-Income Households in the geographical area in which the Affordable Housing Project will be located, based on census data, social surveys, published data, or on-site inspections; and the location of other Affordable Housing Projects for which the Agency has allocated or reserved Affordable Housing Tax Credits;
- g) Housing Stock. The likelihood that the Affordable Housing Project will increase the quality and quantity of housing stock and redevelop blighted areas or prevent the occurrence of slum conditions;
- h) Preservation. The likelihood that the Affordable Housing Project will preserve housing projects in danger of being lost as affordable housing stock;
- i) Involuntary Displacement. For Multifamily Housing Projects or rental Single Family Projects involving rehabilitation, the Sponsor must minimize involuntary displacement of current tenants who are Low-Income and Very Low-Income Households, taking into consideration their safety during rehabilitation and the scope and nature of the proposed rehabilitation;
- j) Special Needs Populations. The availability and accessibility of the Affordable Housing Project for special needs populations, including, but not limited to, homeless or displaced individuals, persons with physical, mental or developmental disabilities, persons with alcohol or substance abuse problems, and persons with AIDS and related diseases;
- k) Compliance Period. Whether the Compliance Period of the Affordable Housing Project exceeds the minimum requirements of Section 7.28;
- l) Lower Income Households. The ability of the Affordable Housing Project to serve Households with incomes less than the maximum income for Low-Income or Very Low-Income Households for the geographical area in which the Affordable Housing Project will be located.

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(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 355.205 Approval or Rejection by Agency

- a) Upon an Agency's completion of its review of an Application, the Agency shall notify the Sponsor in writing of its approval or rejection of the Application.
- b) Upon the approval of an Application, the Agency shall issue a Reservation Letter conditionally reserving Affordable Housing Tax Credits. The amount of the Affordable Housing Tax Credits reserved shall be 50% of the amount of the approved amount of the Donation or the actual Donation, whichever is less.
- c) The Reservation Letter shall set forth the terms and conditions upon which the Affordable Housing Tax Credits will be allocated to the Affordable Housing Project, including, but not limited to:
 - 1) Full compliance by both the Sponsor and, if applicable, the proposed Affordable Housing Project, Technical Assistance or Employer-Assisted Housing Project, with the requirements of Section 7.28 and this Part;
 - 2) Certification from the Sponsor certifying to the Agency that the Sponsor and the Affordable Housing Project will be in full compliance with the requirements of Section 7.28 and this Part and will continue to be in compliance during the Compliance Period;
 - 3) Certification from the Sponsor that there will be no material change in the Sponsor, the Sponsor's ownership structure or the structure of the Affordable Housing Project without the prior written approval of the Agency; and
 - 4) If applicable, execution of either a Regulatory Agreement, as required by Section 355.207 of this Part, or one or more Recapture Agreements, as required by Section 355.404 of this Part.
- d) The Sponsor shall have 1224 months from the date of the Reservation Letter to obtain a Donation. Affordable Housing Projects and~~For Technical Assistance or~~ Employer-Assisted Housing Projects may submit a written request for an extension of the Donation Period for an additional 12 months as approved by the Agency. For Technical Assistance, the Sponsor shall have 12 months from the Date of the Reservation Letter to obtain a Donation.

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(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 355.206 Sponsor Participation

For a Multifamily Housing Project, or a rental Single Family Project, the Sponsor must have a Material Participation in the development and operation of the Multifamily Housing Project or rental Single Family Project throughout the Compliance Period.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 355.207 Regulatory Agreement for Rental Projects

The Sponsor and the owner of each Affordable Housing Project that involves the rental of housing units shall enter into a Regulatory Agreement with the allocating Agency before the Agency makes an Allocation in connection with that Affordable Housing Project. Under the Regulatory Agreement, the owner of the Affordable Housing Project shall be required to adhere to the Affordable Housing Restrictions for a period equal to the Compliance Period, and agree not to transfer the ownership, or materially change the ownership structure of the owner of the Affordable Housing Project, without the approval of the Agency. The Regulatory Agreement shall be recorded in the Office of the Recorder of Deeds in the county where the Affordable Housing Project is located as a restrictive covenant on the Affordable Housing Project. The Regulatory Agreement shall cease to apply in the event of a foreclosure, transfer of title by deed in lieu of foreclosure or similar event, unless the allocating Agency determines that such foreclosure, transfer of title by deed-in-lieu of foreclosure or similar event has occurred pursuant to an arrangement between the owner of the Affordable Housing Project and any lenders or any other party, a purpose of which is to terminate the occupancy restrictions set forth in the Regulatory Agreement. ~~If the Affordable Housing Project is receiving financing from lenders that require rental and occupancy restrictions on the Affordable Housing Project, the Affordable Housing Restrictions may, upon the written approval of the Agency, be incorporated into the documents containing the lenders' occupancy and rental restrictions, provided that:~~

- a) ~~the Agency is made a party to the agreement in which the lenders' restrictions are incorporated; and~~
- b) ~~the Agency shall have the right under that agreement to independently enforce the Affordable Housing Restrictions.~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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Section 355.208 Affordable Housing Project Documentation and Certification

On or before the Initial Closing Date of an Affordable Housing Project, the Sponsor shall provide to the Agency the following documentation:

- a) a certification of the amount of the Donation and documentation as the Agency shall require under Sections ~~355.304~~~~335.304~~, 355.305, 355.306 and 355.307 of this Part to substantiate the facts set forth in the certification;
- b) the name and address of the Sponsor;
- c) the total number of units or Single Family Residences;
- d) the number of units or Single Family Residences to be occupied by Low-Income and Very Low-Income Households;
- e) the type of Households to be served (such as elderly or special needs);
- f) for Multifamily Housing Projects, the number of bedrooms in each unit; and
- g) the amount of Affordable Housing Tax Credits allocated for General Operating Support and Technical Assistance, and the uses of such General Operating Support and Technical Assistance.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 355.209 Affordable Housing Tax Credit Allocation

- a) An Agency shall make Allocations:
 - 1a) for Affordable Housing Projects, after the Agency has received documentation, in a format acceptable to the Agency, that establishes to the satisfaction of the Agency that the Sponsor and the Affordable Housing Project are in compliance with all of the requirements of Section 7.28 of the Act and this Part; the date of the Allocation shall be the date of the Initial Closing.
 - 2b) for Technical Assistance and Employer-Assisted Housing Projects, after the Agency has received documentation, in a format acceptable to the Agency, that establishes to the satisfaction of the Agency that the Sponsor

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is in compliance with all of the requirements of Section 7.28 and this Part and has the ability to provide the Technical Assistance or to implement the Employer-Assisted Housing Project, as applicable; the date of the Allocation shall be the date of the satisfaction of these requirements.

- b) The effective date of the Allocation shall be the date set forth in the Reservation Letter to the Sponsor, or the date of the Allocation at the election of the Sponsor. No Allocation shall be made with an effective date earlier than the effective date of Section 7.28. The Agency shall submit forms as the Illinois Department of Revenue may require to notify the Department of the Allocation for the Affordable Housing Project.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART C: DONATIONS

Section 355.301 Acceptable Types of Donations

Donations may only be made in the form of cash, securities, or real or personal property. Provision of services of any kind shall not constitute a Donation. Upon receipt of a Donation, a Sponsor shall notify the allocating Agency and provide to the Agency documentation evidencing both the Donation and its value, which must be determinable as of the date of the Donation.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 355.302 Aggregation of Donations

Subject to Section 355.303, a Sponsor may aggregate a number of Donations into a single Donation in connection with an Allocation. For Employer-Assisted Housing Projects, a Sponsor may aggregate a number of Donations from multiple employers into a single source of funds for use in assisting eligible employees secure housing near their work place. The Certificate issued in connection with the Allocation shall state the aggregate amount of the Donation; however, the Affordable Housing Tax Credits may be divided among the Donors of the individual Donations, as determined by the Sponsor.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 355.303 Minimum Donation Amount

Except in the case of the transfer of a portion of a Certificate as set forth in Section 355.309 of

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this Part, the minimum amount of a Donation shall be \$10,000. Individual Donations in an aggregated Donation, including Donations for which the Affordable Housing Tax Credits are transferred as permitted under Section 355.309 of this Part, ~~may~~must be less than \$10,000, and the aggregated Donation must be at least \$10,000.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 355.306 Real Property

Donations of real property be: the fee simple interest in such real property; the beneficial interest of a land trust if a land trust ~~holds~~hold title to such real property; ~~or~~ a ground lease with a minimum term of 50 years leasing the real property to the Sponsor; or a sale of the fee simple interest on real property at a discount ("Discounted Sale") ~~sponsor~~. Donations of a fee simple interest in real property shall be evidenced by a copy of the recorded deed conveying the fee simple title of the real property to the Sponsor and a title search or equivalent documentation showing that the Donor held fee simple title to the real property as of the date of the transfer. A Donation of a ground lease shall be evidenced by a copy of the ground lease under which the real property is leased. A ~~Donation~~donation of real property held in a land trust shall be evidenced by the document transferring the beneficial interest in the land trust to the Sponsor and a copy of the land trust agreement, certified by the land trustee, showing that the Sponsor is the sole beneficiary of the land trust. The value of the real property or the leasehold interest in a ground lease shall be determined on or prior to the date of the Donation by a current independent appraisal done by a State-licensed appraiser, based on the highest and best use of the real property, completed within 6 months prior to the date of the Donation. The valuation of the property or leasehold interest must be based on existing legal restrictions. An Agency may, in its discretion, have another appraisal done by a State-licensed appraiser; in such a case, the value shall be the lesser of the two appraisals. In a Discounted Sale, the Agency must be provided with a copy of contract of sale, the settlement statement and an appraisal of the real property. The amount of Donation shall be the difference between the appraised value of the real property and the sale price.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 355.307 Personal Property

A Donation~~Donations~~ of personal property, such as construction or other materials sold in the ordinary course of business, shall be valued at the lesser of its fair market value or its cost to the Donor, and may include costs incurred in making the transfer, such as delivery costs, but excluding sales tax. For personal property such as art, antique furniture, coin collections or jewelry, the value may be established by an appraisal by a qualified appraiser. In the case of such

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property, an Agency may, in its discretion, have another appraisal done by a qualified appraiser; in such a case, the value of the property shall be the lesser of the two appraisals.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 355.311 Donations from State and Local Governments

Agencies may accept Donations from the State government, local municipalities and agencies, boards, commissions, corporations or authorities of State governments and municipalities in the form of the following:

- a) money, provided that the money does not come directly or indirectly from any Federal source or any State program providing funding either related to affordable housing or services provided in connection with affordable housing; and further provided that the money does not have to be repaid with funds from the operation of the Affordable Housing Project;
- b) the value of waived permit fees or other customary charges, such as water and sewer permit fees, hook up charges or impact fees, when the waiver is made in a manner that achieves a reduction in the cost of construction of an Affordable Housing Project;
- c) real property, as described in Section 355.306 of this Part; and
- d) loans made at a below-market interest rate. The value of the Donation shall be the present value, as of the date of the Donation, of the difference of the market rate interest that would be paid over the term of the loan and the actual interest to be paid over the term of the loan.

(Source: Added at 30 Ill. Reg. _____, effective _____)

SUBPART D: PROJECTS

Section 355.403 Employer-Assisted Housing Projects

\$2,000,000 of the Affordable Housing Tax Credit Ceiling for a State fiscal year shall be reserved for Employer-Assisted Housing Projects. Of this ceiling, 24.5% shall be available for allocation by the City of Chicago and 75.5% shall be available for allocation by the Authority. If those funds are not reserved for Employer-Assisted Housing Projects by ~~March~~January 31 of that State fiscal year, the funds shall be available for Reservation and Allocation for Affordable Housing

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Projects, Technical Assistance or General Operating Support.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 355.406 Set-Aside for Technical Assistance and General Operating Support

\$1,000,000 of the Affordable Housing Tax Credit Ceiling for a State fiscal year shall be reserved for Technical Assistance and General Operating Support. Of this ceiling, 24.5% shall be available for allocation by the City of Chicago and 75.5% shall be available for allocation by the Authority. If these funds are not reserved for Technical Assistance or General Operating Support by ~~March~~~~May 1~~ of that State fiscal year, the funds shall be available for Reservation and Allocation for any type of Affordable Housing Projects or Employer-Assisted Housing Projects.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART E: COMPLIANCE MONITORING

Section 355.502 Monitoring Fees

An Agency may ~~assess~~~~charge~~ an annual fee for compliance monitoring in an amount to be determined by the Agency~~not to exceed the following: Affordable Housing Projects containing 1-10 units, \$75; Affordable Housing Projects containing 10-20 units, \$150; and Affordable Housing Projects containing more than 20 units, \$7.50 per unit.~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART F: REPORTS

Section 355.601 Agency Reports

Each Agency shall submit quarterly reports to the Authority setting forth the Agency's activities under the Program for that quarter. The report shall include the following information:

- a) the amount of Affordable Housing Tax Credits reserved or allocated since the date of the last report;
- b) the name and address of each Sponsor;
- c) For each Affordable Housing Project:

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- 1) the amount of Affordable Housing Tax Credits reserved or allocated;
 - 2) the total number of units or Single Family Residences in the Affordable Housing Project;
 - 3) the number of units or Single Family Residences to be occupied by Low-Income and Very Low-Income Households;
 - 4) the type of Households to be served (such as elderly or special needs); and
 - 5) for Multifamily Housing Projects, the number of bedrooms in each unit;
- d) For each Affordable Housing Project, the amount of Affordable Housing Tax Credits reserved or allocated for General Operating Support and Technical Assistance, and the Sponsor's use of that General Operating Support and Technical Assistance; ~~and~~
- e) In connection with Technical Assistance for home ownership counseling services, the amount of Affordable Housing Tax Credits reserved or allocated and the number of Low-Income and Very Low-Income Households receiving counseling; ~~and~~.
- f) In connection with an Employer-Assisted Housing Project, the amount of Affordable Housing Tax Credits reserved or allocated and the number of Very Low-Income, Low-Income and Moderate Income Households that received assistance.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Procedures Applicable to All Agencies
- 2) Code Citation: 44 Ill. Adm. Code 750
- 3) Section Number: 750.APPENDIX A Proposed Action: Amendment
- 4) Statutory Authority: Implementing Sections 2-105(A), 7-101(A), and 7-105(A) and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/2-105(A), 7-101(A) and 7-105].
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to Section 2-105(A) of the Illinois Human Rights Act (Act) [775 ILCS 5/2-105(A)], every party to a public contract is prohibited from discriminating based on categories identified in Section 1-102 of the Act [775 ILCS 5/1-102]. Section 750.Appendix A contains an Equal Employment Opportunity Clause that identifies the Act's protected categories, and that must be included in such contracts and subcontracts pursuant to Sections 750.10, 750.20, 750.30, and 750.170. The proposed amendment adds three protected categories (sexual orientation, citizenship status, and military status) that are covered by the Illinois Human Rights Act [775 ILCS 5].
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking:
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The proposed amendment does not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this rulemaking: Interested parties may submit comments in writing within 45 days after publication to:

Brent A. Harzman
Staff Attorney

DEPARTMENT OF HUMAN RIGHTS

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Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago, IL 60601

312/814-1906 or 312/263-1579 (TTY)

- 13) 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
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENT

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER X: DEPARTMENT OF HUMAN RIGHTS

PART 750
PROCEDURES APPLICABLE TO ALL AGENCIES

SUBPART A: DEFINITIONS

Section
750.5 Definitions

SUBPART B: EQUAL OPPORTUNITY CLAUSE

Section
750.10 Clause to be Included in All Contracts
750.20 Incorporation by Operation of the Regulation
750.30 Subcontracts
750.40 Contracts or Subcontracts with Religious Entities

SUBPART C: DUTIES OF PUBLIC CONTRACTORS AND SUBCONTRACTORS

Section
750.110 General
750.120 Identification of Underutilization
750.130 Affirmative Action Plans
750.140 Information and Reports
750.150 Recruitment of Employees
750.160 Segregated Facilities
750.170 Subcontracts

SUBPART D: BIDDING AND COMPLIANCE

Section
750.210 Eligibility for Public Contracts
750.220 Construction Employee Utilization Projection
750.230 Compliance Review; Enforcement

750.APPENDIX A Equal Employment Opportunity Clause

DEPARTMENT OF HUMAN RIGHTS

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AUTHORITY: Implementing Sections 2-105(A), 7-101(A), and 7-105(A) and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/2-105(A), 7-101(A) and 7-105].

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; codified at 8 Ill. Reg. 17889; amended at 22 Ill. Reg. 11774, effective July 1, 1998; amended at 30 Ill. Reg. _____, effective _____.

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Section 750.APPENDIX A Equal Employment Opportunity Clause

EQUAL EMPLOYMENT OPPORTUNITY

In the event of the contractor's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Human Rights Act or the Rules and Regulations of the Illinois Department of Human Rights ("Department"), the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:

- 1) That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental handicap unrelated to ability, military status, or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
- 2) That, if it hires additional employees in order to perform this contract or any portion thereof, it will determine the availability (in accordance with the Department's Rules) of minorities and women in the arearea(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- 3) That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental handicap unrelated to ability, military status, or an unfavorable discharge from military service.
- 4) That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the contractor's obligations under the Illinois Human Rights Act and the Department's Rules. If any such labor organization or representative fails or refuses to cooperate with the contractor in its efforts to comply with such Act and Rules, the

DEPARTMENT OF HUMAN RIGHTS

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contractor will promptly so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.

- 5) That it will submit reports as required by the Department's Rules, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules.
- 6) That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules.
- 7) That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN RIGHTS

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- 1) Heading of the Part: Procedures of the Department of Human Rights
- 2) Code Citation: 56 Ill. Adm. Code 2520
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2520.10	Amendment
2520.350	Amendment
2520.405	Amendment
2520.430	Amendment
2520.440	Amendment
2520.550	Amendment
2520.700	Amendment
- 4) Statutory Authority: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to Section 7A-102(B) of the Illinois Human Rights Act [775 ILCS 5/7A-102(C)(4)], a party's failure to attend a fact finding conference without good cause may result in dismissal of the charge or default. The proposed amendments strike the definition for "good cause" from Section 2520.10, and amends Section 2520.440 to be consistent with the "good cause" analysis under Section 2520.405. The proposed amendment to Section 2520.405 clarifies when a respondent is required to file a verified response to an amended charge. The proposed amendment to Section 2520.430 requires a respondent to give the Department current contact information.

Pursuant to Section 7-109.1 of the Illinois Human Rights Act [775 ILCS 5/7-109.1], the Department may administratively close those issues of a charge of unlawful discrimination which are pending in a federal or state court proceeding. The proposed amendment to Section 2520.550 clarifies the circumstances in which the Department may vacate an administrative closure. The proposed amendments to Sections 2520.10, 2520.350, 2520.430, and 2520.700 correct typographical errors and make stylistic changes.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes. A proposed amendment to Section 2520.770 is pending.
- 11) Statement of Statewide Policy Objectives: The proposed amendments do not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments in writing within 45 days after publication to:

Brent A. Harzman
Staff Attorney
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago, IL 60601

312/814-1906 or 312/263-1579 (TTY)

- 13) 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
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER II: DEPARTMENT OF HUMAN RIGHTS

PART 2520

PROCEDURES OF THE DEPARTMENT OF HUMAN RIGHTS

SUBPART A: INTERPRETATIONS

Section	
2520.10	Definition of Terms
2520.20	Computation of Time
2520.30	Service of Documents
2520.40	Filing with the Department
2520.50	Separability
2520.110	Preservation of Records by Employers, Labor Organizations, Employment Agencies and Respondents

SUBPART B: CHARGE

Section	
2520.310	Time of Filing (Repealed)
2520.320	Form (Repealed)
2520.330	Contents
2520.340	Requirements for Charge (Repealed)
2520.350	Unperfected Charge
2520.360	Amendment
2520.370	Substitution and Addition of Parties (Repealed)
2520.380	Withdrawal of Charge

SUBPART C: PROCEDURE UPON CHARGE

Section	
2520.405	Verified Response to Charge
2520.410	Docketing and Service of Charge (Repealed)
2520.420	Maintenance of Records (Repealed)
2520.430	Investigation
2520.440	Fact-Finding Conference
2520.450	Administrative Closure (Repealed)
2520.460	Determination After Investigation (Repealed)
2520.470	Conciliation (Repealed)

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2520.480 Complaint (Repealed)

SUBPART D: SETTLEMENTS

Section

2520.510 Settlement
2520.520 Non-Disclosure (Repealed)
2520.530 Dismissal for Refusal to Accept Settlement Offer (Repealed)
2520.540 Non-Compliance with Settlement Terms (Repealed)

SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

Section

2520.550 Administrative Closure
2520.560 Dismissal
2520.570 Default

SUBPART F: REQUESTS FOR REVIEW

Section

2520.573 Filing with Chief Legal Counsel
2520.575 Contents of Request for Review
2520.577 Notice by the Chief Legal Counsel
2520.580 Extensions of Time
2520.583 Reply to Request for Review and Surreply
2520.585 Additional Investigation
2520.587 Decision

SUBPART G: RELATIONS WITH LOCAL HUMAN RIGHTS AGENCIES

Section

2520.610 Scope and Purpose (Repealed)
2520.620 Definitions (Repealed)
2520.630 Cooperative Agreements
2520.640 Nature of Cooperative Agreements
2520.650 Training and Technical Assistance
2520.660 Promotion of Communication and Goodwill

SUBPART H: EQUAL EMPLOYMENT OPPORTUNITY AND
AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES

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Section

2520.700	Definitions
2520.710	Scope and Purpose
2520.720	Affirmative Action Groups
2520.730	Consideration of Additional Groups
2520.740	Definitions (Renumbered)
2520.750	Nondiscrimination (Repealed)
2520.760	Plans
2520.770	Reporting and Record-Keeping
2520.780	Equal Employment Opportunity Officers
2520.790	Complaint Process
2520.795	Compliance Reviews
2520.797	Sanctions for Noncompliance

2520.APPENDIX A	Contents of Affirmative Action Plans
2520.APPENDIX B	Value Weight Assignment Chart
2520.APPENDIX C	Contents of Layoff Reports
2520.APPENDIX D	Illinois Counties by Region

AUTHORITY: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; amended at 6 Ill. Reg. 2125, effective February 8, 1982; amended at 6 Ill. Reg. 3076, effective March 15, 1982; amended at 6 Ill. Reg. 8090, effective July 1, 1982; codified at 8 Ill. Reg. 17884; amended at 17 Ill. Reg. 15556, effective September 13, 1993; amended at 18 Ill. Reg. 16829, effective November 4, 1994; emergency amendment at 20 Ill. Reg. 445, effective January 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 5084, effective March 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6291, effective April 18, 1996; amended at 20 Ill. Reg. 10631, effective July 24, 1996; amended at 21 Ill. Reg. 14081, effective October 10, 1997; amended at 26 Ill. Reg. 17217, effective November 18, 2002; amended at 29 Ill. Reg. 804, effective December 28, 2004; amended at 30 Ill. Reg. 1343, effective January 13, 2006; amended at 30 Ill. Reg. 13403, effective July 31, 2006; amended at 30 Ill. Reg. _____, effective _____.

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SUBPART A: INTERPRETATIONS

Section 2520.10 Definition of Terms

For purposes of this Part, the following terms shall have the meanings indicated:

Act – ~~shall mean~~ the Illinois Human Rights Act [775 ILCS 5].

Charge – ~~shall mean~~ an allegation of a civil rights violation filed with or initiated by the Department, and with regard to Subpart F, one filed with a local human rights agency.

Chief Legal Counsel – ~~shall mean~~ the Chief Legal Counsel of the Department or a duly authorized designee.

Commission – ~~shall mean~~ the Illinois Human Rights Commission or, where appropriate, a panel of three Commissioners.

Complainant – ~~shall mean~~ a person who files a charge or a complaint, including the Department in the case of a charge initiated by the Department.

Complaint – ~~shall mean~~ a written complaint for hearing filed with the Commission.

Days – ~~shall mean~~ calendar days.

Department – ~~shall mean~~ the Department of Human Rights.

Director – ~~shall mean~~ the Director of the Department or a duly authorized designee.

~~Good cause— as used in this Part and in Section 7A-102(C)(4) of the Act [775 ILCS 5/7A-102(C)(4)] means conditions such that a reasonable person would not attend a fact finding conference.~~

Local Agency – ~~shall mean~~ any department, commission or other instrumentality of a municipality or other political subdivision of the State of Illinois, or of two or more such political subdivisions acting jointly, which is duly established to serve purposes consistent with those of the ~~Human Rights~~ Act.

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Party – ~~shall mean~~ the complainant or respondent.

Person – ~~an entity shall have the same meaning~~ as described in Section 1-103 of the Act [775 ILCS 5/1-103].

Request for Review – ~~an appeal filed with the Chief Legal Counsel shall have the same meaning~~ as described in Sections 7-101.1 and 7-112 of the Act [725 ILCS 5/7-101.1 and 7-112].

Respondent – ~~shall mean~~ a person against whom a charge or complaint is filed.

Unlawful Discrimination – ~~shall mean~~ any form of discrimination prohibited under the Act or under a local ordinance administered by a local agency.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART C: PROCEDURE UPON CHARGE

Section 2520.350 Unperfected Charge

In the event the Department receives a written statement from an individual which complies substantially with Section 2520.330 of this Part, the Department may accept and docket the statement (or a refined version of it) as an unperfected charge. The Department shall notify the complainant in writing of the elements which must be supplied. If the complainant fails or refuses to perfect the charge as specified, the charge may be dismissed pursuant to Section 2520.560 ~~of~~ this Part.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 2520.405 Verified Response to Charge

- a) Pursuant to Section 7A-102(B) of the Act, within 60 days after receipt of the notice of the charge, or of a substantive amendment to a charge that includes new harms, bases or respondents pursuant to Section 2520.360(b) and (c) of this Part, respondent shall file a verified response to the allegations in the charge. Respondent shall serve a copy of the verified response on complainant or complainant's representative and shall show proof to the Department that the copy was served on complainant or complainant's representative.

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- b) Where, without good cause shown, respondent's verified response is not timely filed and/or served on complainant or complainant's representative, complainant may raise that issue before the Department. The raising of an issue of an untimely filed and/or served verified response with the Department does not relieve complainant of complainant's duty to comply with the Department's investigation.
- c) Pursuant to Section 7A-102(B) of the Act, good cause for untimely filing a verified response may include, but shall not be limited to:
- 1) Death or sudden, serious illness of respondent or respondent's representative; or
 - 2) Death or sudden, serious illness of an immediate family member of respondent or respondent's representative; or
 - 3) Respondent filed and served a timely verified response, but the Department later determined that respondent's verified response was defective; or
 - 4) Respondent acted with due diligence and was not deliberate or contumacious and did not unwarrantedly disregard the verified response process, as supported by affidavit or other evidence; or
 - 5) Respondent's failure to timely file a verified response was due to circumstances beyond respondent's control, as supported by affidavit or other evidence.
- d) Whether good cause exists is in the sole discretion of the Department.
- e) Where respondent is responding to a notice to show cause for failing to timely file the verified response and/or timely serve a copy on complainant or complainant's representative, respondent shall include the verified response with the response to the notice to show cause and show proof that respondent has served the verified response on complainant or complainant's representative.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 2520.430 Investigation

- a) After a charge has been filed, the Department's staff shall institute an

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investigation to ascertain the facts relating to the civil rights violation as alleged in the charge and any amendments.

- b) A respondent must promptly provide the Department with a notice of any change in address or telephone number or any prolonged absence from the current address so that respondent can be located. If during the investigation a respondent refuses to cooperate, the Director may either make a finding of substantial evidence or request the Commission issue subpoenas to compel the attendance of witnesses or the production of documents.
- c) A complainant must promptly provide the Department with a notice of any change in addressaddressee or telephone number or any prolonged absence from the current address so that he or she can be located. A complainant must cooperate with the Department, provide necessary information and be available for interviews and conferences upon reasonable notice or request by the Department. If a complainant cannot be located or does not respond to reasonable requests by the Department, the Department may dismiss the charge pursuant to Section 2520.560 of this Part.
- d) The Director may request the Commission issue subpoenas to compel the production of any documents and/or the attendance of witnesses at an interview conducted by the Department or at a fact-finding conference.
- e) The Department may withhold any witness statement or the identity of any witness as confidential upon the request of a party or such witness.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 2520.440 Fact-Finding Conference

- a) Notice. As part of its investigation, the Department may convene a fact-finding conference for the purpose of obtaining evidence, identifying the issues in dispute, ascertaining the positions of the parties and exploring the possibility of a negotiated settlement. Notice of the conference shall be given to all parties at least ten days prior thereto, and shall identify the individuals requested to attend on behalf of each party. These time provisions may be waived by agreement of the parties and the Department.
- b) Attorneys, Witnesses. A party may be accompanied at a fact-finding conference by his/her attorney or other representative, and by a translator if necessary. An

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attorney for a party not previously having entered an appearance must do so at the beginning of the conference. The parties may bring witnesses to the conference in addition to those whose attendance is mandated by the Department.

- c) **Conduct.** The investigator or other employee of the Department shall conduct the conference and control the proceedings. No tape recording, stenographic report or other verbatim record of the conference can be made. The investigator shall decide which witnesses shall be heard and the order in which they are heard. The investigator may exclude witnesses and other persons from the conference, except that each party and one representative and a translator shall be permitted to remain.
- d) **Dismissal or Default for Non-attendance.**
- 1) For charges filed before January 1, 1996, the failure of a party to attend the conference without good cause after due notice may result in dismissal of the charge pursuant to Section 2520.560 of this Part, in the case of a complainant, or default pursuant to Section 2520.570 of this Part, in the case of a respondent. For charges filed on or after January 1, 1996, the failure of a party to attend the conference without good cause after due notice shall result in dismissal of the charge pursuant to Section 2520.560 of this Part, in the case of a complainant, or default pursuant to Section 2520.570 of this Part, in the case of a respondent.
 - 2) A party who appears at the conference exclusively through an attorney or other representative unfamiliar with the events at issue shall be deemed to have failed to attend, unless, with respect to a respondent, it establishes that it does not employ or control any person with knowledge of the events at issue.
 - 3) Failure to Appear
 - A) Pursuant to this Section and Section 7A-102(C)(4) of the Act, good cause for failing to attend the fact-finding conference may include, but shall not be limited to:
 - iA) death or sudden, serious illness of a party scheduled to attend the fact finding conference; or
 - iiB) death or sudden, serious illness of an immediate family

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member of a party scheduled to attend the fact finding conference; or-

iii) the party acted with due diligence and was not deliberate or contumacious and did not unwarrantedly disregard the fact-finding conference process, as supported by affidavit or other evidence; or

iv) circumstances beyond the non-attending party's control, as supported by affidavit or other evidence.

B) If more than one person from a party is scheduled to attend the fact-finding conference, the inability of one person to attend shall not constitute good cause for failure of other persons to attend.

- 4) In assessing good cause, the factors which the Department may consider shall include, but shall not be limited to, whether the party has provided timely notice of its inability to attend the fact-finding conference and whether the party has complied with the Department's request for documentation of the reason for not attending the conference.
- 5) Whether good cause exists and whether a fact-finding conference is rescheduled are in the sole discretion of the Department.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

Section 2520.550 Administrative Closure

- a) When the Department becomes aware that there is a charge filed containing some or all of the issues pending in a federal or state court proceeding, it may administratively close the issues of the charge ~~that~~which are being litigated and continue to process the remaining issues. The Department shall advise the parties in writing, allowing ~~15~~fifteen days for either party to state in writing why those issues of the charge should not be closed.
- b) After the Department administratively closes a charge pursuant to subsection (a) ~~above~~ or pursuant to Section 2520.380 of this Part, it shall promptly notify all parties in writing.

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- c) The Department may vacate an administrative closure only if the statutory 365-day time period plus extensions, if any, has not expired pursuant to Section 7A-102(G)(1) of the Act.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART H: EQUAL EMPLOYMENT OPPORTUNITY AND
AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES

Section 2520.700 Definitions

For purposes of this Subpart, the following terms shall have the meanings indicated:

Act – the Illinois Human Rights Act [775 ILCS 5].

Affirmative Action Group – any of the groups listed in Section 2520.720 or 2520.730 of this Part.

Agency – any instrumentality or facility of the executive branch of State government, as specified in Section 2520.710 of this Part.

Central Management Services – the Department of Central Management Services or any successor agency responsible for its functions.

Chief Executive Officer – the director or other chief executive or administrator of any agency other than the Department.

Department – the Department of Human Rights.

Director – the Director of the Department or a duly authorized designee.

Disability – as used in Section 2-105(b) of the Act, a mental or physical condition (other than pregnancy), lasting six months or longer, that limits the amount or kind of work an individual can perform.

EEO – Equal Employment Opportunity.

EEO/AA – Equal Employment Opportunity/Affirmative Action.

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EEO Job Categories – the following eight categories: officials/managers; professionals; paraprofessionals; technicians; office/clerical workers; protective services workers; skilled craft workers; and service/maintenance workers.

EEO Officer – the Equal Employment Opportunity Officer, whether full or part-time, appointed by a State agency pursuant to Section 2-105(B)(4) of the Act and Section ~~2520.780~~~~5220.780~~ of this Part.

Layoff – the placement of an employee in non-paid and non-working status without prejudice, either temporarily or for an indeterminate length of time. Layoff does not include, either temporarily or indeterminately, a means or form of discipline.

Minority – those groups, or members of a group, listed in Section 2520.720 or 2520.730 of this Part, other than women and disabled persons.

Numerical Goals – the number of members of an affirmative action group that have been determined to be available to an agency for employment in each of the EEO job categories.

Petitioning Group – a chartered not-for-profit organization that is recognized by the community it purports to represent that has as its purpose fostering the interests and well being of that community.

Plan – an affirmative action plan for employment as described in Section 2520.760.

Program Goals – a set of actions established to address affirmative action or EEO problems cited in the agency's plan.

Reasonable Accommodation – as it relates to disabled employees and applicants, modification of the work site, work process and/or work schedule to enable a disabled person to perform the major functions of a specific job; however, such an accommodation cannot impose an undue hardship on the conduct of the business of the employer or labor organization.

Region – a group of adjacent counties. There are 11 regions within Illinois as identified in Appendix D of this Part.

Underutilized Category – a category in which the number of employed members

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of an affirmative action group for which numerical goals have been set does not reflect the availability of that group in the agency workforce in that EEO job category.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

312/814-5017

- 13) 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
- 14) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on the 2006 Regulatory Agenda.

The full text of the Proposed Amendment is the same as the text that appears in the Emergency Amendment published in this issue of the *Illinois Register* on page 14371:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Predatory Lending Database
- 2) Code Citation: 38 Ill. Adm. Code 346
- 3) Section Number: 346.17 Adopted Action:
New Section
- 4) Statutory Authority: Residential Real Property Disclosure Act [765 ILCS 77/70]
- 5) Effective Date of Amendment: August 18, 2006
- 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) Date Notice of Proposal Published in Illinois Register: April 14, 2006; 30 Ill. Reg. 6226
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: The final version requires encryption of social security numbers using the Advanced Encryption Standards (AES) issued by the National Institute of Standards and Technology (NIST) on November 26, 2001, as Federal Information Processing Standards Publication 197. Further, the final version adds various citations to the Federal National Mortgage Association (Fannie Mae) and requires that the March 17, 2005 Version 3.2 of the Fannie Mae Residential Loan Data Format 1003 be used exclusively and removes the Department's authority to determine equivalent formats.
- 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 rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
346.36	New Section	30 Ill. Reg. 13253; August 11, 2006

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- 15) Summary and Purpose of Amendment: This Section provides confidentiality requirements and procedures for the predatory lending database pilot program.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, Illinois 62786

217/785-0813 Fax: 217/782-7645

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 346

PREDATORY LENDING DATABASE

Section	
346.10	Definitions
346.15	Information Required
<u>346.17</u>	<u>Database Procedures for Pilot Program</u>
346.20	Standards for Credit Counseling
346.25	Disclosure of Information Prohibited
346.30	Credit Counselor Costs
346.35	Declaration of Inception Date
346.40	Exemption

AUTHORITY: Implementing and authorized by Section 70 of the Residential Real Property Disclosure Act [765 ILCS 77/70].

SOURCE: Adopted by emergency rulemaking at 30 Ill. Reg. 208, effective January 1, 2006, for a maximum of 150 days; adopted at 30 Ill. Reg. 1867, effective January 26, 2006; emergency rulemaking at 30 Ill. Reg. 13524, effective July 28, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14262, effective August 18, 2006.

Section 346.17 Database Procedures for Pilot Program

- a) Database for Program
Pursuant to Section 70(b) of the Residential Real Property Disclosure Act (Act), the Department shall establish a database in order to implement the predatory lending database pilot program. In any contract with the database vendor, the Department shall impose any relevant obligations and restrictions from the Act onto the database vendor.
- b) Confidentiality
 - 1) The database shall be designed so as to preserve the confidentiality of database information pursuant to the Act.
 - 2) The Department shall further impose the following confidentiality restrictions on the database vendor:

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- A) The database vendor shall have in place written policies and procedures to safeguard confidentiality, and shall make those policies and procedures available to the Department. The Department shall not allow the pilot program to operate until it has reviewed those policies and procedures to its satisfaction.
- B) The database vendor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure confidentiality. The database vendor shall require its agents, employees, and subcontractors to sign an acceptable use policy as approved by the Department to ensure confidentiality and proper use of the system.
- C) The database vendor shall specifically acknowledge the confidentiality restrictions imposed by the Act, and agree to abide by them.
- c) Data Security and Transmission
- 1) All data transmitted to and from the database shall be converted into a secured format through encryption and 128 bit encryption shall be build into transmissions to and from the database system to prevent unauthorized viewing or tampering of encrypted information. The database shall also be required to encrypt social security numbers using the Advanced Encryption Standard (AES) issued by the National Institute of Standards and Technology (NIST), 100 Bureau Drive, Stop 1070, Gaithersburg MD 20899-1070, as Federal Information Processing Standards Publication (FIPS PUB) 197 (November 26, 2001, no subsequent amendments or editions are included). Data encryption will occur using a commonly used protocol for managing the security of message transmission on the Internet known as Secure Socket Layers (SSL). SSL shall be utilized for transmission of data through the Internet and the database.
- 2) The database shall incorporate a completely automated virus protection scheme. Procedures shall be put in place to ensure that all systems are updated on a regular basis and checked regularly for compliance with the current virus patch level. Procedures shall also be put in place to require that all information downloaded from external services or posted to the perimeter network are immediately scanned for viruses.

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- 3) The database shall utilize for electronic transmission, rather than manual entry, of loan application information the rules and standards that the Federal National Mortgage Association (Fannie Mae) (established under authority of the Federal National Mortgage Association Charter Act (12 USC 1716, et seq.)) publishes for encoding mortgage loan application information into an electronic, computer-based format known as Fannie Mae Residential Loan Data Format 1003 (General Distribution Version, Version 3.2, March 17, 2005, not including later amendments or additions), Fannie Mae, 3900 Wisconsin Avenue, NW, Washington, DC 20016 (202) 752-7115. The Department may design other file formats for other uses of the system.

(Source: Added at 30 Ill. Reg. 14262, effective August 18, 2006)

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- 1) Heading of the Part: Pharmacy Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1330
- 3) Section Number: 1330.91 Adopted Action: Amendment
- 4) Statutory Authority: Pharmacy Practice Act of 1987 [225 ILCS 85]
- 5) Effective Date of Amendment: August 21, 2006
- 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) Date Notice of Proposal Published in *Illinois Register*: April 21, 2006; 30 Ill. Reg. 6641
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: In Section 1330.91(k)(2), DPR clarified that complaints shall be in accordance with the Department's administrative hearing rules and that the licensee shall be accorded due process.
- 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 amendments currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1330.5	Amendment	80 Ill. Reg. 4544; March 17, 2006
1330.91	Amendment	80 Ill. Reg. 4544; March 17, 2006
1330.92	Amendment	80 Ill. Reg. 4544; March 17, 2006
1330.97	Amendment	80 Ill. Reg. 4544; March 17, 2006
1330.98	Amendment	80 Ill. Reg. 4544; March 17, 2006

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- 15) Summary and Purpose of Amendment: The amendment addresses the posting requirements for posting signs in pharmacies notifying customers of their rights to have contraceptive prescriptions dispensed.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, Illinois 62786

217/785-0813 Fax: 217/557-4451

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1330

PHARMACY PRACTICE ACT OF 1987

Section	
1330.5	Definitions
1330.10	Application for Certificate of Registration as a Pharmacy Technician
1330.20	Approval of Pharmacy Programs
1330.30	Graduates of Programs Not Approved Pursuant to the Provisions of Section 1330.20
1330.40	Application for Examination
1330.50	Examination for Licensure
1330.55	Application for Licensure on the Basis of Examination
1330.60	Endorsement
1330.65	Patient Counseling
1330.70	Definitions (Renumbered)
1330.75	Security Requirements
1330.76	Reporting Theft or Loss of Controlled Substances
1330.80	Violations
1330.90	Divisions of Pharmacy Licenses
1330.91	Division I Pharmacies
1330.92	Division II Pharmacies
1330.93	Division III Pharmacies
1330.94	Division IV Pharmacies
1330.95	Division V Pharmacies
1330.96	Nonresident Pharmacies
1330.98	Automated Dispensing and Storage Systems
1330.99	Parenteral Product Standards
1330.100	Application for a Pharmacy License
1330.110	Granting Variances
1330.120	Renewals
1330.130	Restoration
1330.140	Continuing Education

AUTHORITY: Implementing the Pharmacy Practice Act of 1987 [225 ILCS 85] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

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SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Pharmacy Practice Act, effective August 20, 1975; amended March 8, 1977; amended at 4 Ill. Reg. 1234, effective July 11, 1980; amended at 5 Ill. Reg. 2997, effective March 11, 1981; codified at 5 Ill. Reg. 11049; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 7 Ill. Reg. 6496, effective June 30, 1983; amended at 9 Ill. Reg. 16918, effective October 23, 1985; amended at 10 Ill. Reg. 21913, effective December 17, 1986; transferred from Chapter I, 68 Ill. Adm. Code 330 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1330 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2957; amended at 12 Ill. Reg. 17394, effective October 14, 1988; amended at 16 Ill. Reg. 19811, effective December 7, 1992; amended at 21 Ill. Reg. 12600, effective August 29, 1997; amended at 22 Ill. Reg. 21959, effective December 1, 1998; amended at 23 Ill. Reg. 14131, effective November 18, 1999; amended at 24 Ill. Reg. 8548, effective June 9, 2000; amended at 26 Ill. Reg. 18338, effective December 13, 2002; amended at 27 Ill. Reg. 19389, effective December 11, 2003; emergency amendment at 29 Ill. Reg. 5586, effective April 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 13639, effective August 25, 2005; amended at 30 Ill. Reg. 14267, effective August 21, 2006.

Section 1330.91 Division I Pharmacies

- a) Retail pharmacies which engage in general community pharmacy practice and are open to, or offer pharmacy service to, the general public shall, in addition to any other requirements of the Act and this Part, comply with Section 1330.91. A retail pharmacy which, in addition to offering pharmacy services to the general public, provides pharmacy services to an institution or facility listed in Sections 1330.92(a) need not register as a Division II pharmacy if the sales do not exceed 49% of total sales, but the pharmacy shall comply with requirements of Sections 1330.92(b), (c) and (d).
- b) Recordkeeping Requirements for Filling Prescriptions
 - 1) Every prescription filled or refilled shall contain the name, initials or other unique identifier of the person authorized to practice pharmacy under the provisions of the Pharmacy Practice Act who fills or refills the prescription. Additionally, the label affixed to the drug container must indicate the name, initials or other unique identifier of the person authorized to practice pharmacy in the State of Illinois who filled or refilled the prescription. No prescription may be filled or refilled for a period in excess of one year from the date of the original issuance of the prescription by the prescriber.

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- 2) Whenever a prescription is filled or refilled, by a registered pharmacy technician under the supervision of a pharmacist, the prescription shall contain the names, initials or other unique identifier of both the supervising pharmacist and the registered pharmacy technician who fills or refills the prescription. Additionally, the label affixed to the drug container must indicate the initials of the pharmacy technician and pharmacist.
- 3) Refilling a Prescription
 - A) Each refilling of a prescription shall be entered on the prescription or on another appropriate, uniformly maintained, readily retrievable record, which indicates by the number of the prescription the following information:
 - i) The name and dosage form of the drug;
 - ii) The date of each refilling;
 - iii) The quantity dispensed;
 - iv) The name or initials of the pharmacist and the pharmacy technician, if applicable, in each refilling; and
 - v) The total number of refills for the prescription.
 - B) If the pharmacist doesn't otherwise indicate in a uniformly maintained record, he/she shall be deemed to have dispensed a refill for the full face amount of the prescription.
- 4) Presentation of a written prescription copy or prescription label shall be for information purposes only and has no legal status as a valid prescription order. The recipient pharmacist of the copy or prescription label shall contact the prescribing practitioner to obtain a new prescription order.
- 5) A pharmacist providing a copy of a prescription to an ultimate consumer for the purpose of transfer or any other purpose shall cancel the uniformly maintained record and record the date the copy is issued, to whom issued

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and his/her name, initials or unique identifier. Copies of prescriptions shall be marked "For Information Purposes Only" and require a new prescription from the prescriber.

- 6) Subject to Section 18 of the Act, any information which is required to be kept pursuant to this Section may be recorded and stored in a computerized pharmaceutical information system that meets the standards of performance required by the regulations of the Drug Enforcement Administration (21 CFR 1306) (1998), and which contain no further amendments or editions, and shall include the capability to:
 - A) Retrieve the original prescription order information for those prescription orders currently authorized for refilling;
 - B) Retrieve the current prescription orders, including, at a minimum, name of drug, date of refill, quantity dispensed, name and identification code of the manufacturer in the case of a generically written prescription or a generic interchange, name or initials of the dispensing pharmacist and technician for each refill and the total number of refills dispensed to date;
 - C) Supply documentation of refill information entered by the pharmacist using the system by way of a hard copy printout of each day's refill data that has been verified for correctness. This printout must include for each prescription filled at least the following information:
 - i) The name and dosage form of the drug;
 - ii) The date of each refilling;
 - iii) The quantity dispensed;
 - iv) The name or initials of the pharmacist in each refilling and the pharmacy technician, if applicable;
 - v) The patient's name;
 - vi) The prescriber's name; and

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- vii) The prescription number for the prescription.

In lieu of the printout, the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in the dispensing shall sign a statement each day, attesting to the fact that the refill information entered into the computer that day has been reviewed by him/her and is correct as shown. The book or file must be maintained at the pharmacy employing the system for a period of 5 years after the date of dispensing the appropriately authorized refill.

- 7) All refill data shall be maintained by the pharmacy on the premises for 5 years, in accordance with Section 18 of the Act. The pharmacy shall have the appropriate equipment on the premises to provide readily retrievable information in the course of an on-site inspection. A hard copy printout shall be provided to the Division, upon request, within 48 hours.
- c) Transfer of Prescription Information
 - 1) A prescription may be transferred between pharmacies for the purpose of original fill or refill dispensing provided that:
 - A) The transferor pharmacist invalidates the prescription on file and records to whom transferred, the date of issuance of such copy and the name of the transferor pharmacist issuing the transferred prescription order; and
 - B) The transferee pharmacist, upon receiving the prescription directly from another pharmacist, records the following:
 - i) The name, address and original prescription number of the pharmacy from which the prescription was transferred;
 - ii) All information constituting a prescription order including the following: name of the drug, original amount dispensed, date of original issuance of the prescription and number of valid refills remaining; and
 - C) The transferee pharmacist informs the patient that the original

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prescription has been cancelled at the pharmacy from which it has been transferred.

- 2) A prescription for Schedule III, IV and V drugs may be transferred only from the original pharmacy and only one time for the purpose of refill dispensing and may not be transferred further. However, a pharmacist who is electronically sharing real-time on line computerized systems may transfer up to the maximum refills permitted by law and the prescriber's authorization in accordance with CFR 1306.26(a).
 - 3) Computerized systems must satisfy all information requirements of this subsection (c), including invalidation of the original prescription when transferred between pharmacies accessing the same prescription records or between pharmacies of the same ownership. If those systems that access the same prescription records have the capability of cancelling the original prescription, pharmacies using such a system are exempt from the requirements of this subsection (c) if the transferred prescription can always be tracked to the original prescription order from the prescribing practitioner and the original prescription can be produced.
- d) Staffing of the Pharmacy
- 1) Whenever the hours of the pharmacy (prescription department) differ from those of the establishment in which the pharmacy is located, there shall be compliance with the following:
 - A) The schedule during which the practice of pharmacy is carried on in the pharmacy shall be conspicuously displayed.
 - B) Whenever an establishment housing a pharmacy is open and a pharmacist is not present and available to provide pharmaceutical services as defined in Section 3 of the Act, a sign shall be conspicuously displayed stating in all capital letters:
PHARMACIST NOT ON DUTY; STATE LAW PROHIBITS FILLING OF PRESCRIPTIONS IN THE ABSENCE OF A PHARMACIST.
 - C) No prescription may be dispensed when a pharmacist is not physically present in the establishment and on duty.

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- 2) The pharmacy must provide pharmaceutical services, as defined in Section 3 of the Act, to the public a minimum of 40 hours per week. A pharmacy is considered providing Pharmaceutical Services when a pharmacist is physically present in the establishment and available for consultation.
- e) Pharmacist-in-Charge
- 1) No pharmacy shall be granted a certificate of licensure without a pharmacist being designated on the pharmacy license as pharmacist-in-charge. No pharmacist shall be designated as a pharmacist-in-charge on more than one pharmacy license. The responsibilities of the pharmacist-in-charge shall include:
 - A) Supervision of all activities of all employees as they relate to the practice of pharmacy;
 - B) Establishment and supervision of the method and manner for storage and safekeeping of pharmaceuticals, including maintenance of security provisions to be used when the pharmacy is closed as set forth in Section 1330.75; and
 - C) Establishment and supervision of the recordkeeping system for the purchase, sale, delivery, possession, storage and safekeeping of drugs.
 - 2) The operations of the pharmacy and the establishment and maintenance of security provisions are the dual responsibility of the pharmacist-in-charge and the owner of the pharmacy.
 - 3) Within 10 days after the change of a pharmacist-in-charge, the Division shall be so notified in writing by the departing pharmacist-in-charge.
 - 4) In addition to notifying the Division within 10 days, the departing pharmacist-in-charge shall, on the effective date of the change, inventory the following controlled substances:
 - A) All Schedule II drugs, as defined in the Illinois Controlled Substance Act, by actual physical count; and
 - B) All other scheduled drugs, as defined in the Illinois Controlled

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Substance Act, by estimated count.

- 5) The inventory shall constitute, for the purpose of this Section, the closing inventory of the departing pharmacist-in-charge and the initial inventory of the incoming pharmacist-in-charge. This inventory record shall be preserved in the pharmacy for a period of 5 years. An affidavit attesting to the completion of the inventory and preservation of the inventory record, bearing the date of the inventory and the signatures of the departing and incoming pharmacist-in-charge, shall be submitted to the Department of Financial and Professional Regulation-Division of Professional Regulation, at its principal office, within 10 days after the change in the pharmacist-in-charge.
- 6) Failure on the part of a registrant to provide the information required in subsections (e)(4) and (5) shall be grounds for denying an application or renewal application for a pharmacy license or for disciplinary action against a registrant. Such action shall be based on the recommendation of the Board.
- 7) When the accuracy, relevance or completeness of any submitted documentation is reasonably questioned by the Division, because of a lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will be required to:
 - A) Provide such information as may be necessary; and/or
 - B) Explain the relevance or completeness during an oral interview; or
 - C) Appear for an oral interview before the Board when the information available to the Board is insufficient to evaluate compliance with this Section.
- f) Pharmacists and pharmacies are prohibited from accepting from patients or their agents for reuse, reissue or resale any dispensed medications, chemicals, poisons or medical devices except for:
 - 1) Medical devices that can be properly sanitized prior to reuse, resale or rereuse; and
 - 2) Medications and medical devices that are dispensed and stored under

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conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by the current United States Pharmacopoeia (USP)/National Formulary or by the United States Pharmacopoeial Convention, Inc.

- g) Pharmacies that compound and dispense parenteral products shall comply with Section 1330.99 of this Part.
- h) Pharmacies that utilize automated dispensing and storage systems shall comply with Section 1330.98 of this Part.
- i) Pharmacies shall develop and implement a procedure to be utilized in the event of a drug recall that can be readily activated to assure that all drugs included on the recall are returned to the pharmacy for proper disposition.
- j) Duty of Division I Pharmacy to Dispense Contraceptives
 - 1) Upon receipt of a valid, lawful prescription for a contraceptive, a pharmacy must dispense the contraceptive, or a suitable alternative permitted by the prescriber, to the patient or the patient's agent without delay, consistent with the normal timeframe for filling any other prescription. If the contraceptive, or a suitable alternative, is not in stock, the pharmacy must obtain the contraceptive under the pharmacy's standard procedures for ordering contraceptive drugs not in stock, including the procedures of any entity that is affiliated with, owns, or franchises the pharmacy. However, if the patient prefers, the prescription must be transferred to a local pharmacy of the patient's choice under the pharmacy's standard procedures for transferring prescriptions for contraceptive drugs, including the procedures of any entity that is affiliated with, owns, or franchises the pharmacy. Under any circumstances an unfilled prescription for contraceptive drugs must be returned to the patient if the patient so directs.
 - 2) For the purposes of this subsection (j), the term "contraceptive" shall refer to all FDA-approved drugs or devices that prevent pregnancy.
 - 3) Nothing in this subsection (j) shall interfere with a pharmacist's screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious

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interactions with nonprescription or over-the-counter drugs), drug-food interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, or clinical abuse or misuse, pursuant to 225 ILCS 85/3(q).

- k) Notice of rights regarding the dispensing of contraceptives.
- 1) Each Division I pharmacy must prominently display the notice described in subsection (k)(2) of this Section and include information regarding how to file a complaint with the Division. The notice must be on 8.5 inch by 11 inch paper and otherwise conform with the format prescribed by subsection (k)(2). The notice must be clearly visible from the area at which the pharmacy intakes prescriptions. The Department's website shall provide a template for approved format of the notice and that template shall include required information regarding how to file a complaint with the Division, in accordance with the Department's administrative hearing rules located at 68 Ill. Adm. Code 1110. The licensee shall be accorded all process provided for in 68 Ill. Adm. Code 1110.
 - 2) Form and text of notice:

IF YOU USE CONTRACEPTIVES KNOW YOUR RIGHTS.

If this pharmacy dispenses prescription contraceptives, then you have the following rights under Illinois law:

The pharmacy must dispense your prescribed contraceptives without delay, consistent with the normal timeframe for filling any other prescription.

When your contraceptive is out of stock, you have the following options: the pharmacy must cooperate with your doctor to determine a suitable alternative, order the contraceptive, or transfer the prescription to another pharmacy of your choice.

You can instruct the pharmacy to return the prescription slip to you at any time prior to dispensing.

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You may file a complaint with the Department of Financial and Professional Regulation-Division of Professional Regulation through the Department's website <http://www.idfpr.com>.

(Source: Amended at 30 Ill. Reg. 14267, effective August 21, 2006)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
140.534	Amendment
140.560	Amendment
140.569	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: August 18, 2006
- 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 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: 30 Ill. Reg. 1231; January 27, 2006 and 30 Ill. Reg. 6230; April 14, 2006
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: This rulemaking combines separately proposed amendments for Sections 140.534 and 560 (30 Ill. Reg. 6230) and Section 140.569 (30 Ill. Reg. 1231). Besides the changes occurring due to the combining of two separate rulemakings, other changes include:

Section 140.534(f)

The text after the header has been changed to read: 'Painting and wallpapering costs of \$2,500 or more in total for the year will be allowed to be capitalized and depreciated over five years. The choice of whether to capitalize these costs must be made at the time the cost report is filed. Once the cost report is properly filed, no changes to the classification of the painting and wallpapering costs will be allowed. If total costs are under \$2,500 or an election to capitalize and depreciate over five years is not made, the printing and wallpapering costs must be expensed in the year incurred.'

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Section 140.534(h)

The first sentence has been changed by adding "of the nursing home building" after "current owner".

Section 140.560

In the second line, the comma after "1990" has been stricken.

Section 140.560(a)

The word "Office" before "of Health Finance" has been stricken and replaced with "Bureau" twice.

In the last sentence, "which" has been stricken and replaced by "that".

Section 140.560(b)

A hyphen has been added between "six" and "month" twice.

The word "Office" before "of Health Finance" has been stricken and replaced with "Bureau" twice.

Section 140.560(e)

The word "which" has been stricken and replaced by "that" three times.

The first sentence of new text has been changed to read: "Only facility building construction improvements completed after the end of the period of the report used to calculate the last capital rate can be used to meet the ten percent requirement.".

Section 140.560(f)(2) and (3)

A hyphen has been added between "one" and "year" in both subsections.

Section 140.560(f)(8)

The word "which" in the second and third lines has been stricken and replaced by "that", and the comma after "fewer" has been stricken.

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Section 140.569(a)(1)

"Exceptional Care" has been changed to "exceptional care" when modifying services, reimbursement, daily payments, and rates.

The words "following rule" have been deleted and "of this Section" has been added after "provisions".

Section 140.569(i)(2)

The word "which" has been stricken and "that" has been added.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.490	Amendment	7/14/06; 30 Ill. Reg. 12376
140.492	Amendment	7/14/06; 30 Ill. Reg. 12376
140.990	New Section	8/18/06; 30 Ill. Reg. 13633
140.991	New Section	8/18/06; 30 Ill. Reg. 13633
140.992	New Section	8/18/06; 30 Ill. Reg. 13633
140.993	New Section	8/18/06; 30 Ill. Reg. 13633

- 15) Summary and Purpose of Amendments: The Department's capitalization thresholds for long-term care facilities are being increased. These updates are necessary because the thresholds have not been changed since 1987. The changes will increase the threshold for capitalizing repairs from \$1,500 to \$2,500, and the threshold for capitalizing leasehold improvements will be increased from \$500 to \$2,500. Further changes are being made to reduce reporting requirements for immaterial purchases, provide clarifications, and add a limitation concerning the amount of central office building costs that can be allocated to cost reports. This latter change is necessary to prevent providers from obtaining reimbursement for extravagant office buildings.

Changes concerning the components of base rate determinations clarify the Department's policies on central office allocations and purchased buildings.

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In addition, the Department's Exceptional Care Program is being phased out. Residents who are currently enrolled in the program will continue to be covered by the Exceptional Care Program rate for as long as they meet the qualification requirements. However, no new exceptional care clients will be enrolled. Instead, services for clients will be paid through the Minimum Data Set (MDS) based requirements for nursing facilities. Six new categories of services are being added to the MDS system, for exceptional care purposes, in a related proposed rulemaking for 89 Ill. Adm. Code 147 (published 1/27/06 at 30 Ill. Reg. 1255).

This rulemaking will not result in budgetary changes.

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

Tamara Tanzillo Hoffman
Chief of Administration and Rules
Illinois Department of Healthcare and Family Services
201 South Grand Avenue E., 3rd Floor
Springfield IL 62763-0002

217/557-7157

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination on Individuals Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring

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140.20	Submittal of Claims
140.21	Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22	Magnetic Tape Billings (Repealed)
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
140.33	Publication of List of Terminated, Suspended or Barred Entities
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

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140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)

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- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

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Section	
140.400	Payment to Practitioners
140.402	Copayments for Noninstitutional Medical Services
140.410	Physicians' Services
140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items – Physicians
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
140.418	Department of Corrections Laboratory
140.420	Dental Services
140.421	Limitations on Dental Services
140.422	Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists
140.425	Podiatry Services
140.426	Limitations on Podiatry Services
140.427	Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry
140.428	Chiropractic Services
140.429	Limitations on Chiropractic Services (Repealed)
140.430	Independent Clinical Laboratory Services
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140.432	Limitations on Independent Clinical Laboratory Services
140.433	Payment for Clinical Laboratory Services
140.434	Record Requirements for Independent Clinical Laboratories
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140.436	Limitations on Advanced Practice Nurse Services
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140.440	Pharmacy Services
140.441	Pharmacy Services Not Covered
140.442	Prior Approval of Prescriptions
140.443	Filling of Prescriptions
140.444	Compounded Prescriptions
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- 140.451 Prospective Drug Review and Patient Counseling
- 140.452 Mental Health Services
- 140.453 Definitions
- 140.454 Types of Mental Health Services
- 140.455 Payment for Mental Health Services
- 140.456 Hearings
- 140.457 Therapy Services
- 140.458 Prior Approval for Therapy Services
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- 140.460 Clinic Services
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- 140.462 Covered Services in Clinics
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- 140.464 Hospital-Based and Encounter Rate Clinic Payments
- 140.465 Speech and Hearing Clinics (Repealed)
- 140.466 Rural Health Clinics (Repealed)
- 140.467 Independent Clinics
- 140.469 Hospice
- 140.470 Eligible Home Health Providers
- 140.471 Description of Home Health Services
- 140.472 Types of Home Health Services
- 140.473 Prior Approval for Home Health Services
- 140.474 Payment for Home Health Services
- 140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies
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- 140.483 Limitations on Family Planning Services
- 140.484 Payment for Family Planning Services
- 140.485 Healthy Kids Program
- 140.486 Illinois Healthy Women
- 140.487 Healthy Kids Program Timeliness Standards
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- 140.490 Medical Transportation

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140.491	Limitations on Medical Transportation
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140.497	Hearing Aids
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140.510	Determination of Need for Group Care
140.511	Long Term Care Services Covered By Department Payment
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140.513	Notification of Change in Resident Status
140.514	Certifications and Recertifications of Care (Repealed)
140.515	Management of Recipient Funds – Personal Allowance Funds
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140.525	Quality Incentive Program (QUIP) Payment Levels
140.526	Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed)
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140.536	Organization and Pre-Operating Costs
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140.562	Nursing Costs
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140.569	Clients With Exceptional Care Needs
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140.571	Capital Rate Calculation
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- 140.576 Renovations (Repealed)
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- 140.579 Specialized Living Centers
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- 140.581 Qualifying as Mandated Capital Improvement (Repealed)
- 140.582 Cost Adjustments
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- 140.590 Audit and Record Requirements
- 140.642 Screening Assessment for Nursing Facility and Alternative Residential Settings and Services
- 140.643 In-Home Care Program
- 140.645 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21 (Repealed)
- 140.646 Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
- 140.647 Description of Developmental Training (DT) Services
- 140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
- 140.649 Effective Dates of Reimbursement for Developmental Training (DT) Programs
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- 140.651 Decertification of Day Programs
- 140.652 Terms of Assurances and Contracts
- 140.680 Effective Date Of Payment Rate
- 140.700 Discharge of Long Term Care Residents
- 140.830 Appeals of Rate Determinations
- 140.835 Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: FEDERAL CLAIMING FOR STATE AND
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- Section
- 140.850 Reimbursement of Administrative Expenditures
- 140.855 Administrative Claim Review and Reconsideration Procedure
- 140.860 County Owned or Operated Nursing Facilities
- 140.865 Sponsor Qualifications (Repealed)
- 140.870 Sponsor Responsibilities (Repealed)
- 140.875 Department Responsibilities (Repealed)

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140.880	Provider Qualifications (Repealed)
140.885	Provider Responsibilities (Repealed)
140.890	Payment Methodology (Repealed)
140.895	Contract Monitoring (Repealed)
140.896	Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
140.900	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
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140.902	Service Needs (Recodified)
140.903	Definitions (Recodified)
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140.908	Times and Staff Levels (Recodified)
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140.911	Basic Rehabilitation Aide Training Program (Recodified)
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140.926	Client Eligibility (Repealed)
140.928	Client Enrollment and Program Components (Repealed)
140.930	Reimbursement
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140.942	Definition of Terms (Recodified)
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140.946	Hospital Participation in ICARE Program Negotiations (Recodified)
140.948	Negotiation Procedures (Recodified)
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140.952	Closing an ICARE Area (Recodified)
140.954	Administrative Review (Recodified)
140.956	Payments to Contracting Hospitals (Recodified)
140.958	Admitting and Clinical Privileges (Recodified)
140.960	Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
140.962	Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
140.964	Contract Monitoring (Recodified)
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140.968	Validity of Contracts (Recodified)
140.970	Termination of ICARE Contracts (Recodified)
140.972	Hospital Services Procurement Advisory Board (Recodified)
140.980	Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
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140.TABLE A	Medicheck Recommended Screening Procedures (Repealed)
140.TABLE B	Geographic Areas
140.TABLE C	Capital Cost Areas
140.TABLE D	Schedule of Dental Procedures
140.TABLE E	Time Limits for Processing of Prior Approval Requests
140.TABLE F	Podiatry Service Schedule
140.TABLE G	Travel Distance Standards
140.TABLE H	Areas of Major Life Activity
140.TABLE I	Staff Time and Allocation for Training Programs (Recodified)
140.TABLE J	HSA Grouping (Repealed)
140.TABLE K	Services Qualifying for 10% Add-On (Repealed)
140.TABLE L	Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
140.TABLE M	Enhanced Rates for Maternal and Child Health Provider Services

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

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NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986;

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amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140. Table H and 140. Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147. Table A and 147. Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective

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April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150

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days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455,

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effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November

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28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150

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days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006.

SUBPART E: GROUP CARE

Section 140.534 Ownership Costs

Ownership costs are allowable as follows: ~~Depreciation—Depreciation on care related assets is an allowable cost subject to the following conditions:~~

- a) Depreciation
Depreciation on care related assets is an allowable cost subject to the following conditions:
- 1)a) Depreciation must be computed on a straight-line basis, starting from the date of completion or installation;
 - 2)b) Depreciation must be based on historical cost of the asset (purchased assets) or fair market value at the time of donation or inheritance of the asset (donated or inherited assets);
 - 3)c) Depreciation must be spread over the useful life of the asset using the American Hospital Association guidelines followed by Medicare at a minimum. ~~Single items of equipment or improvements purchased at a cost of \$500 or more with an estimated life of over one year are to be depreciated. If items with estimated lives of over one year are acquired in quantity and the cost of the quantity is at least \$500, these items must also be depreciated over their useful lives. Single items of repair which cost \$1,500 or more and have a life of one year or more are to be considered as capital improvements and depreciated over the useful life of the item. Lease hold improvements costing \$500 or more are to be depreciated over the useful life of the improvement or the remaining life of the lease including extensions;~~
- b) Acquisitions of Fixed Equipment

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If an item has, at the time of its acquisition, an estimated useful life of at least two years and a historical cost of at least \$2,500, its cost must be capitalized and depreciated over the estimated useful life of the asset using the straight-line method of depreciation. If an item has an historical cost of less than \$2,500, or if the item has a useful life of less than two years, its cost must be expensed in the cost report year it was incurred.

c) Betterments and Improvements

Betterments and improvements extend the life, increase the productivity, or significantly improve the safety (for example, asbestos removal) of an asset as opposed to repairs and maintenance that either restore the asset to, or maintain it at, its normal or expected service life. To be capitalized, the betterment or improvement must be \$2,500 or more. Generally accepted accounting principles relating to improvements or betterments must be followed in determining the asset valuation. Repair or maintenance of a nature that restores an asset to its original condition but does not extend its useful life is not a betterment or improvement but an expense of that period.

d) Repair Costs

Repair costs restore the asset to normal working condition and expected service life. Single items of repair that cost \$2,500 or more and have a life of two years or more are to be considered as capital improvements and depreciated over the useful life of the item. All other repairs must be expensed in the cost report year the cost was incurred. Maintenance costs are always expensed in the cost report year in which they are incurred.

e) Movable Equipment Costs

Single items of movable equipment at a cost of \$2,500 or more having an estimated useful life of two years or longer must be capitalized. For cost reporting purposes, the term movable equipment will include all equipment items referred to in the most current edition of the American Hospital Association guidelines followed by Medicare. Items purchased in quantity must also be compared to the \$2,500 threshold.

f) Painting and Wallpaper

Painting and wallpapering costs of \$2,500 or more in total for the year will be allowed to be capitalized and depreciated over five years. When the cost is fully depreciated, it must be removed from the cost report in the year it becomes fully depreciated. The choice of whether to capitalize these costs must be made at the time the cost report is filed. Once the cost report is properly filed, no changes to

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the classification of the painting and wallpapering costs will be allowed. If total costs are under \$2,500 or an election to capitalize and depreciate over five years is not made, the painting and wallpapering costs must be expensed in the year incurred.

g) Disposal of Assets

For building costs, only capital assets that are specifically identified on the cost report are capable of being removed from the cost report as a retired or disposed of asset. Movable equipment items should be removed from the cost report when they are retired. Depreciable assets may be disposed of through sale, scrapping, trade-in, donation, exchange, demolition, abandonment or involuntary conversions such as condemnation, fire, theft or other casualty. When an asset has been retired from active service but is being held for standby or emergency services, the asset must be reported in the non-care section of the cost report.

h) Central Office Assets

For building costs allocated from a central office, the total cost allocation to an individual facility is limited to five percent of the total building cost for the current owner of the nursing home building. If the current operator leases the building from an unrelated party, the five percent is limited to the Original Building Base Cost as defined in Section 140.570. The central office allocation is not included in the total building cost for the current owner or the Original Building Base Cost that will be used in the five percent calculation. Allocated central office buildings are subject to the standards of Section 140.563.

i) Partnership Assets

The basis of assets of a partnership are not allowed to be increased due to a partner buyout.

j) Change of Ownership

For any change of ownership after July 18, 1984, the cost basis of any asset for determination of allowable depreciation expense shall be the lesser of the allowable acquisition cost of the asset of the first owner of record on or after July 18, 1984, or the acquisition cost of the asset to the new owner.

~~1) The following costs may be charged to a deferred costs account instead of capitalized with fixed assets:~~

~~A) Interior repainting.~~

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- ~~B) Repair and maintenance costs for heating, air conditioning and plumbing equipment with a cost greater than \$1,500 and less than \$4,500 (costs which extend the original estimated useful life by more than one year or increase the productivity of the asset significantly must be capitalized with fixed assets rather than entered into this category).~~
- ~~2) The deferred costs in subsection (c)(1) would be amortized to operating expense accounts over a thirty six month period or the estimated useful life of the item, whichever is longer. Amortization must be determined based upon the number of months during the year that the asset was in use.~~
- ~~d) Sales or leases and the resultant increases in capital expense will be recognized to the extent that the increased capital expense is reasonable. Effective for the rate year beginning July 1, 1984, to determine reasonable-ness, the undepreciated basis of the seller (sales occurring January 1, 1978, and after) will be multiplied by an appropriate construction cost index. Sale prices in excess of this figure will not be recognized in computing allowable capital costs.~~
- ~~e) The basis of assets of a partnership are not allowed to be increased due to a partner buyout.~~
- ~~f) For any change of ownership after July 18, 1984, the cost basis of any asset for determination of allowable depreciation expense shall be the lesser of the allowable acquisition cost of such asset of the first owner of record on or after July 18, 1984, or the acquisition cost of such asset to the new owner.~~

(Source: Amended at 30 Ill. Reg. 14280, effective August 18, 2006)

Section 140.560 Components of the Base Rate Determination

Except as specified otherwise in this Section, rates calculated for the rate year beginning July 1, 1990, and for subsequent years thereafter shall be based on the facility's cost report for the facility's full fiscal year ending at any point in time during the previous calendar year as long as that cost report is filed prior to April 1. Otherwise, the latest cost report available on March 31 will be used to set rates for July 1. For example, if a facility with a December 31, 1989, year end files their cost report prior to April 1, 1990, that cost report will be used to set rates for the rate year to begin on July 1, 1990. In this example, if the December 31, 1989, cost report is not filed until after March 31, 1990, the December 31, 1988, cost report will be used to set rates for the rate year to begin on July 1, 1990.

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- a) In the case of a change in ownership of a previously certified facility, the rate issued to the previous owner will be in effect for the remainder of the rate year. A new rate will be calculated for the next rate year based on the new owner's cost report if a cost report covering a minimum of the first six months of operation is received by the ~~BureauOffice~~ of Health Finance prior to April 1st. If a cost report covering the first six or more months of operation for the new owner cannot be filed with the ~~BureauOffice~~ of Health Finance prior to April 1st, the rate will be calculated based upon the prior owner's cost report filed in accordance with the opening paragraph of this Section. A cost report ~~that~~~~which~~ has not been completed in accordance with the Department's rules and cost report instructions will not be considered as received until all cost report pages are properly completed.
- b) In the case of a new facility, capital reimbursement will be assigned on the receipt of the first cost report (which may be an abbreviated cost report). The support reimbursement will be set at the median for that region. The facility must then file a ~~six~~-month cost report (beginning with the date the first patient was admitted) that contains actual historical cost information. The capital and support rates will then be recalculated based upon this cost report. Rates so calculated will become effective on the first day of the first month after the ~~six~~-month cost report is received by the Department's ~~BureauOffice~~ of Health Finance. The facility must obtain written verification of the initial cost reporting periods from the ~~BureauOffice~~ of Health Finance.
- c) When a construction addition to the building will increase the licensed bed capacity by ten percent or more, the facility may file a revised cost report reflecting the increased capital investment. If this revised cost report is filed within 30 days after the date of the increase in licensure as determined by the Illinois Department of Public Health, any increase in the capital rate will be effective on the effective date of licensure increase. If the revised cost report is filed more than 30 days after the effective date of increase in licensure, any increase in the capital rate will be effective on the first day of the first month after the report is received by the ~~Bureau of Health Finance~~~~Finance Section~~.
- d) Once a rate for an individual facility has been calculated, a new rate will not be calculated during the course of the rate year except as provided in subsections (b) and (c) of this Section.
- e) If a facility incurs building construction improvements ~~that~~~~which~~ increase the

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total building cost for the current owner by ten percent or more and ~~that~~~~which~~ would raise the base year, then the nursing home may file a revised cost report ~~that~~~~which~~ reports the increased capital investment. Only facility building construction improvements completed after the end of the period of the report used to calculate the last capital rate can be used to meet the ten percent requirement. Purchases of buildings for use by the facility and allocations of central office buildings and improvements cannot be used to meet the ten percent requirement. The base year is defined in Section 140.570(b)(2). If the improvements have been completed and put into use prior to the forthcoming rate year and the cost report reflecting increased capital costs is filed prior to the beginning of the next rate year, then any increase in the capital rate will be effective on the first day of the rate year.

- f) In order to accommodate the downsizing to close or reduce bed capacity of ICF/MR facilities licensed for ICF/DD or SNF/PED Services, the following provisions will apply. These provisions only apply for facilities with 17 or more licensed beds that decrease their total licensed beds by 20 percent or more due to a decrease in the beds licensed as ICF/DD or SNF/PED. The reduced bed capacity must be necessary to achieve one or more of the following goals: achieve compliance with ICF/MR regulations, such as four or fewer persons per room; achieve compliance with ICF/MR regulations in an adverse action as part of a Plan of Correction (see the Department of Public Health rules at 77 Ill. Adm. Code 300.278); increase available space in order to provide active treatment services to residents; and permit the voluntary closure of a facility in order to achieve community placement to settings of size eight or fewer residents, provided sufficient funds are available to the Department of Human Services (DHS).
- 1) The facility must request pre-approval for application of these provisions from the DHS Director of the Division of Disability and Behavioral Health Services (DDBHS). The written request must describe the necessity to reduce licensed bed capacity. The facility must submit a proposed timetable for the downsizing, including the projected dates of each decrease in census and the census on that date (the benchmark). Written approval may be granted if DHS determines the change will be beneficial for the ICF/DD or SNF/PED residents. If approval is granted, DHS will enter into a downsizing agreement with the facility with provisions including the downsizing plan, benchmarks, rate adjustments and items of compliance regarding the safety and placement of residents.

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- 2) The reduction in the number of licensed beds must be completed within a one-year period following the DDBHS Director's approval, unless a longer reduction period is approved by the Deputy Director at the onset of the plan. Not fewer than 90 days prior to the projected end date of the downsizing plan, the facility must make application to the Department of Public Health (DPH) for a formal licensure change to reflect the number of licensed beds, if any, to remain at the conclusion of the downsizing plan. The effective date of the licensed bed change will be the actual date the final resident benchmark census objective is reached.
- 3) A facility is ineligible for downsizing if the facility has been notified in writing by DPH of a need for a Plan of Correction for non-compliance with conditions of participation, Type A violations, licensure non-compliance, or because the facility has been declared an "immediate and serious threat" to the welfare of any resident or residents in the one-year period preceding the date of a request for application of these downsizing provisions unless the DDBHS Director has granted the facility a waiver of this one year requirement.
- 4) When DPH notifies a facility in writing of a need for a Plan of Correction for non-compliance with conditions of participation, Type A violations, licensure non-compliance, or because the facility has been declared an "immediate and serious threat" to the welfare of any resident, the facility may seek DHS approval of a downsizing plan concurrently as a part of a Plan of Correction to DPH in accordance with the time frames and process allotted by DPH. If a downsize application is not made at this time and as a part of a Plan of Correction, the facility is ineligible for downsizing.
- 5) During the downsizing period, the facility may not accept any admissions except with explicit permission of DHS. The facility must agree to make every effort to insure immediate notification (within 72 hours) to DHS and to the local DHS office of all changes in recipient enrollment, eligibility, income, assets, earnings and other status. The facility must agree to make available to DHS and interested parties such records as necessary to disclose the type and quantity of care provided to specific residents, as well as physicians' reports, need for care, level of functioning and orders for services. The facility must agree to provide access to resident care records and facility records and policies concerning resident care throughout the downsizing period.

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- 6) The capital and support rates in effect at the time of approval of the downsizing plan (exclusive of any flat add-on rate increases) will be modified for downsizing in accordance with subsection (f)(9) of this Section.
- 7) The capital and support rates will be revised with the achievement of the benchmarks specified in the downsizing agreement during the approved downsizing period.
- A) The capital rate will be increased in proportion to the agreed on decrease in the census achieved at the end of each benchmark period from the census at the start of the downsizing period. For example, with an original census of 98 residents at the start of the downsizing period and the achievement of a reduction of eight residents to reach the benchmark of 90 residents, the initial \$7.41 capital rate will be increased to \$8.07 as follows: (the initial capital rate) is multiplied by (the original census that has been divided by the achieved census reduction), or $(\$7.41) \times (98/90 \text{ or } 1.089) = \8.07 .
- B) The support rate will be increased in proportion to the decrease in census achieved at the end of each benchmark period from the census at the start of the downsizing period, with the assumption that 50 percent of the support costs are fixed and 50 percent of the support rate is variable (for example, costs vary as the number of residents varies). The fixed half of the support rate will be increased in proportion to the achieved decrease at the end of each benchmark period. For example, with an original support rate of \$22, the support rate would be $[(.5 \times \$22) \times (98/90)] + (.5 \times \$22) = \$22.98$.
- C) The program rate will be set according to the methodology in DHS rules at 89 Ill. Adm. Code 144 (exclusive of any flat add-on increases).
- 8) The support rate for ICF/DD facilities may not exceed the facility's geographic area ceiling. Facilities having SNF/PED licenses ~~that, which~~ are reducing facility census to comply with ICF/MR regulations ~~that, which~~ limit the number of persons per bedroom to four or fewer, may exceed the facility's geographic area ceiling but by no more than 125 percent. The

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exception allowing SNF/PED facilities to exceed the support rate geographic area ceiling will only be based on the reduction in census to attain four or fewer persons per bedroom. If a SNF/PED facility reduces census below that required to attain four persons per bedroom, the support rate may not exceed the facility's geographic area ceiling.

- 9) At the conclusion of the downsizing period the capital, support and program rates will be determined as follows:
 - A) The capital rate component will be fixed at the final downsizing rate and will remain in effect until such time as the rate methodology in effect produces a rate based on the downsized licensed capacity that surpasses the downsize capital rate amount. The final downsize capital rate will be increased by funding changes such as cost of living increases, when given. All space in the facility must continue to be used as an ICF/DD or SNF/PED. Use of the facility for an on-site developmental training program, school services or uses unrelated to the operation of the facility as an ICF/DD or SNF/PED, will require the calculation of the capital rate according to the methodology of Sections 140.570 through 140.574 after an adjustment of the facility's capital costs in proportion to the involved square footage. This capital rate will be effective the first day of the month following the change in space usage. Capital improvements to the downsized facility may be made and will be reimbursed as an increase to the downsize capital rate determined as the applicable percentage rate of return of the capital methodology times the per diem per bed reported amount of the improvement. The support rate in effect at the end of the downsizing period will remain in effect until a cost report covering the first six months of operation of the downsized facility is submitted as would be applicable to a new facility in accordance with provisions in subsection (b) of this Section. These six-month costs and the corresponding days of care will be used to set the support rate in accordance with the support component rate methodology in effect.
 - B) The program rate will be set according to the methodology described at 89 Ill. Adm. Code 144.

(Source: Amended at 30 Ill. Reg. 14280, effective August 18, 2006)

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Section 140.569 Clients With Exceptional Care Needs

a) Exceptional Care Program

- 1) Effective January 1, 2007, exceptional care services shall be covered under the MDS-based reimbursement methodology as described in 89 Ill. Adm. Code 147.Table A. As long as the nursing facility's case mix, as determined by total minutes from 89 Ill. Adm. Code 147.Table A, does not decrease in excess of five percent when compared to the case mix as of June 30, 2006, exceptional care reimbursement shall be converted to a per diem computed as the sum of all exceptional care daily payments less the residential rate made to the facility on June 30, 2006 divided by the total number of residents that are paid nursing and exceptional care rates as of June 30, 2006. No new residents will be accepted into the Exceptional Care Program after December 31, 2006. All facility Exceptional Care contracts will be terminated December 31, 2006. The provisions of this Section governing the Exceptional Care Program remain in place through December 31, 2006.
- ~~2)4)~~ Pursuant to Section 5-5.8a of the Illinois Public Aid Code [305 ILCS 5/5-5.8a], the Department may make payments for exceptional care services to nursing facilities ("providers") that meet licensure and certification requirements as may be prescribed by the Department of Public Health and are enrolled in and meet participation requirements of the Medical Assistance Program pursuant to Sections 140.11 and 140.12.
- ~~3)2)~~ Exceptional medical care is defined as the level of care with extraordinary costs related to services which may include physician, nurse, ancillary specialist services, and medical equipment and/or supplies that have been determined to be a medical necessity. This shall apply to Medicaid patients who are being discharged from the hospital or other setting where Medicaid reimbursement is at a rate higher than the exceptional care rate for related services or to persons who are in need of exceptional care services who would otherwise be in an alternative setting at a higher cost to the Department and Medicaid eligible residents transitioning from Medicare to Medicaid while in the nursing facility. This includes but is not limited to head-injured persons, ventilator dependent persons or persons with HIV/AIDS.

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~~4)3)~~ The Department shall negotiate rates with facilities requesting payment for exceptional care services (see Section 5-5.8a of the Public Aid Code [305 ILCS 5/5-5.8a]). In determining the rates of payment, the Department shall consider data collected from exceptional care providers during fiscal year 1994, any intervening rate adjustments (including any updates for inflation) and the average cost of each service category for the geographic area in which the facility is located. After approval of negotiated rates, the Department shall annually update a facility's rates for inflation.

b) Exceptional Care Requirements

The Department may enter into agreements with providers for the provision of exceptional care services only if the provider agrees to the following terms:

- 1) The provider will maintain separate records regarding costs related to the care of the exceptional care residents.
- 2) The provider must demonstrate the capacity and capability to provide exceptional care as documented by Department of Public Health and Department of Healthcare and Family Services~~Public Aid~~ records, including, but not limited to, being free of finalized Department of Public Health findings (exhaustion of appeals process with deficiencies remaining) after January 1, 1997, that the provider has deficiencies related to substandard quality of care during the period of time since the last standard certification survey or imposition of a conditional license.
- 3) The provider must maintain and provide documentation demonstrating:
 - A) Adherence to staffing requirements as set out in subsection (c) of this Section;
 - B) Adherence to staff training requirements as set out in subsection (d) of this Section;
 - C) Validity of written agreements as required in subsection (e) of this Section;
 - D) Presence of emergency policy and procedures as set out in subsection (f) of this Section;
 - E) Medical condition of the resident; and

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- F) Care, treatments and services provided to the resident.
- 4) The provider must have and maintain physical plant adaptations to accommodate the necessary equipment, such as an emergency electrical backup system.
- c) **Exceptional Care Staffing Requirements**
Staffing requirements for providers of exceptional care include:
- 1) A minimum of one RN on duty on the day shift, seven days per week (as required by the Department of Public Health in 77 Ill. Adm. Code 300.1240 or 250.910(e) and (f)(1) as appropriate). Additional RN staff may be determined necessary by the Department of [Healthcare and Family Services](#)~~Public Aid~~, based on the Department's review of the exceptional care services needs;
 - 2) A minimum of the required number of LPN staff (as required by the Department of Public Health in 77 Ill. Adm. Code 300.1230 and 300.1240 or 250.910(e) and (f)(1) as appropriate), on duty, with an RN on call, if not on duty on the evening and night shifts, seven days per week; and
 - 3) For those providers of complex respiratory or ventilator services under the exceptional care program, a certified respiratory therapy technician or registered respiratory therapist, on staff or on contract with the provider.
- d) **Training Requirements for Providers of Exceptional Care for Ventilator Dependent Residents**
- 1) At least one of the full-time professional nursing staff members must have successfully completed a course in the care of ventilator dependent individuals and the use of ventilators, conducted and documented by a certified respiratory therapy technician or registered respiratory therapist or a qualified registered nurse who has at least one year experience in the care of ventilator dependent persons.
 - 2) All staff caring for ventilator dependent residents must have documented inservice training in ventilator care prior to providing such care. Inservice training must be conducted at least annually by a certified respiratory therapy technician or registered respiratory therapist or a qualified

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registered nurse who has at least one year experience in the care of ventilator dependent persons. Inservice training documentation shall include name and qualification of the inservice director, duration of presentation, content of presentation and signature and position description of all participants.

- e) **Exceptional Care Agreement Requirements**
The provider must have a valid written agreement with:
- 1) A medical equipment and supply provider which must include a service contract for ventilator equipment when accepting ventilator dependent residents;
 - 2) A local emergency transportation provider;
 - 3) A local hospital capable of providing the necessary care for equipment dependent residents, when appropriate; and
 - 4) A certified respiratory therapy technician or registered respiratory therapist (unless a respiratory therapist is on staff within the facility), when accepting ventilator dependent residents or residents requiring respiratory therapy services.
- f) **Exceptional Care Emergency Policy and Procedures Requirements**
The provider must have specific written policies and procedures addressing emergency needs for residents requiring exceptional care.
- g) **Accessibility to Records**
The provider must make accessible to ~~HFS~~ IDPA and/or IDPH all provider, resident and other records necessary to determine that the needs of the resident are being met and to determine the appropriateness of exceptional care services.
- h) **Provider Approval Process**
- 1) A provider shall notify the Department, in writing, of its interest in participating in the Exceptional Care Program.
 - 2) If approved by the Department, a written exceptional care agreement with the provider shall be executed. Such agreements are separate and distinct from the provider agreements specified in Section 140.11(a)(6) and are not

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subject to the provisions regarding notice and right to hearing in the event of termination specified in 89 Ill. Adm. Code 104.208 and 104.210.

- 3) Providers desiring to discontinue providing exceptional care shall notify the Department, in writing, at least 60 days prior to the date of termination. Payment for exceptional care residents already residing in facilities which notify the Department that they wish to discontinue providing exceptional care services will remain at the previous exceptional care rate as long as the resident meets exceptional care criteria and as long as all related criteria are met by the provider as determined by the Department's utilization review (see Monitoring, subsections (k)(2) and (3) of this Section) or the resident is discharged.
- 4) It is the responsibility of the provider to effect appropriate discharge planning for exceptional care residents when terminating services for exceptional care. The Department agrees to assist providers with any information available regarding appropriate placement settings.
- 5) The Department may terminate a provider's agreement, for any reason, upon 60 days written notice to the provider. Reasons for which the Department may terminate an agreement include, but are not limited to, Department of Public Health findings that the provider has deficiencies related to substandard quality of care or imposition of a conditional license.
 - i) Determining Eligibility for Exceptional Care Payment
 - 1) A person being discharged from a hospital or those who are in another setting must be approved by an authorized Department representative prior to placement in a facility to be eligible for exceptional care payment.
 - 2) In order for a person to be approved for exceptional care reimbursement, the cost of the person's care must be at least 50% more than the proposed admitting provider's Medicaid per diem rate (capital, support and nursing components). Eligible items ~~that~~ which may be used in computing the cost of the resident's care include nursing services costs, therapy services costs, and medical equipment and supply costs. Computations for determining cost of care shall be based upon costs for services, medical equipment and supplies for the proposed admitting provider as determined by the Department.

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- j) Provision for Hospital Patients for which a Long Term Care Placement is Unavailable
In the event placement for a patient in need of exceptional care services or skilled nursing services cannot be located, the Department shall approve payment to the hospital in which the patient is receiving services at a rate not to exceed the average Statewide long term care provider per diem for the level of services provided.
- k) Monitoring
- 1) All utilization controls applied to exceptional care by the Department in accordance with the approved plan for medical services under the Illinois Public Aid Code [305 ILCS 5/5-2], and Title XIX of the Federal Social Security Act (42 ~~USC~~U.S.C. 1396a) shall continue to apply to exceptional care provided under the Exceptional Care Program described in the Health Finance Reform Act [20 ILCS 2215/3-5].
 - 2) The Department shall provide for a program of delegated utilization review and quality assurance. The Department may contract with Medical Peer Review organizations to provide utilization review and quality assurance.
 - 3) The Department shall review exceptional care residents' utilization of services every 90 days. A review may be waived by the Department if one or more previous assessments show that a resident's condition has stabilized. However, two consecutive reviews shall not be waived. Department staff will maintain contact with the long term care provider regarding the resident's condition during the time period any assessment is waived.
 - 4) In the event that it is determined that the resident is no longer in need of or receiving exceptional care services, the Department shall discontinue the exceptional care payment rate for the resident and reduce the rate of payment to the provider to the provider's standard Medicaid per diem rate.

(Source: Amended at 30 Ill. Reg. 14280, effective August 18, 2006)

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- 1) Heading of the Part: Long Term Care Reimbursement Changes
- 2) Code Citation: 89 Ill. Adm. Code 153
- 3) Section Number: 153.100 Adopted Action:
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendment: August 18, 2006
- 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 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: April 14, 2006; 30 Ill. Reg. 6257
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: No changes have been made to this rulemaking.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: These changes concerning capital rates for long-term care facilities coordinate with related amendments at 89 Ill. Adm. Code 140.534 and 140.560. The changes in Part 140 increase capitalization thresholds, reduce reporting requirements for immaterial purchases, provide clarifications, and add a limitation concerning the amount of central office building costs that can be allocated to cost reports.

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The changes at Section 153.100 provide that capital rates shall be adjusted based upon audits of cost report data in accordance with the updates and clarifications at 89 Ill. Adm. Code 140.

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

Tamara Tanzillo Hoffman
Chief of Administration and Rules
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 153

LONG TERM CARE REIMBURSEMENT CHANGES

Section

153.100	Reimbursement for Long Term Care Services
153.125	Long Term Care Facility Rate Adjustments
153.150	Quality Assurance Review (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2159, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10154, effective June 17, 1994; emergency amendment at 18 Ill. Reg. 11380, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16669, effective November 1, 1994; emergency amendment at 19 Ill. Reg. 10245, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16281, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9306, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14840, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 9568, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13633, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 13114, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16285, effective August 28, 1998; amended at 22 Ill. Reg. 19872, effective October 30, 1998; emergency amendment at 23 Ill. Reg. 8229, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12794, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13638, effective November 1, 1999; emergency amendment at 24 Ill. Reg. 10421, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15071, effective October 1, 2000; emergency amendment at 25 Ill. Reg. 8867, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14952, effective November 1, 2001; emergency amendment at 26 Ill. Reg. 6003, effective April 11, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 12791, effective August 9, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11087, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17817, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 11088, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18880, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 10218, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15584, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 1026, effective January 1, 2005, for a

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maximum of 150 days; emergency amendment at 29 Ill. Reg. 4740, effective March 18, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 6979, effective May 1, 2005; amended at 29 Ill. Reg. 12452, effective August 1, 2005; emergency amendment at 30 Ill. Reg. 616, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified pursuant to Joint Committee on Administrative Rules objection at 30 Ill. Reg. 7817, effective April 7, 2006, for the remainder of the maximum 150 days; amended at 30 Ill. Reg. 10417, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11853, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14315, effective August 18, 2006.

Section 153.100 Reimbursement for Long Term Care Services

- a) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 140, 144 and 147 for reimbursement of long term care services, effective January 18, 1994, reimbursement rates for long term care facilities (SNF/ICF and ICF/MR) and day training providers will remain at the levels in effect on January 18, 1994, except as otherwise provided in this Section.
- b) Capital and support rates in effect on January 18, 1994, will be adjusted based on final audits of cost report data in accordance with 89 Ill. Adm. Code 140.582(b) and 140.590.
- c) Capital rates will be increased for major capital improvements in accordance with 89 Ill. Adm. Code 140.560(c) and (e).
- d) New facilities which are assigned median rates in accordance with 89 Ill. Adm. Code 140.560(b) will have rates recalculated based upon receipt of their first cost report and 89 Ill. Adm. Code 147.150.
- e) Requests for IOCs upon which rate determinations are based upon a Medicaid resident being transferred from a State operated facility for persons with developmental disabilities to a community setting will be considered on a case-by-case basis.
- f) Fiscal year 1996 support rates may change based on the first cost report filed by new ownership reflecting six months or more of the new ownership's operation for any facility which changed ownership between July 1, 1992, and January 18, 1994. Only changes in ownership in arms-length transactions between unrelated parties will be recognized for this rate change. The new support rate for those facilities will be calculated in accordance with 89 Ill. Adm. Code 140.560 and 140.561. Support rates for facilities which qualify under this exception will not

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be decreased by the provisions in this Section. The capital rates of facilities which changed ownership between July 1, 1992, and January 18, 1994, will not be subject to changes in the capital rate based on the provisions of 89 Ill. Adm. Code 140.571(b)(4), but can still be affected by the provisions of subsection (d) of this Section.

- g) For those for-profit facilities whose fiscal year 1994 capital rate does not include a real estate tax component because it is based upon a non-profit facility's cost report, effective July 1, 1995, the real estate tax component will be added to the capital rate based upon the fiscal year 1994 median real estate tax rate for the geographic area in which the home is located.
- h) If a non-profit facility changes ownership on or after July 1, 1995, and the new owner is a for-profit facility, the real estate tax component will be added to the capital rate effective with the change of ownership as recognized by the Illinois Department of Public Health. The real estate tax component will be added at the geographic area median tax rate in effect for the month in which the real estate tax becomes effective.
- i) For those non-profit facilities whose fiscal year 1994 capital rate includes a real estate tax component based upon a for-profit facility's cost report, effective July 1, 1995, the real estate tax component of the capital rate will be removed (unless the non-profit facility rents the home from an unrelated for-profit entity).
- j) If a for-profit facility changes ownership on or after July 1, 1995, and the new owner is a non-profit facility, the real estate tax component will be removed from the capital rate effective with the date of change in ownership as recognized by the Illinois Department of Public Health. The real estate tax component will not be removed for a non-profit facility that rents the facility from an unrelated for-profit entity.
- k) The flat per diem paid to ICFs/MR to cover the cost of non-emergency dental services pursuant to 89 Ill. Adm. Code 144.275 and 144.300 will be increased from \$.30 to \$.40.
- l) Day training provider rates shall be increased by three percent for services provided on or after July 1, 1996.
- m) Effective for services provided on or after July 1, 1996, facilities which are located in an area which has changed geographic designation due to unique labor

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force factors shall have rates recalculated based upon the ceilings and norms of the newly designated geographic area.

- n) Long term care facilities that have been assigned a median tax rate on the basis of geographic area in accordance with 89 Ill. Adm. Code 140.560(b) and subsections (m) and (n) of this Section shall subsequently have those rates recalculated based upon the first full tax bill received by that facility. The revised rate will be the greater of the recalculated rate or the rate in effect from the aforementioned Section and subsections. Rates revised in accordance with this subsection shall result in payments retroactive to July 1, 1997, for those facilities whose first full tax bill is received by the Department no later than September 30, 1998. Rates for facilities whose first full tax bill is received after September 30, 1998, will be effective on the date the Department receives the first full tax bill. In order to calculate the potential tax rate, the real estate tax from the first full tax bill for the long term care property will be divided by the greater of the annualized capital days (see 89 Ill. Adm. Code 140.570(b)(3)) from the cost report used to calculate the remainder of the capital rate in accordance with 89 Ill. Adm. Code 140.570 through 140.574, or 93 percent of annualized bed days based upon the number of licensed beds available at the end of the period covered by the tax bill. No inflation factor will be used for this calculation.
- o) Interim IOCs may be conducted in an ICF/MR, at the facility's written request, if there has been a change in the resident population of at least 25 percent since the last IOC used to set the rate. A facility is limited to one request in any 12 month period. The rate effective date will be the first day of the month following the month of the facility's written request. The written request must contain documentation supporting the change in the resident population.
- p) Interim IOCs may be conducted for developmental training services when the population of an ICF/MR changes by at least 25 percent since the last IOC used to set the rate. The ICF/MR is limited to one request in any 12 month period. The rate effective date will be the first day of the month following the month of the facility's written request. Documentation must be submitted supporting the change in the resident population.
- q) Rates shall be adjusted for an ICF/MR entering into a downsizing agreement with the Department of Human Services, under the provisions of 89 Ill. Adm. Code 140.560, with the rate effective on the date a benchmark for such downsizing is achieved.

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- r) For an ICF/MR with 16 or fewer licensed beds, rate changes shall be made in the program active treatment rate component to reflect an increase of 13 hours of base nursing and nurse supervision for administration of medication by unlicensed direct service staff, effective for services provided on or after January 1, 2000.
- s) The nursing component of a nursing facility's per diem shall be adjusted in accordance with 89 Ill. Adm. Code 147.150.
- t) [Effective for any capital rates calculated with an effective date of July 1, 2006 or later, the capital rates shall be adjusted based upon audits of cost report data in accordance with the updates and clarifications contained in 89 Ill. Adm. Code 140.534 and 140.560.](#)

(Source: Amended at 30 Ill. Reg. 14315, effective August 18, 2006)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Joint Rules of the Office of the State Fire Marshal and the Illinois State Board of Education: School Emergency and Crisis Response Plans
- 2) Code Citation: 29 Ill. Adm. Code 1510
- 3) Section Number: See Part 1500 Adopted Action: Substantive material at 29 Ill. Adm. Code 1500 (ISBE)
- 4) Statutory Authority: 105 ILCS 128/40
- 5) Effective Date of Rules: August 18, 2006
- 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 rules, 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: April 7, 2006; 30 Ill. Reg. 6082
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The Part number for these OSFM rules was originally published as Part 1500. A Notice of Publication Error in the April 28, 2006 *Illinois Register* at 30 Ill. Reg. 7981 corrected this Part number to Part 1510.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Rule: This rulemaking responds to Public Act 94-600, which was enacted in 2005 and created the School Safety Drill Act. That Act mandates the conduct of school evacuation drills, bus evacuation drills, and severe weather and shelter-in-place drills in public and nonpublic schools and also strongly encourages the conduct of law enforcement drills. The law states the situations each of these types of drills is to

OFFICE OF THE STATE FIRE MARSHAL

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address, establishes requirements for the minimum number of drills of each type, and calls for the involvement of fire departments in school evacuation drills.

Further, an annual review will now be required of "each school district's emergency and crisis response plans, protocols, and procedures and each building's compliance with the school safety drill programs". Participation in this review is required by school principals, representatives of other education-related organizations, and local "first responder" organizations (i.e., fire departments, law enforcement, and emergency medical services entities). A report summarizing the results of the review must be prepared, including changes to existing safety plans and drill plans. Those participating have the opportunity to provide additional comments to the regional superintendent of schools for the area. The regional superintendents are to provide annual reports to the State Board of Education, which in turn is to report to the Governor and OSFM. (Reports of reviews done in nonpublic schools are provided directly to OSFM.)

The legislation also directed ISBE and OSFM to develop a common set of rules for its implementation. Because the law is explicit as to the number and nature of the required drills, the need for rulemaking is confined to two aspects:

- determining what will be accepted as constituting the "effective" review of plans that local boards are required to conduct; and
- outlining the fundamental objectives that are shared by the various types of drills.

These substantive matters are dealt with in ISBE's rules at 29 Ill. Adm. Code 1500, and this Part 1510 is the companion portion of the joint rules required by the statute.

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

John Fennell, Jr., General Counsel
Office of the State Fire Marshal 217/785-4144
1035 Stevenson Drive
Springfield, Illinois 62703

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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

TITLE 29: EMERGENCY SERVICES, DISASTERS, AND CIVIL DEFENSE

CHAPTER III: OFFICE OF THE STATE FIRE MARSHAL

PART 1510

JOINT RULES OF THE OFFICE OF THE STATE FIRE MARSHAL AND

THE ILLINOIS STATE BOARD OF EDUCATION:

SCHOOL EMERGENCY AND CRISIS RESPONSE PLANS

SOURCE: Adopted at 30 Ill. Reg. 14322, effective August 18, 2006.

(Editor's Note: This Part is a joint rule of the Office of the State Fire Marshal and the State Board of Education. The text of the Part appears at 30 Ill. Adm. Code 1500.)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Providers of Supplemental Educational Services
- 2) Code Citation: 23 Ill. Adm. Code 675
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
675.30	Amendment
675.60	Amendment
675.70	Amendment
675.90	Amendment
675.100	Amendment
675.150	Amendment
675.175	New Section
675.210	Amendment
675.230	Amendment
675.240	Amendment
675.245	New Section
675.250	New Section
675.APPENDIX A	New Section
675.APPENDIX B	New Section
675.APPENDIX C	New Section
- 4) Statutory Authority: 105 ILCS 5/2-3.6
- 5) Effective Date of Amendments: August 18, 2006
- 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: March 31, 2006; 30 Ill. Reg. 5777
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Several provisions within the Code of Ethics (Section 675.30) were made more specific, and the restrictions on the activities of school staff and parents employed by providers were reorganized for clarity.

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Section 675.90(a) was modified so that the evaluation of providers' performance will not be affected by the results of students who have received fewer than 18 hours of instruction in the same program. A corresponding change was made in Appendix B.

The language of Section 675.90(g) was made more specific with regard to providers' movement among evaluation statuses.

Section 675.150(e) was rewritten to provide a 30-day period within which to begin services after the provider's receipt of the list of students and the executed contract, rather than establishing a uniform deadline for the commencement of services.

Section 675.175 was given a new title (Timeline for Implementation of the Program), and the deadlines for the sequence of steps involved were restated to flow from one step to another rather than from one date to another.

Section 675.210(a) was revised to exclude from the calculation of each "district program cost" amounts that fall into the relevant expenditure categories but are not charged to the district by the provider.

Within Section 675.210, several additional items of cost were included as "direct program expenses" because they are central to the operation of providers' instructional programs. These include the cost of rewards for student achievement, costs related to fulfilling mandates and completing reports under these rules, costs for student assessment and student retention, and costs associated with training for instructional staff. The latter costs were also separated from curriculum development costs.

The limitations on administrative and general expenses and curriculum and training expenses that had been proposed were restructured to establish instead a minimum percentage that must be devoted to either direct program expenses or occupancy expenses. Exceptions were made for providers with student achievement outcomes "above standards" and for Web-based providers because of their significantly different cost structure.

Section 675.240(d) was reworded so that providers will be able to seek revisions to their reasonable cost estimates in accordance with their contracts.

Section 675.245 was revised to permit make-up sessions, to establish 15-minute billing increments, and to require that a student be dropped from the program if he or she has missed and failed to make up 12 sessions (or five consecutive sessions).

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A new Section 675.250 was added to permit providers to contest any decisions directly related to their programs. A more limited provision on appeals was removed from Section 675.90 in favor of this expanded rule.

A technical correction was made in Appendix A (the reference to district-administered nationally recognized assessments was deleted).

The evaluation rubric in Appendix B was revised so that the top one-third of providers will be considered "above standards". Technical corrections were also made in Note 3 to that Appendix.

Various technical changes were made in agreement with JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: These amendments set out specific criteria for the evaluation of SES providers and address several other areas of concern that have arisen since the adoption of the original rules.

First, the agency's monitoring had revealed a number of widespread practices that, if not violations of the current Code of Ethics, undermined its spirit. Of particular concern were employment practices involving school staff and parents that created conflicts of interest in terms of recruiting students. Second, the information received by ISBE as a result of the new financial reporting requirements revealed that, in the 2004-05 school year, many providers had spent excessive amounts on administrative and general expenses and insufficient amounts on costs directly related to the provision of tutoring within the district. Staff believed these cost allocations were not in line with those in other public education programs that involve nonprofit and for-profit organizations.

Several other refinements have been made to "fine tune" the rules in terms of how costs are considered and to strengthen districts' accountability for ensuring that providers begin to serve students in a timely manner.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Robert Wolfe

STATE BOARD OF EDUCATION

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External Assurance Division
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

217/782-7970

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER 0: MISCELLANEOUS

PART 675

PROVIDERS OF SUPPLEMENTAL EDUCATIONAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section

675.10	Purpose and Scope
675.20	Definitions
675.30	Code of Ethics
675.40	Programmatic Requirements
675.50	Application Requirements
675.60	Application Process
675.70	Reporting Requirement
675.80	Retention of Records; Access to Premises
675.90	Evaluation of Providers' Performance, Providers' Status, Sanctions, and Removal
675.100	Public Information
675.110	Removal When No Services Offered
675.150	Provider's Relationship with District
675.175	Timetable for Implementation of the Program

SUBPART B: FINANCIAL REQUIREMENTS

Section

675.200	Financial Framework for SES
675.210	District Program Cost
675.220	Non-Reimbursable Expenses and Revenue Offsets
675.230	Cost Reports
675.240	Establishment of Contract Amount and Payment Provisions Adjustments to Contract for Actual Cost
675.245	Basis for Invoices and Payments
675.250	Appeals
675.APPENDIX A	Calculation of Effect Size
675.APPENDIX B	Evaluation Rubric
675.APPENDIX C	Decision Matrix

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AUTHORITY: Implementing Section 1116(e) of Public Law 107-110, the No Child Left Behind Act of 2001 (20 USC 6316(e)) (34 CFR 200.45 through 200.48), and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6].

SOURCE: Emergency rules adopted at 29 Ill. Reg. 9516, effective June 17, 2005, for a maximum of 150 days; emergency expired November 13, 2005; adopted at 29 Ill. Reg. 19942, effective November 23, 2005; amended at 30 Ill. Reg. 14325, effective August 18, 2006.

SUBPART A: GENERAL PROVISIONS

Section 675.30 Code of Ethics

In addition to all other requirements imposed by law, all providers of SES must abide by a code of ethics consisting of the following requirements:

- a) Providers must accurately and completely describe services to consumers in terms that are easy to understand.
- b) Providers must create and use promotional materials and advertisements that are free from deception. Upon request, providers shall submit all promotional materials and advertisements related to the SES program to ISBE or the school districts in which they wish to serve.
- c) Providers must not misrepresent to anyone the location of a provider's program or the approval status of a program. If the location of services is contingent upon a minimum student enrollment or the approval of a district, the provider shall indicate the applicable contingencies in its marketing materials.
- d) Providers must not publicly criticize or disparage other providers.
- e) Providers must not distribute a district enrollment form that has the selected provider's name pre-printed as part of the form. Providers must not distribute enrollment forms with directions for how to complete the forms.
- f) Providers must maintain a system of addressing consumer grievances and concerns and must immediately report any grievances to both the district and ISBE.
- g) Providers must not compensate district employees in exchange for access to facilities, to obtain student lists, or for any illegal purpose. Providers must not solicit or accept an exclusive arrangement with any district or school (including,

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but not limited to, an exclusive right to conduct in-school assemblies or other marketing activities).

- h) DistrictSchool personnel may be hired for instructional purposes only, except that district personnel without responsibility for or involvement in the district's administration of SES may be employed to perform solely clerical functions having no relationship to the marketing of a provider's program or the recruitment of students. District personnel hired for instructional purposes shall not recruit students to a provider's program, engage in marketing activities on behalf of a provider, distribute or collect enrollment forms, or otherwise promote or encourage students to enroll in a provider's program.
- i) Each restriction applicable to a school district employee under this Section shall apply equally to a member of any governmental or nonprofit organization formed to support or advise a particular school in which the provider seeks to offer services.
- j) Each parent of an eligible student who is hired by a provider must have a written job description and must be compensated on the same basis as all other employees of the provider who perform similar work. No parent may receive any commission or other benefit related to the enrollment of his or her child in a provider's program, nor may a parent be subject to any employment action by the provider on account of the parent's selection of an SES program for his or her child.
- kh) Providers must not make payments or in-kind contributions to a district, exclusive of customary fees for facility utilization.
- li) Providers must not offer or advertise economic incentives or gratuities of any kind to parents or students to solicit them to select the provider for SES. Providers may not offer any incentives to potential students in the course of informational sessions, but may offer promotional materials of negligible value, such as pencils, balloons, or magnets.
- mj) During the provision of SES, providers may offer only nominal rewards to students for achievement of program milestones or ~~and/or the completion of assessments and program~~ objectives that cannot be attained through attendance alone, or for above-average attendance when given after the mid-point of the provider's program. ~~Providers~~ On a per-pupil basis, providers shall not spend more than \$50 per pupil ~~5 percent of the Title I, Part A, per-pupil allocation~~ on

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rewards, ~~exclusive of~~ ~~except that providers may exceed this limit for~~ rewards that consist of materials and equipment used directly in the provision of services.

- nk) Providers must not encourage or induce students or parents to switch providers once enrolled.
- ol) Providers must not attempt to influence or bias parents when performing an evaluation of the provider's services and achievement of the objectives in the student's Individual Learning Plan.

(Source: Amended at 30 Ill. Reg. 14325, effective August 18, 2006)

Section 675.60 Application Process

- a) Applications for approval as SES providers will be accepted only from eligible applicants and only during the two application periods established by the State Superintendent of Education each year, unless an emergency application period is needed for a particular school district to enable students to continue receiving services through the remainder of a school year as required by NCLB.
- b) Upon receipt of an application, ISBE will provide it to the district in which an eligible applicant seeks to serve for the district's general review and comment, but in particular for an assessment by the district as to whether the program is consistent with the academic program a student experiences during the regular school day. For providers seeking to serve all eligible districts, ISBE may elect to provide the application to a group of representative districts for review. The district and ISBE may seek additional information and clarifications from the eligible applicant. These clarifications will then be made a part of the provider's application. If an applicant fails to respond to a request for additional information or clarification, ISBE shall, upon 14 days' written notice, declare an application inactive. If an application is declared inactive, the applicant shall be required to submit an entirely new application using the then-current application form and within an application period established by the State Superintendent.
- c) Applications meeting the requirements set forth in Sections 675.40 and 675.50 of this Part and all other requirements of NCLB will be approved. If an application is rejected, neither the eligible applicant nor any related organization shall be eligible to re-apply during the following 12-month period.
- d) If a provider is removed from the State-approved list for any reason other than as described in Section 675.110 of this Part, the provider and any related

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organization shall be ineligible to re-apply during the following five-year period, except that this period of ineligibility shall not apply to a provider that is a public school or school district that has its eligibility restored by being removed from "improvement status".

(Source: Amended at 30 Ill. Reg. 14325, effective August 18, 2006)

Section 675.70 Reporting Requirement

~~The requirements of this Section shall apply to reporting periods that begin on or after July 1, 2005.~~

- a) Each provider shall be required to use a tracking system for student enrollment and progress developed by ISBE. Unless otherwise agreed to between the district and a provider, this tracking system shall be used to determine the amount billable to the district for the provider's services.
- b) Within 60 days after a provider's conclusion of SES for the SES reporting period, the provider shall submit a report to ISBE and to each district in which the provider operates. This report shall include:
 - 1) information on the students served;
 - 2) details of any complaints received from teachers or parents;
 - 3) the percentage of students meeting the academic goals set out in their Individual Learning Plans;
 - 4) ~~based upon a survey form prescribed by ISBE of all parents of children in the program, a report on the percentage of parents who:~~
 - A) ~~agree with the provider's assessment of their respective students' achievement of the academic goals; and~~
 - B) ~~are satisfied with the services provided to their children;~~
 - 5) ~~for any provider with a rating lower than 80% under either subsection (a)(4)(A) or subsection (a)(4)(B) of this Section, a description of specific actions the provider will take over the next SES reporting period to better inform parents regarding students' progress and/or increase parental satisfaction with the provider's services;~~

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- ⑥ updates and revisions to any information set forth in the provider's approved application (including the submission of all information required by Section 675.50 of this Part not previously reported by the provider); and
 - ⑤⑦ an assurance that all other information set forth on the provider's approved application, as may be updated from time to time, remains true and correct.
- c) ISBE may request additional information from a provider that may be necessary for ISBE to verify any information reported by the provider or otherwise to fulfill its duties with respect to the administration of SES.
 - d) Providers failing to submit timely and complete reports shall not be included on the list of eligible providers for the following SES reporting period.

(Source: Amended at 30 Ill. Reg. 14325, effective August 18, 2006)

Section 675.90 Evaluation of Providers' Performance, Providers' Status, Sanctions, and Removal

- a) For each SES reporting period, ISBE shall evaluate each provider's performance in each district the provider serves based upon students' achievement, students' attendance, and parents' satisfaction. Separate evaluations shall be performed for each subject tutored by a provider (i.e., reading and mathematics). Achievement shall be measured by calculating an "effect size" in accordance with the provisions of Appendix A to this Part based upon the assessment results attained by students who have received at least 18 hours of instruction in the same provider's program. Attendance shall be measured by the information submitted to ISBE through its tracking system for students' enrollment and progress and by means of a survey administered by ISBE to all providers. Parental satisfaction shall be measured by a survey administered by ISBE to parents of students receiving services. Providers and school districts shall cooperate with ISBE to facilitate the administration of all surveys. A provider shall be deemed to have failed to contribute to increased student proficiency relative to State academic content and achievement standards and may be removed from the State approved list either overall or for a particular district, if, for two consecutive SES reporting periods, no more than 70 percent of the students served meet the academic goals set forth in the students' respective Individual Learning Plans.

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- b) For each of the criteria outlined in subsection (a) of this Section, ISBE will determine, based upon the evaluation rubric set forth in Appendix B to this Part, whether the provider's performance in each subject tutored falls into the category of "insufficient information", "below standards", "meets standards", or "above standards". Based on these determinations, ISBE will assign each provider the status of "good standing", "probationary status 1", or "probationary status 2", in accordance with the decision tree displayed in Appendix C to this Part. Each provider's status shall be assigned separately with respect to each district served. If no more than 70 percent of the students in a provider's program (overall, or for a particular district) meet the academic goals set forth in the students' respective Individual Learning Plans for one SES reporting period, the provider shall, within 75 days after the conclusion of services for that period, submit to the State Superintendent of Education for approval a corrective action plan detailing how the provider intends to improve the deficiencies in its program. If the provider does not undertake all actions set forth in an approved corrective action plan during the following SES reporting period, the provider shall be removed from the list of State approved providers.
- c) If a provider's compliance with State or federal requirements or interactions with districts or parents indicate areas for improvement that are not serious enough to warrant corrective action under subsection (h) of this Section, the provider's status may also be assigned "with reservations". A provider assigned any status with reservations that fails to address the identified areas for improvement during the next SES reporting period shall be placed into corrective action in accordance with subsection (h) of this Section.
- d) A provider assigned the status of good standing shall not be required to take any action in response, other than addressing any reservations during the next SES reporting period.
- e) A provider assigned to probationary status 1 shall submit a remedial action plan describing the policies and practices the provider will immediately implement to return its status to good standing, including:
- 1) specific, measurable steps to be taken;
 - 2) a timeline for these activities; and
 - 3) a budget for these activities.

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- f) A provider assigned to probationary status 2 shall submit a reconstitution plan setting forth substantial changes the provider will immediately implement to return its status to good standing, including:
- 1) a fundamental revision to the program described in the provider's approved application;
 - 2) professional development activities for all the provider's instructional staff serving the district;
 - 3) a plan of outreach to promote effective parental involvement in the provider's program;
 - 4) for each aspect described pursuant to subsections (f)(1) through (3) of this Section:
 - A) the specific, measurable steps to be taken;
 - B) a timeline for these activities; and
 - C) a budget for these activities; and
 - 5) a process for monitoring progress and revising the plan as needed.
- g) A provider that receives three consecutive determinations of probationary status 1 or lower with respect to any particular district shall be removed from the State-approved list for that district, except that a provider that receives two consecutive determinations of probationary status 2 shall be removed.
- h) The State Superintendent of Education may require corrective action of a provider if compliance issues are raised through ISBE's monitoring of the provider's program. Providers placed in corrective action under this subsection (h)(e) shall, within 30 days after receiving notice to this effect, submit to the State Superintendent of Education for approval a corrective action plan detailing how the provider intends to improve the deficiencies in its program. A provider shall be removed from the State-approved list if it fails to meet the requirements of its corrective action plan by the end of the SES reporting period following the provider's placement into corrective action.
- i)~~d)~~ The State Superintendent of Education may immediately suspend a provider's services if ISBE determines that a threat exists to the health or safety of students

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or if necessary to investigate or remedy concerns regarding compliance issues or illegal practices allegedly engaged in by the provider.

- ~~j)e)~~ The State Superintendent of Education may remove a provider from the State-approved list upon 30 days' written notice if the provider has engaged in illegal or deceptive practices, violated any assurance or aspect of its application to ISBE, violated any assurance or aspect of a plan submitted to ISBE in accordance with this Section, falsified any information on its application or other reports to ISBE, or otherwise violated State or federal law.
- ~~f)~~ ~~A provider may appeal its removal from the State approved list by submitting an appeal to ISBE specifying the basis upon which it believes its removal is not in accordance with this Part or other applicable law. The provider will be given a hearing in accordance with the State Board's rules for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475). A final decision shall be rendered by the State Board of Education.~~
- ~~k)g)~~ Any corrective action or termination rights ISBE has pursuant to this Part may be exercised solely with respect to the provider's program in one or more schools or districts, if the performance issues are localized.

(Source: Amended at 30 Ill. Reg. 14325, effective August 18, 2006)

Section 675.100 Public Information

All information submitted to ISBE pursuant to this Part, and the provider's status determined in accordance with Section 675.90 of this Part~~in terms of corrective action~~, may be publicly reported by ISBE in any manner ISBE deems necessary to inform the public of the services offered by the provider.

(Source: Amended at 30 Ill. Reg. 14325, effective August 18, 2006)

Section 675.150 Provider's Relationship with District

- a) A district may impose reasonable administrative and operational requirements through its agreements with providers that are consistent with requirements imposed generally on the district's contractors or requirements set by ISBE and that do not limit educational options for parents.
- b) Districts may, but are not required to, allow the use of district facilities for SES. If a district determines that one or more facilities have a limited capacity to

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accommodate multiple providers for such reasons as limited available classroom space or a limit to the district's administrative capacity to oversee multiple contractors, the district may select those providers using an equitable selection process that considers the provider's cost of services and other reasonable administrative and operational criteria consistent with criteria generally used by the district in the selection of contractors.

- c) A school district may, with notification to the State Superintendent of Education, terminate the services a provider is providing to a particular student if the provider is unable to meet the student's specific achievement goals within the timetable set out in the original agreement between the district and the provider.
- d) For any other termination of services by a school district, the district shall provide prior written notification to the State Superintendent of Education if the district intends to terminate the services of a provider throughout the district or at a particular school.
 - 1) The State Superintendent of Education shall require information from both the provider and the district to determine the validity of the complaint and to determine whether a corrective action plan should be implemented to address the complaint.
 - 2) Upon receipt and review of information from both the district and provider, the State Superintendent of Education shall determine whether the district should be allowed to proceed with the termination.
- e) No later than 30 days after the district's delivery to the provider of a district-approved list of students and a fully executed contract, a provider shall begin the provision of services to students in that district. See also Section 675.175 of this Part.

(Source: Amended at 30 Ill. Reg. 14325, effective August 18, 2006)

Section 675.175 Timetable for Implementation of the Program

The requirements of this Section shall pertain to a district's initial enrollment period for SES in each school year. Districts are strongly encouraged to undertake parental notification and student enrollment in advance of the timelines set forth in this Section. No provision of this Section shall be construed to limit a district's ability to offer multiple enrollment periods during the course of a school year. The deadline for each district's initial enrollment period shall be no

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later than 60 days after the first day of school or 60 days after the district's receipt of notification from ISBE as to its status, whichever occurs later.

- a) In any school year when the performance of a district's schools obligates the district to offer supplemental educational services, the district shall distribute to parents of eligible students a notification to this effect, accompanied by a selection form for use by the parents. This notification shall be distributed no sooner than four weeks and no later than two weeks prior to the deadline for the district's initial enrollment period and shall inform parents regarding all the approved providers that will be serving the schools attended by their respective students.
- b) As soon as reasonably practicable, but in no event later than 45 days after the deadline for the district's initial enrollment period, the district shall submit to each provider a district-approved list of students whose parents have selected that provider. The district shall also use its best efforts to deliver a fully executed contract to each provider within this timeframe.
- c) No later than 30 days after the district's delivery to the provider of a student list and fully executed contract, each school district shall verify that each provider with which the district has executed a contract has begun the provision of services to the students whose families chose that provider. If any provider has not begun to provide services, the district shall notify the parents of the affected students to this effect and offer the parents a one-week opportunity to choose another approved provider. In any such instance, the district shall conclude any needed contractual revisions within one further week and ensure that the new provider begins serving each affected student no later than two weeks after receiving the applicable contract and the list of students. The other provisions of this subsection (c) notwithstanding, a district that has collected indications of parents' second choices may assign students to the programs selected and notify parents that this has occurred.

(Source: Added at 30 Ill. Reg. 14325, effective August 18, 2006)

SUBPART B: FINANCIAL REQUIREMENTS

Section 675.210 District Program Cost

- a) A provider's district program cost shall consist of amounts reported for each of the cost categories described in this subsection (a) that the provider seeks to charge to the district in accordance with its contract.

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- 1) Direct program expenses caused directly by and related directly to the provision of SES within a district and costs attributable to fulfilling certain State mandates imposed by this Part (collectively, "direct program expenses"). Subcategories of direct program expenses include:
 - A) Program staff salaries or wages, payroll taxes, and fringe benefits (limited to staff having direct contact with students who receive services);
 - B) Program consultants having direct contact with students who receive services;
 - C) Program-related materials, supplies, and equipment (items costing more than \$500 and having a useful life of more than one year must be capitalized and depreciated on a straight-line basis);
 - D) Costs related to the administration of student assessments;
 - E) Instructional Staff Training Services – Workshops and demonstrations designed to contribute to the professional competence of the instructional staff;
 - ~~FD~~) Snacks for program participants, provided that such snacks do not consist of confections, candy, potato chips, carbonated beverages, fruit drinks containing less than 50 percent pure fruit juice, tea, coffee, or other foods or beverages designated as "competitive foods" by the State Board of Education pursuant to 23 Ill. Adm. Code 305 (School Food Service);~~;~~
 - ~~GE~~) Program Insurance – All liability, malpractice, personal injury, and other types of insurance not reported as property insurance or as employee benefits; ~~and~~
 - H) Rewards for student achievement provided in accordance with Section 675.30(m) of this Part;
 - I) Student retention activities;
 - J) Data entry related to State or local requirements for reporting on enrollment and attendance;

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- K) State cost reporting and auditing requirements; and
- L) Other (must be specified).
- 2) Occupancy expenses for facilities housing SES program activities.
Subcategories of occupancy expenses include:
- A) Lease, rental, or property taxes (less any revenues received from portions of a building not used for SES programs);
- B) Operations and maintenance of buildings and equipment (including janitorial, building and grounds, and other maintenance supplies, equipment maintenance, utilities, telecommunications, and property/building insurance);
- C) Housekeeping, maintenance, and security (including staff salaries, payroll taxes, and fringe benefits);
- D) Mortgage and installment interest;
- E) Operating interest; and
- F) Other (must be specified).
- 3) Curriculum development expenses – Activities designed to aid providers in developing the curriculum, preparing and utilizing special curriculum materials, and understanding and appreciating the various techniques that stimulate and motivate pupils, including directly attributable to the development of curriculum by the provider for its SES program and training costs directly attributable to the training of instructional staff.
Subcategories of curriculum and training expenses include:
- A) Salaries or wages, payroll taxes, and fringe benefits for staff engaged in curriculum development; and
- B) Salaries or wages, payroll taxes, and fringe benefits for staff performing training; and
- C) Other (must be specified).

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- 4) Administrative and general expenses not directly attributable to the provision of SES within a district (other than costs reported for curriculum and training), including expenses for all staff, facilities, supplies, and equipment not used in direct connection with SES program activities (i.e., staff not having regular contact with SES students, and supplies and equipment not used during the delivery of SES at a particular site). Subcategories of administrative and general expenses include:

- A) Salaries or wages, payroll taxes, and fringe benefits for all executive, administrative, managerial, office, and clerical employees not having direct contact with students who receive services;
- B) Legal and accounting services and other administrative consultants;
- ~~C~~D) Operations and maintenance of buildings and equipment – not assigned to program;
- ~~D~~E) Materials, supplies, and equipment – not assigned to program;
- ~~E~~F) Lease, rental, or property taxes for facilities not serving as a primary location for the delivery of SES (less any revenues from the rental of portions of the facility);
- ~~F~~G) Corporate royalty fees;
- ~~G~~H) Advertising and marketing expenses;
- ~~H~~I) Meals and entertainment expenses;
- ~~I~~J) ~~Rewards for student achievement;K)~~Distributions to shareholders or retained earnings (subject to a maximum amount determined by the provider); and
- ~~J~~L) Other (must be specified).

b) Multiple Districts Served

If a provider serves multiple districts (either within or outside of Illinois), the provider's expenses in the categories outlined in subsections (a)(3) and (4) of this Section must be prorated, first in accordance with the percentage of time

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applicable to SES in general, and second in accordance with the percentage of students served within each district. (Example: a provider's program manager earns an annual salary of \$100,000 and spends 50 percent of her time managing the provider's SES programs throughout the nation and the remainder of her time performing educational consulting services for districts. The provider serves 5,000 students in its SES programs nationwide, 1,000 of whom are within an Illinois district. \$10,000 of her salary may be reported as an actual cost of providing SES within that district. ($\$100,000 \times .5 \times .2 = \$10,000$.) All of the foregoing allocations must be in accordance with the following cost principles, as applicable:

- 1) OMB Circulars (5 CFR 1310 (2005)) available at www.whitehouse.gov/omb/circulars/index.html:
 - A) OMB Circular A-87 (Cost Principles for State, Local and Indian Tribal Governments);
 - B) OMB Circular A-21 (Cost Principles for Educational Institutions);
 - C) OMB Circular A-122 (Cost Principles for Non-Profit Organizations).
- 2) Federal Acquisition Regulation (applicable to for-profit providers) (48 CFR 9904 (2005)) available at www.access.gpo.gov/nara/cfr/waisidx_01/48cfr9904_01.html.

(Source: Amended at 30 Ill. Reg. 14325, effective August 18, 2006)

Section 675.230 Cost Reports

- a) For each SES reporting period beginning on or after July 1, 2005, each provider shall report to the State Board of Education, no later than 60 days after the provider's conclusion of services for that SES reporting period and using a form provided by ISBE, the provider's district program cost for each district the provider served. The cost report shall also indicate the payments received or invoiced to the district for the SES reporting period, as well as the difference between these payments and the district program cost.
 - 1) Each provider shall identify all transactions with related organizations and the actual cost of each transaction.

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- 2) Each non-governmental provider serving more than 50 students within a district must engage an independent Licensed Certified Public Accountant (CPA) who is a member of the American Institute of Certified Public Accountants to perform agreed-upon procedures on its reported information. An agreed-upon procedures report must be submitted with the district program cost report required by this subsection (a). The agreed-upon procedures must include the following:
- A) Obtain the general ledger trial balance as of the reporting date and agree or reconcile the balances in the trial balance to the cost report;
 - B) Inquire of members of management who have responsibility for financial and accounting matters concerning:
 - i) whether the cost report has been prepared using the accrual basis;
 - ii) the procedures for recording, classifying, and summarizing transactions and accumulating information;
 - iii) the method used to allocate curriculum ~~development and training~~ and administrative and general expenses to the district;
 - iv) known transactions with related organizations and whether the actual cost of such transactions was accurately reported; and
 - v) the provider's procedures for identifying non-reimbursable expenses;
 - C) Identify relationships between recorded amounts and expectations that appear to be unusual by performing the following procedures:
 - i) compare the average cost per pupil to the contract amount with the district;
 - ii) compare the difference between current-year and prior-year cost results; and

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- iii) perform additional procedures to respond to unexpected differences;
- D) For providers serving more than 200 students in a district, select a sample of program and curriculum and training expenses for source document testing. The sample must be representative of the population and represent no less than 25 percent of the expenses for each category. As a part of testing procedures, perform the following:
- i) determine that the provider properly classified costs according to the categories and subcategories set forth in Section 675.210 of this Part;
 - ii) determine that the expense is not a non-reimbursable expense as defined in Section 675.220 of this Part; and
 - iii) determine that curriculum ~~development and training~~ expenses have been allocated to the district in an accurate and consistent manner and in accordance with the appropriate allocation method; and
- E) Report on whether, as a part of the procedures performed under subsection (a)(2)(D), the cost report contains errors, omissions, inconsistencies, or non-compliance with the cost reporting requirements set forth in this Section. Specify each material error, omission, inconsistency, or non-compliance with this Section.
- b) Each provider shall report the number of students enrolled in the provider's program during each SES reporting period. If a student's services are terminated during the SES reporting period, the student shall be reported in accordance with the percentage of the program completed prior to termination of services. For example, a student who completed 60 percent of the provider's program prior to termination of services should be reported as .6 of a student on the provider's cost report.
- c) All reporting shall be provided on an accrual basis.
- d) All providers on the State-approved list as of June 16, 2005 shall report to ISBE, using a form provided by ISBE, the information required by subsections (a) and (b) of this Section for each district the provider served for the period from July 1,

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2004 through June 30, 2005. This report shall be submitted no later than July 15, 2005, unless an extension of this deadline is granted by the State Superintendent of Education. By October 1, 2005, each non-governmental provider serving more than 50 students within a district shall also submit a letter from a Licensed Certified Public Accountant who provides evidence of meeting the requirements of subsection (a)(2) of this Section, indicating that the information has been reviewed as required.

- e) **Additional Requirement for New Providers**
Within 30 days after the closure of the enrollment period within each district served, each newly approved provider must submit to ISBE adjusted estimates of its actual per-pupil cost of service, based upon the number of students enrolled in the provider's program within each district served.

(Source: Amended at 30 Ill. Reg. 14325, effective August 18, 2006)

Section 675.240 Establishment of Contract Amount and Payment Provisions Adjustments to Contract for Actual Cost

- a) The initial per-pupil contract amount set forth in the provider's contract with a district shall be the lesser of:
- 1) the district's per-child allocation under Part A of Title I of NCLB; or
 - 2) the provider's reasonable estimate of its actual cost of services during the SES reporting period that it seeks to charge to the district pursuant to the contract. This estimate shall be submitted to ISBE on its district program cost report for the preceding SES reporting period.
- b) A provider's reasonable estimate pursuant to subsection (a)(2) of this Section shall be established using the four expense categories set forth in Section 675.210(a) of this Part (i.e., program expenses, occupancy expenses, curriculum development and training expenses, and administrative and general expenses). The estimate for administrative and general expenses shall also include the maximum amount the provider will claim for distribution to shareholders or retained earnings.
- 1) To the extent that any category of expenses in the estimate exceeds the per-pupil amount for the same category set out in the provider's district program cost report, the provider shall itemize the expenses and attach a specific justification for the increase based upon additional expenditures the provider reasonably expects to incur for reasons such as inflation,

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increased labor costs, or budgeted equipment expenditures or for another legitimate business purpose (e.g., additional investment in professional development for staff, increase in profit margins to reflect industry standards).

- 2) An estimate by a provider that will use a district's facilities shall specify the provider's assumptions for any occupancy costs and shall reflect the per-pupil savings the provider reasonably expects to receive, based upon:
 - A) operational savings associated with using the district's facilities;
 - B) the value of real estate provided by the district; and
 - C) the business advantages resulting from access to the district's facilities.
- 3) Except as otherwise provided in subsections (b)(4) and (b)(5) of this Section, at least 60 percent of funds paid to a provider from a district's Title I, Part A, allocation shall be used for either direct program expenses or occupancy expenses.
- 4) Any provider in good standing (with or without reservations) and with student achievement outcomes of "above standards" shall be exempt from the percentage restriction set forth in subsection (b)(3) of this Section, provided that the provider submits all cost estimates and cost reports required by this Part and accurately displays its elements of cost in all instances. The exemption provided by this subsection (b)(4) shall also be available on the same basis to any Web-based provider whose per-pupil district program cost is less than 50 percent of the mean actual cost reported for the prior year for either providers serving the Chicago Public Schools or providers serving all other school districts, as applicable to the district with respect to which the provider desires the exemption.
- 5) A provider whose reasonable estimate for administrative and general expenses is not more than 25 percent of the district's Title I, Part A, allocation per pupil may petition the State Superintendent for permission to spend less than the amount required for direct program expenses and occupancy expenses under subsection (b)(3) of this Section in order to allocate increased funds to curriculum development expenses. The petition must be received by the State Superintendent within 20 days after

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the provider's receipt of notification of its status in accordance with Section 675.90 of this Part and must:

- A) demonstrate that the proposed cost structure will contribute to the increased academic achievement of students served and will allow the provider to deliver a program in accordance with its approved application;
 - B) specify the amount the provider seeks to establish for each of the four expense categories, including the specific cost items the provider is seeking to increase; and
 - C) demonstrate that the amounts specified as required by subsection (b)(5)(B) of this Section are properly attributed to the district in accordance with the cost principles set forth in Section 675.210 of this Part.
- c) If the provider receives benefits from the use of district facilities not accounted for in the provider's assumptions, the provider's reasonable estimate pursuant to subsection (a)(2) of this Section shall be adjusted accordingly.
- d) Prior to executing a contract with a district, a provider may petition ISBE for permission to revise the reasonable estimate provided pursuant to Section 675.50(i) of this Part, which shall be granted if based on administrative requirements imposed by the district that were not reasonably foreseeable when the estimate was submitted. After the execution of a contract with a district, a provider may seek a revision to its reasonable estimate in accordance with its contractual agreement with the district.
- e) If permitted in the provider's contract with the district, the district may withhold no more than 20 percent of the total amount payable to the provider until such time as the provider reports to ISBE its district program costs, the amount paid by or invoiced to the district, and the number of students enrolled during the SES reporting period to which the contract relates. If the actual cost for the SES reporting period to which the contract relates is less than the amount paid by or invoiced to the district based upon the initial per-pupil contract amount set forth in the contract, and provided the contract permits a cost adjustment, the district shall be responsible for paying to the provider only the actual cost of services for the SES reporting period to which the contract relates. The district shall not be liable for actual costs, on a per-pupil basis, that exceed the provider's reasonable

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estimate established for the relevant expense category in accordance with this Section.

- e) ~~Nothing in this Section shall affect the validity of any contracts in effect between districts and providers as of June 16, 2005.~~

(Source: Amended at 30 Ill. Reg. 14325, effective August 18, 2006)

Section 675.245 Basis for Invoices and Payments

All providers must submit to ISBE an hourly rate for each district served, based on the initial per-pupil contract amount determined in accordance with Section 675.240(a) of this Part divided by the scheduled hours of service determined in accordance with the provider's approved application. Providers may schedule make-up sessions during a school year to account for any canceled sessions. Providers shall bill and districts shall pay the provider's hourly rate or fraction thereof for each hour of a student's attendance or fraction thereof during the SES reporting period. Unless otherwise agreed to by the school district, a provider shall not bill in increments of less than 15 minutes. A student shall be dropped from the SES program after having missed and failed to make up 12 sessions in total, or five consecutive sessions (unless due to illness or vacation). A district shall only be liable to pay for sessions attended by a student.

(Source: Added at 30 Ill. Reg. 14325, effective August 18, 2006)

Section 675.250 Appeals

- a) A provider may appeal its removal from the State-approved list by submitting an appeal to ISBE specifying the basis upon which it believes its removal is not in accordance with this Part or other applicable law. The provider will be given a hearing in accordance with the State Board's rules for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475). A final decision shall be rendered by the State Board of Education.
- b) In addition to the appeal authorized under subsection (a) of this Section, a provider may file a written appeal of any decision of a school district or the State Board of Education under this Part directly related to the provider's program. A school district may file a written appeal of any decision of the State Board of Education under this Part directly related to the district's administration of SES. The entity submitting the appeal shall:
- 1) Indicate the specific decision being appealed;

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- 2) Indicate why this decision is, in the opinion of the entity, not in accordance with the provisions of this Part;
 - 3) Identify the specific provisions of this Part allegedly violated; and
 - 4) Specify the facts demonstrating the alleged violations.
- c) Each appeal shall be submitted in writing, within 30 days after the final action being appealed, to the following address:

Illinois State Board of Education
Attn: Office of General Counsel
100 North First Street
Springfield, Illinois 62777-0001

- The appeal must be signed by the executive director or chief administrator of the entity filing the appeal. No electronic or facsimile transmissions will be accepted. Within 14 days after receipt of the written appeal, the State Superintendent of Education shall review the submission and determine whether an independent on-site investigation is necessary. Upon request, the entity submitting the appeal shall promptly provide to the State Superintendent such additional information as the Superintendent determines is necessary to resolve the appeal.
- d) Within 60 days after receipt of the appeal, the completion of any on-site investigation, or the receipt of any additional information requested by the State Superintendent of Education, whichever occurs last, the State Superintendent shall make a final written determination and shall send a copy of the determination to the appealing entity and, if applicable, to the district involved in the appeal.
- e) The appeal rights set forth in this Section shall apply solely to approved providers and to school districts and shall not be available to applicants seeking approval from the State Board of Education.

(Source: Added at 30 Ill. Reg. 14325, effective August 18, 2006)

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Section 675.APPENDIX A Calculation of Effect Size

A multiple regression approach will be employed, in which, for each provider, SES students' predicted assessment scores on the applicable State assessment (i.e., ISAT or PSAE) for their grade level in the tutored subjects, based on student demographic variables and prior achievement on the applicable assessment, are compared to their obtained scores. The difference will be expressed in the form of a "residual" score that, if positive, indicates a higher performance than expected (i.e., a positive effect), and, if negative, indicates a lower performance (a negative effect). An effect size will then be computed by grade level within each school district to determine by how many standard deviations (based on properties of the distribution) the residual differs from zero and then aggregated across grade levels for determining the effect size used in the evaluation described in Appendix B to this Part.

(Source: Added at 30 Ill. Reg. 14325, effective August 18, 2006)

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Section 675.APPENDIX B Evaluation Rubric

<u>Criterion</u>	<u>Insufficient Information</u>	<u>Below Standards</u>	<u>Meets Standards</u>	<u>Above Standards</u>
<u>Student Achievement (See Note 1)</u>	<u>There is insufficient information available to determine student achievement outcomes.</u>	<u>The effect size for students in the provider's program can be identified and does not demonstrate any gains that can be attributed to tutoring received from the provider.</u>	<u>The effect size for students in the provider's program can be identified and does demonstrate gains that can be attributed to tutoring received from the provider.</u>	<u>The effect size for students in the provider's program can be identified and is in the top one-third of those providers demonstrating gains that can be attributed to tutoring received from the provider.</u>
<u>Attendance (See Notes 2 and 3)</u>	<u>Not applicable. Providers that do not submit attendance data will not be included on the list of eligible providers for the following SES reporting period.</u>	<u>(1) The provider's attendance rate is one full standard deviation below the mean attendance rate; and (2) The provider cannot demonstrate, based on a survey and ISBE's verification of reported information, that it has made dedicated efforts to</u>	<u>The provider's attendance rate is between one full standard deviation below and one full standard deviation above the mean attendance rate.</u>	<u>The provider's attendance rate is one standard deviation or more above the mean attendance rate.</u>

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		<u>encourage student attendance.</u>		
<u>Parent Satisfaction</u>	<u>There is insufficient information available to determine parent satisfaction outcomes.</u>	<u>Fewer than 75% of respondents indicate: (1) overall satisfaction with the provider; or (2) they were consulted in the development of the student's individual learning plan.</u>	<u>75-89% of respondents indicate: (1) overall satisfaction with the provider; and (2) they were consulted in the development of the student's individual learning plan.</u>	<u>90-100% of respondents indicate: (1) overall satisfaction with the provider; and (2) they were consulted in the development of the student's individual learning plan.</u>

Note 1: The evaluation shall be limited to students who have received at least 18 hours of instruction from a given provider.

Note 2: Calculated based on attendance rate for sessions scheduled by the provider.

Note 3: "Mean attendance rate" means, for programs serving the Chicago Public Schools, the mean attendance rate for all programs serving that district. For programs in districts other than the Chicago Public Schools, "mean attendance rate" means the mean attendance rate for all programs in districts outside the Chicago Public Schools.

(Source: Added at 30 Ill. Reg. 14325, effective August 18, 2006)

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Section 675.APPENDIX C Decision Matrix

<u>Determination Based on Evaluation</u>	<u>Status*</u>
<ul style="list-style-type: none"> • <u>Student achievement: insufficient information, meets standards or above standards.</u> • <u>Attendance: meets standards or above standards.</u> • <u>Parent satisfaction: insufficient information, meets standards or above standards.</u> 	<p><u>Maintain or return to good standing.</u></p>
<ul style="list-style-type: none"> • <u>Student achievement: insufficient information, meets standards or above standards.</u> • <u>Either attendance or parent satisfaction below standards.</u> 	<p><u>Probationary status 1.</u></p>
<ul style="list-style-type: none"> • <u>Student achievement: below standards (regardless of attendance or parental satisfaction).</u> 	<p><u>Probationary status 2.</u></p>

* Any status level may be assigned "with reservations" in accordance with Section 675.90(c) of this Part.

(Source: Added at 30 Ill. Reg. 14325, effective August 18, 2006)

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- 1) Heading of the Part: Joint Rules of the Office of the State Fire Marshal and the Illinois State Board of Education: School Emergency and Crisis Response Plans
- 2) Code Citation: 29 Ill. Adm. Code 1500
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1500.10	New Section
1500.20	New Section
1500.30	New Section
- 4) Statutory Authority: 105 ILCS 128/40
- 5) Effective Date of Rules: August 18, 2006
- 6) Do these rules contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? The rulemaking does contain an incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act; please see Section 1500.20(a)(1).
- 8) A copy of the adopted rules, 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: April 7, 2006; 30 Ill. Reg. 6052
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version:

A technical change was made with respect to the placement of this Part within the codification scheme of the Illinois Administrative Code by deleting a subchapter reference in the heading of this Part.

Section 1500.20(a) was given a new title ("Concept of Operations"), and the sequence of subsections (a)(1) and (a)(2) was reversed.

Within the resulting subsection (a)(1), several wording changes were made to underscore the necessity for the clear delineation of responsibilities, with specific reference to direction and control.

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The resulting subsection (a)(2) was restructured so that the description of planned responses will relate to specified types of threats or emergencies, as opposed to the original organization into four types of responses linked to the required kinds of drills.

The provision that was proposed as Section 1500.20(a)(3)(E) was moved into subsection (b) to reflect the fact that hazard analyses are a tool in planning and form part of a district's preparedness rather than being resources that are used when an emergency is occurring. Similarly, the reference to "the training provided and the materials used" was relocated within Section 1500.20(b) and redundant language was deleted.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these rules replace any emergency rules currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Rules: This rulemaking responds to Public Act 94-600, which was enacted in 2005 and created the School Safety Drill Act. That Act mandates the conduct of school evacuation drills, bus evacuation drills, and severe weather and shelter-in-place drills in public and nonpublic schools and also strongly encourages the conduct of law enforcement drills. The law states the situations each of these types of drills is to address, establishes requirements for the minimum number of drills of each type, and calls for the involvement of fire departments in school evacuation drills.

Further, an annual review will now be required of "each school district's emergency and crisis response plans, protocols, and procedures and each building's compliance with the school safety drill programs". Participation in this review is required by school principals, representatives of other education-related organizations, and local "first responder" organizations (i.e., fire departments, law enforcement, and emergency medical services entities). A report summarizing the results of the review must be prepared, including changes to existing safety plans and drill plans. Those participating have the opportunity to provide additional comments to the regional superintendent of schools for the area. The regional superintendents are to provide annual reports to ISBE, which in turn is to report to the Governor and the Office of the State Fire Marshal (OSFM). (Reports of reviews done in nonpublic schools are provided directly to OSFM.)

The legislation also directed ISBE and OSFM to develop a common set of rules for its implementation. Because the law is explicit as to the number and nature of the required drills, the need for rulemaking is confined to two aspects:

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- determining what will be accepted as constituting the "effective" review of plans that local boards are required to conduct; and
- outlining the fundamental objectives that are shared by the various types of drills.

New Part 1500 rules are identical to OSFM rules jointly adopted at Part 1510, which cross-reference the text of Part 1500.

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

Deb Vespa
School Business and Support Services
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

217/785-8779

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

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TITLE 29: EMERGENCY SERVICES, DISASTERS, AND CIVIL DEFENSE
CHAPTER II: STATE BOARD OF EDUCATION

PART 1500

JOINT RULES OF THE OFFICE OF THE STATE FIRE MARSHAL AND
THE ILLINOIS STATE BOARD OF EDUCATION:
SCHOOL EMERGENCY AND CRISIS RESPONSE PLANS

Section

1500.10	Purpose
1500.20	Annual Review of Emergency and Crisis Response Plans
1500.30	Objectives of Drills

AUTHORITY: Implementing the School Safety Drill Act [105 ILCS 128] and authorized by Section 40 of the Act [105 ILCS 128/40].

SOURCE: Adopted at 30 Ill. Reg. 14355, effective August 18, 2006.

Section 1500.10 Purpose

This Part establishes the requirements for the annual review and updating of the protocols and procedures in each school's emergency and crisis response plan that is required by Section 25 of the School Safety Drill Act [105 ILCS 128/25], including the review of each school's compliance with the school safety drill requirements established in Section 15 of the Act [105 ILCS 128/15].

Section 1500.20 Annual Review of Emergency and Crisis Response Plans

Each annual review shall be conducted by the participants identified in Section 25 of the Act and shall encompass the components of the plan enumerated in this Section. The report submitted pursuant to Section 25 of the Act shall indicate whether each component listed in this Section is present and up to date and shall describe the revisions, if any, that are needed in each. If any component is deemed inapplicable by the review participants, the report shall include the rationale for this determination.

- a) Concept of Operations
 - 1) The definition and assignment of roles and responsibilities for direction and control, with specific reference to the chain of command, designated back-up for each role, and other critical functions (whether by reliance on the Incident Command System outlined in "National Incident Management System" of March 1, 2004, published by the U.S.

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Department of Homeland Security and posted at http://www.fema.gov/pdf/nims/nims_doc_full.pdf. or by implementation of other strategies and methods having the same goals), including:

- A) responsibilities of individuals who discover an emergency or crisis;
 - B) responsibilities of the leader/commander and other members of the emergency team;
 - C) responsibilities of monitors who will ensure the proper execution of the planned response;
 - D) responsibility for communicating with first responders, building occupants, families, representatives of the media, and other members of the community;
 - E) responsibility for maintaining emergency-related records.
- 2) The description of the responses planned (i.e., what should happen, when, and at whose direction) to address various emergencies or crises that are known to occur in or affect schools, including at least:
- A) severe weather;
 - B) fire;
 - C) bomb threats or the discovery of suspicious items;
 - D) structural failure;
 - E) the failure of utilities or loss of utility service;
 - F) bus accidents;
 - G) the release of hazardous materials, both indoors and outdoors;
 - H) the presence of an intruder, use of a weapon, or taking of a hostage;
 - I) public health or medical emergencies;

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- J) earthquakes; and
 - K) nuclear power plant accidents (if located within 25 miles of such a plant).
- 3) The inventory of resources that are available when responding to emergencies, including:
- A) emergency contact lists;
 - B) methods for accounting for the whereabouts and status of all children and the process established for releasing students into the care of their parents and others;
 - C) response guidance material and the method of providing it to students and staff, including support personnel such as bus drivers, secretaries, and custodians ;
 - D) emergency supplies and equipment (such as first aid kits, food, water, emergency lighting, fuel, battery-operated radio, and walkie-talkies), maintained for students and staff to use during an emergency or crisis.
- b) Training and Preparedness
- 1) The description of actions taken (i.e., the training provided and the materials used) to ensure that all administrators, staff, and students understand the warning signals and know what to do in an emergency, including but not limited to the objectives of the types of school safety drills conducted in conformance with Sections 15 and 20 of the Act.
 - 2) Information that exists about the school, such as hazard analyses, area maps, site plans, safety reference plans (see 23 Ill. Adm. Code 180.120), community agreements, etc.
 - 3) Records and results of the required school safety drills and any optional drills conducted.

Section 1500.30 Objectives of Drills

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Each drill conducted pursuant to the Act shall be designed to fulfill the objectives discussed in this Section.

- a) **Notification and Response**
To ensure that all students, staff members, first responders, and visitors, both inside and outside the school building, are alerted to the fact that an emergency exists; receive adequate instructions on how to proceed, including supplemental instructions from first responders; and respond appropriately to the directions given. (Each drill is to test whether the notification system and those operating it are prepared to provide emergency notification and appropriate direction to everyone on the property, based on the emergency conditions that exist, and whether those present respond accordingly.)
- b) **Movement to Safe Areas**
 - 1) When evacuation is called for, to ensure that evacuation of the building and adjacent areas is complete; that alternate exit routes are used if primary routes are obstructed; and that individuals with physical impairments reach safe areas. (Each drill is to test whether and how quickly a building's occupants vacate it in an orderly and safe manner, regardless of any obstructions encountered, and whether staff is prepared to provide assistance effectively to those who are unable to evacuate on their own.)
 - 2) When sheltering in place is called for, to ensure that all the building's occupants reach designated safe areas in a reasonable amount of time. (Each drill is to test whether students are prepared to respond without hesitation to instructions.)
- c) **Communication with First Responders**
To ensure that the system for communicating with responding agencies provides timely and complete information about the nature, scope, and current status of the emergency situation and about the status of all the building's occupants, whether evacuated or sheltering in place. (Each drill is to test the ability of students and staff to provide necessary information to first responders in an emergency of the type to which the drill applies.)
- d) **Accounting for All Occupants**
To ensure that designated areas for assembling are appropriate to the type of incident to which the drill applies; that they are used by all students, staff, and visitors; and that the controls in place permit accounting for all the building's

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occupants. (Each drill is to test the preparedness of students and staff to remain in the areas where they have been directed to assemble; the confidence with which the building's occupants can be accounted for; and the reliability of determining whether any search or rescue activity is necessary.)

BOARD OF HIGHER EDUCATION

NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Nurse Educator Fellowship Program
- 2) Code Citation: 23 Ill. Adm. Code 1105
- 3)

<u>Section Numbers</u> :	<u>Emergency Action</u> :
1105.100	New
1105.200	New
1105.300	New
1105.400	New
1105.500	New
1105.600	New
1105.700	New
- 4) Statutory Authority: Implementing and authorized by Section 9.32 of the Board of Higher Education Act [110 ILCS 205/9.32]
- 5) Effective Date of Rules: August 16, 2006
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Upon adoption of the identical proposed rules filed concurrently with these emergency rules.
- 7) Date Filed with the Index Department: August 15, 2006
- 8) A copy of the emergency rulemaking, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: P.A. 94-1020, effective July 11, 2006, includes an amendment to the Board of Higher Education Act [110 ILCS 205/9.32] to establish a nurse educator fellowship program. Emergency rules are necessary to ensure the new program awards are made in a timely manner that allows for distribution of funds for the Spring 2007 semester. In order to provide for expeditious payment of funds and to provide for consistent procedures for the administration and allocation of appropriations, emergency rules are being adopted at the same time that identical proposed rules are being submitted for publication in the *Illinois Register*.
- 10) A Complete Description of the Subjects and Issues Involved: P.A. 94-1020 establishes a nurse educator fellowship program to be implemented in fiscal year 2007. The intent of the program is to ensure the retention of well-qualified nursing faculty in Illinois. The program provides a salary supplement to nursing faculty via a competitive award process.

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Illinois institutions of higher learning that offer accredited nursing programs that are approved by the Illinois Department of Financial and Professional Regulation are eligible to nominate nursing faculty for the award. The Board has consulted with nursing experts in the development of the nurse educator fellowship program and corresponding rules.

- 11) Are there any proposed rulemakings to this Part pending? No
- 12) Statement of Statewide Policy Objective: The emergency rule does not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805/3].
- 13) Information and questions regarding these emergency rules shall be directed to:

Sandi Gillilan, Administrative Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, Illinois 62701

217/557-7352

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

BOARD OF HIGHER EDUCATION

NOTICE OF EMERGENCY RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1105

NURSE EDUCATOR FELLOWSHIP PROGRAM

Section

1105.100 Purpose of the Nurse Educator Fellowship Program

EMERGENCY

1105.200 Definitions

EMERGENCY

1105.300 Fellow Eligibility

EMERGENCY

1105.400 Nomination Process

EMERGENCY

1105.500 Approval Process

EMERGENCY

1105.600 Awards

EMERGENCY

1105.700 Fellow Responsibilities

EMERGENCY

AUTHORITY: Implementing and authorized by Section 9.32 of the Board of Higher Education Act [110 ILCS 205/9.32].

SOURCE: Emergency rules adopted at 30 Ill. Reg. 14363, effective August 16, 2006, for a maximum of 150 days.

Section 1105.100 Purpose of the Nurse Educator Fellowship Program**EMERGENCY**

The purpose of the Nurse Educator Fellowship Program is *to ensure the retention of well-qualified nursing faculty by supplementing nursing faculty salaries at institutions of higher learning that award degrees in nursing.* [110 ILCS 205/9.32] The Program is designed to reward outstanding nursing faculty and provide an incentive to retain qualified faculty at Illinois institutions of higher learning.

Section 1105.200 Definitions**EMERGENCY**

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"Board" means the Board of Higher Education.

"Institution of Higher Learning" means a public or nonpublic institution of higher education located within Illinois that offers associate, baccalaureate or post-baccalaureate degrees and that is authorized to operate in the State.

"Eligible Institution" means an institution of higher learning in Illinois with a nursing program approved by the Illinois Department of Financial and Professional Regulation and accredited by the Commission on Collegiate Nursing Education (CCNE) or the National League for Nursing Accrediting Commission (NLNAC).

"Fellow" means an individual who receives Fellowship assistance under this Program.

"Fellowship" means the *competitive award that supplements nursing faculty salaries to ensure the retention of well-qualified nursing faculty*. [110 ILCS 205/9.32]

"Illinois Resident" means an individual who resides in the State of Illinois and is considered to be a resident by the Illinois Department of Revenue or Illinois Secretary of State.

"Nominating Institution" means an eligible institution that has submitted Fellowship nomination materials on behalf of a nursing faculty member at its institution.

"Qualified Applicant" means a nursing faculty member, nominated by an eligible institution, who meets the requirements of Section 1105.300.

**Section 1105.300 Fellow Eligibility
EMERGENCY**

A qualified applicant must:

- a) be an Illinois resident;
- b) have a minimum of a master's degree in nursing;

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- c) be employed in a full-time nursing faculty position at an eligible institution;
- d) have been employed by the nominating institution in a teaching position preparing registered nurses for a minimum of 12 months prior to submission of nomination materials;
- e) have made significant contributions to the nursing program; and
- f) have not received a Fellowship under this Program within the past 5 years.

Section 1105.400 Nomination Process**EMERGENCY**

- a) Eligible institutions will be notified by the Board when funding opportunities and nomination materials for the Nurse Educator Fellowship Program are available.
- b) Nomination materials may be obtained from the Illinois Board of Higher Education, 431 East Adams Street, Second Floor, Springfield, Illinois 62701-1404 or the Board's website at www.ibhe.org.
- c) Nominations from eligible institutions are limited to no more than 3 full-time nursing faculty members per campus per award cycle.
- d) The chief nursing administrator at an eligible institution shall identify and nominate qualified applicants for the Fellowship by completing the nomination form included in the nomination materials.
- e) The nominee must complete the personal statement section of the nomination materials, indicating his or her intent to remain employed as a nursing faculty member in the State and his or her anticipated use of Fellowship funds.
- f) The nomination materials must be signed by the chief executive officer of the nominating institution.
- g) Completed nomination materials in accordance with subsections (d), (e) and (f) of this Section must be submitted to the Board by the announced deadline, which shall not be less than 45 days from the announcement and release of nomination materials.

Section 1105.500 Approval Process

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EMERGENCY

- a) The Board shall accept nominations for Fellowships in accordance with Section 1105.400.
- b) Board staff shall review nominations to ensure the eligibility requirements are met in accordance with Section 1105.300.
- c) Board staff shall make recommendations to the Board for approval of Fellowships based upon factors that shall include, but are not limited to, the following:
 - 1) Personal statement regarding proposed use of funds and employment plans;
 - 2) Major accomplishments, such as research, program improvements, and other nursing program contributions;
 - 3) Statewide geographic distribution of Fellowship recipients; and
 - 4) Tenure status (preference will be given to tenured/tenure-track faculty).

Section 1105.600 Awards**EMERGENCY**

- a) The amount of the Fellowship shall be \$10,000.
- b) The number of Fellowships awarded in a given fiscal year is contingent upon available funding.
- c) If for any reason the appropriation to the Board is insufficient to fund Fellowships for all selected Fellows in accordance with subsection (a) of this Section, all Fellowships shall be reduced pro rata as necessary.
- d) The purpose of the Fellowship is to enhance retention of well-qualified faculty by providing a salary supplement. At the discretion of the Fellow, funds may be used for, but are not limited to, professional development, conference expenses, continued education, professional dues, and other activities as defined in Section 1105.700.
- e) The Fellow and the nominating institution shall be notified of the award in writing

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upon approval by the Board.

- f) Upon Board approval, funds shall be disbursed to the nominating institution on behalf of the Fellow.
- g) The institution must use the Fellowship funds to supplement the salary of the Fellow and shall not supplant other revenue sources that support faculty salaries.
- h) Fellowship funds are payable to the Fellow in either a lump sum or installment plan in accordance with institutional payroll policies and procedures.
- i) If the Fellow terminates employment within 6 months after award notification from the Board:
 - 1) The Fellow shall repay 50 percent of the funds awarded to date. These funds shall be remitted to the State for deposit in the General Revenue Fund.
 - 2) Fellows are not entitled to funds not yet paid by the institution. The institution must remit any unused portion of the Fellowship to the State for deposit in the General Revenue Fund.
- j) Any interest earned on Fellowship funds by the institution may be retained by the institution when the cost of accounting for the interest or allocating interest to principal is deemed significant in terms of the amount of interest to be received.

**Section 1105.700 Fellow Responsibilities
EMERGENCY**

- a) As a condition for acceptance of the Fellowship, the Fellow shall agree to be actively involved in statewide nursing advocacy, including participation as needed in the following activities:
 - 1) Collaboration with the Board and Illinois Center for Nursing regarding statewide nursing issues;
 - 2) Review of Fellowship nomination materials in subsequent years to assist the Board in Fellowship determination; and
 - 3) Participation in Fellowship meetings or associated conferences sponsored

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by the Board or Illinois Center for Nursing.

- b) Provide a final report to the nominating institution describing Fellowship experiences, including the use of funds. The nominating institution shall submit the report to the Board on behalf of the Fellow.

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENT

- 11) Are there any other proposed rulemakings to this Part pending? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
603.60	Amendment	30 Ill. Reg. 12548; July 21, 2006
603.640	Amendment	30 Ill. Reg. 13548; July 21, 2006

- 12) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.

- 13) Information and questions regarding this emergency amendment shall be directed to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 603
MEDICATION

Section

603.10	Pre-Race Saliva Tests
603.20	Racing Soundness Exam
603.30	Foreign Substances and Pharmaceutical Aids Banned
603.40	Twenty-four Hour Ban
603.50	Trainer Responsibility
603.55	Prima Facie Evidence
603.60	Permitted Use of Foreign Substances and Threshold Levels
603.70	Furosemide
603.80	Needles, Syringes and Injectables
603.90	Drugs, Chemicals and Prescription Items
603.100	Detention Barn
603.110	Test Samples
603.120	Referee Samples
603.130	Laboratory Findings and Reports
603.140	Distribution of Purses and Retention of Samples
603.150	Post Mortems
603.160	Penalties
603.170	Veterinarian's Records
603.180	Carbon Dioxide Tests
<u>603.190</u>	<u>Erythropoietin and Darbepoietin Antibody Testing Program</u>

EMERGENCY

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 21 Ill. Reg. 3232, effective March 4, 1997; amended at 22 Ill. Reg. 2217, effective January 1, 1998; amended at 22 Ill. Reg. 3594, effective February 1, 1998; amended at 25 Ill. Reg. 15611, effective December 1, 2001; amended at 26 Ill. Reg. 12360, effective August 1, 2002; amended at 27 Ill. Reg. 5027, effective March 7, 2003; amended at 27 Ill. Reg. 7331, effective April 15, 2003; amended at 28 Ill. Reg. 1374, effective January 19, 2004; amended at 28 Ill. Reg. 4751, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 7565, effective

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May 11, 2004, for a maximum of 150 days; emergency expired October 7, 2004; amended at 28 Ill. Reg. 11250, effective August 1, 2004; amended at 28 Ill. Reg. 15790, effective December 1, 2004; emergency amendment at 29 Ill. Reg. 2779, effective February 22, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4116, effective February 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5726, effective April 8, 2005; amended at 29 Ill. Reg. 12265, effective July 24, 2005; amended at 29 Ill. Reg. 14038, effective September 1, 2005; emergency amendment at 30 Ill. Reg. 14371, effective August 21, 2006, for a maximum of 150 days.

Section 603.190 Erythropoietin and Darbepoietin Antibody Testing Program
EMERGENCY

A finding by the Illinois Racing Board Equine Testing Laboratory, or other commission-approved laboratory, that a pre-race or post-race sample taken from a horse entered to start in a race is positive for elevated titers of erythropoietin or darbepoietin shall establish that the horse is unfit to race in any subsequent race and shall result in the following actions by the Board:

- a) The stewards shall be notified of the name of the horse for placement on the Stewards' list and shall not be entered or allowed to race in any subsequent race until the horse has tested negative for the antibodies of erythropoietin or darbepoietin. An owner or trainer whose horse has tested positive for elevated titers of erythropoietin or darbepoietin antibodies may not request the horse be retested until 21 days following the date of the initial positive test.
- b) All requests after the initial positive test for the retesting of a horse shall be in writing and directed to the Stewards, accompanied by a \$50 payment for administrative and testing costs. Following receipt of a timely request for retesting, the presentation of the horse at a permitted racetrack premises in the State of Illinois approved by the Stewards, and the receipt of the \$50 retesting fee, the Stewards shall direct the State Veterinarian to take a blood sample from the horse for the purpose of retesting.
- c) Notwithstanding any inconsistent provision of this Section, a horse shall not be subject to disqualification from the race and from any share of the purse in the race, nor shall the trainer of the horse be subject to a penalty based solely upon a finding by the laboratory that the antibody of erythropoietin or darbepoietin was present in the sample taken from that horse.

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- d) A horse that tests positive with the anti-recombinant human EPO antibody test remains subject to the requirements of this Section despite being sold or otherwise transferred.
- e) The split sample testing provisions of Section 603.120 shall not be applicable to erythropoietin or darbepoietin antibody testing conducted pursuant to this Section.

(Source: Added by emergency rulemaking at 30 Ill. Reg. 14371, effective August 21, 2006, for a maximum of 150 days)

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 August 15, 2006 through August 21, 2006 and have been scheduled for review by the Committee at its September 12, 2006 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>
9/27/06	<u>Property Tax Appeal Board, Practice and Procedure for Appeals Before the Property Tax Appeal Board (86 Ill. Adm. Code 1910)</u>	6/16/06 30 Ill. Reg. 10599	9/12/06
9/28/06	<u>Illinois Commerce Commission, Telephone Assistance Programs (83 Ill. Adm. Code 757)</u>	5/12/06 30 Ill. Reg. 8714	9/12/06
9/30/06	<u>Department of Healthcare and Family Services, Covering All Kids Health Insurance Program (89 Ill. Adm. Code 123)</u>	6/2/06 30 Ill. Reg. 9983	9/12/06
9/30/06	<u>Department of Healthcare and Family Services, Special Eligibility Groups (89 Ill. Adm. Code 118)</u>	6/2/06 30 Ill. Reg. 9981	9/12/06

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Pursuant to 35 Ill. Adm. Code 302.595 and 302.669, the following water quality criteria have been derived as listed. This listing updates revisions to existing criteria for the period April 1, 2006 through June 30, 2006.

A cumulative listing of criteria as of July 31, 1993 was published in 17 Ill. Reg. 18904, October 29, 1993. Listings of waterbodies for which water quality criteria were used during subsequent three month periods were published in 18 Ill. Reg. 318, January 7, 1994; 18 Ill. Reg. 4457, March 18, 1994; 18 Ill. Reg. 8734, June 10, 1994; 18 Ill. Reg. 14166, September 9, 1994; 18 Ill. Reg. 17770, December 9, 1994; 19 Ill. Reg. 3563, March 17, 1995; 19 Ill. Reg. 7270, May 26, 1995; 19 Ill. Reg. 12527, September 1, 1995; 20 Ill. Reg. 649, January 5, 1996; 20 Ill. Reg. 4829, March 22, 1996; 20 Ill. Reg. 7549, May 30, 1996; 20 Ill. Reg. 12278, September 6, 1996; 20 Ill. Reg. 15619, December 6, 1996; 21 Ill. Reg. 3761, March 21, 1997; 21 Ill. Reg. 7554, June 13, 1997; 21 Ill. Reg. 12695, September 12, 1997; 21 Ill. Reg. 16193, December 12, 1997; 22 Ill. Reg. 5131, March 13, 1998; 22 Ill. Reg. 10689, June 12, 1998; 22 Ill. Reg. 16376, September 11, 1998; 22 Ill. Reg. 22423, December 28, 1998; 23 Ill. Reg. 3102, March 12, 1999; 23 Ill. Reg. 6979, June 11, 1999; 23 Ill. Reg. 11774, September 24, 1999; 23 Ill. Reg. 14772, December 27, 1999; 24 Ill. Reg. 4251, March 17, 2000; 24 Ill. Reg. 8146, June 9, 2000; 24 Ill. Reg. 14428, September 29, 2000; 25 Ill. Reg. 270, January 5, 2001; 25 Ill. Reg. 4049, March 16, 2001; 25 Ill. Reg. 7367, June 8, 2001; 25 Ill. Reg. 12186, September 21, 2001; 25 Ill. Reg. 16175, December 14, 2001; 26 Ill. Reg. 4974, March 29, 2002; 26 Ill. Reg. 13370, September 6, 2002; 27 Ill. Reg. 1736, January 31, 2003; 27 Ill. Reg. 7350, April 18, 2003; 27 Ill. Reg. 17128, November 7, 2003; 28 Ill. Reg. 5038, March 19, 2004; 28 Ill. Reg. 8363, June 11, 2004; 28 Ill. Reg. 12943, September 17, 2004; 29 Ill. Reg. 1449, January 21, 2005; 29 Ill. Reg. 7239, May 20, 2005; 29 Ill. Reg. 12672, August 12, 2005; 29 Ill. Reg. 18963, November 18, 2005; 30 Ill. Reg. 5458, March 17, 2006 and 30 Ill. Reg. 9195, May 12, 2006.

Water quality criteria for General Use and Lake Michigan Basin Waters are listed below. General Use criteria apply to waters of the State for which there is no specific designation in 35 Ill. Adm. Code 303.201, Lake Michigan Basin criteria apply within waters of the Lake Michigan Basin as designated in 35 Ill. Adm. Code 303.443.

General Use Criteria

Chemical: Acenaphthene	CAS #83-32-9
Acute criterion: 120 ug/l	Chronic criterion: 62 ug/l
Date criteria derived: November 14, 1991; revised February 1999	
Applicable waterbodies: Not used during this period.	

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Chemical: Acenaphthylene	CAS # 208-96-8
Acute criterion: 190 ug/L	Chronic criterion: 15 ug/L
Date criteria derived: March 1, 1998	
Applicable waterbodies: Not used during this period.	
Chemical: Acetone	CAS #67-64-1
Acute criterion: 1,500 mg/l	Chronic criterion: 120 mg/l
Date criteria derived: May 25, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Acetonitrile	CAS #75-05-8
Acute criterion: 380 mg/l	Chronic criterion: 30 mg/l
Date criteria derived: December 7, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Acrylonitrile	CAS #107-13-4
Acute criterion: 910 ug/l	Chronic criterion: 73 ug/l
Human health criterion (HNC): 0.21 ug/l	
Date criteria derived: November 13, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: Anthracene	CAS #120-12-7
Human health criterion (HTC): 35 mg/l	
Date criteria derived: August 18, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Atrazine	CAS #1912-24-9
Acute criterion: 82 ug/l	Chronic criterion: 9.0 ug/L
Date criteria derived: May 2, 2005	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(a)anthracene	CAS #56-55-3
Human health criterion (HNC): 0.16 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(a)pyrene	CAS #50-32-8
Human health criterion (HNC): 0.016 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(b)fluoranthene	CAS # 205-99-2
Human health criterion (HNC): 0.16 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	

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LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Benzo(k)fluoranthene	CAS #207-08-9
Human health criterion (HNC): 1.6 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Carbon tetrachloride	CAS #56-23-5
Acute criterion: 3,500 ug/l	Chronic criterion: 280 ug/l
Human health criterion (HNC): 1.4 ug/l	
Date criteria derived: June 18, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Chlorobenzene	CAS #108-90-7
Acute criterion: 990 ug/l	Chronic criterion: 79 ug/l
Date criteria derived: December 11, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: Chloroform	CAS #67-66-3
Acute criterion: 1,900 ug/l	Chronic criterion: 150 ug/l
Human health criterion (HNC): 130 ug/l	
Date criteria derived: October 26, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Chrysene	CAS #218-01-9
Human health criterion (HNC): 16 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: 1,2-dichlorobenzene	CAS #95-50-1
Acute criterion: 210 ug/l	Chronic criterion: 17 ug/l
Date criteria derived: December 1, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: 1,3-dichlorobenzene	CAS #541-73-1
Acute criterion: 500 ug/l	Chronic criterion: 200 ug/l
Date criteria derived: July 31, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 1,2-dichloroethane	CAS #107-06-2
Acute criterion: 25 mg/l	Chronic criterion: 4.5 mg/l
Human health criterion (HNC): 23 ug/l	
Date criteria derived: March 19, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 1,1-dichloroethylene	CAS #75-35-4
Acute criterion: 3,000 ug/l	Chronic criterion: 240 ug/l

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Human health criterion (HNC): 0.95 ug/l Date criteria derived: March 20, 1992 Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dichlorophenol	CAS #120-83-2
Acute criterion: 630 ug/l	Chronic criterion: 83 ug/l
Date criteria derived: November 14, 1991 Applicable waterbodies: Not used during this period.	
Chemical: 1,2-dichloropropane	CAS #78-87-5
Acute criterion: 4,800 ug/l	Chronic criterion: 380 ug/l
Date criteria derived: December 7, 1993 Applicable waterbodies: Not used during this period.	
Chemical: 1,3-dichloropropylene	CAS #542-75-6
Acute criterion: 99 ug/l	Chronic criterion: 7.9 ug/l
Date criteria derived: November 13, 1991 Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dimethyl phenol	CAS #105-67-9
Acute criterion: 740 ug/l	Chronic criterion: 220 ug/l
Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.	
Chemical: 4,6-dinitro-o-cresol = 2-methyl-4,6-dinitrophenol	CAS #534-52-1
Acute criterion: 29 ug/l	Chronic criterion: 2.3 ug/l
Date criteria derived: November 14, 1991 Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dinitrophenol	CAS #51-28-5
Acute criterion: 85 ug/l	Chronic criterion: 4.1 ug/l
Date criteria derived: December 1, 1993 Applicable waterbodies: Not used during this period.	
Chemical: 2,6-dinitrotoluene	CAS #606-20-2
Acute criterion: 1,900 ug/l	Chronic criterion: 150 ug/l
Date criteria derived: February 14, 1992 Applicable waterbodies: Not used during this period.	
Chemical: Diquat	CAS #85-00-7
Acute criterion: 990 ug/l	Chronic criterion: 80 ug/l
Date criteria derived: January 30, 1996 Applicable waterbodies: Not used during this period.	
Chemical: Ethyl mercaptan (ethanethiol)	CAS #75-08-1
Acute criterion: 17 ug/l	Chronic criterion: 2 ug/l

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LISTING OF DERIVED WATER QUALITY CRITERIA

Date criteria derived: April 8, 2002 Applicable waterbodies: Not used during this period.	
Chemical: Fluoranthene	CAS #206-44-0
Human health criterion (HTC): 120 ug/l Date criteria derived: August 10, 1993 Applicable waterbodies: Not used during this period.	
Chemical: Formaldehyde	CAS #50-00-0
Acute criterion: 4.9 mg/l	Chronic criterion: 0.39 mg/l
Date criteria derived: January 19, 1993 Applicable waterbodies: Not used during this period.	
Chemical: Hexachlorobenzene	CAS #118-74-1
Human health criterion (HNC): 0.00025 ug/l Date criteria derived: November 15, 1991 Applicable waterbodies: Not used during this period.	
Chemical: Hexachlorobutadiene	CAS #87-68-3
Acute criterion: 35 ug/l	Chronic criterion: 2.8 ug/l
Date criteria derived: March 23, 1992 Applicable waterbodies: Not used during this period.	
Chemical: Hexachloroethane	CAS #67-72-1
Acute criterion: 380 ug/l	Chronic criterion: 31 ug/l
Human health criterion (HNC): 2.9 ug/l Date criteria derived: November 15, 1991 Applicable waterbodies: Not used during this period.	
Chemical: n-Hexane	CAS #110-54-3
Acute criterion: 250 ug/l	Chronic criterion: 20 ug/l
Date criteria derived: April 8, 2002 Applicable waterbodies: Not used during this period.	
Chemical: Isobutyl alcohol = 2-methyl-1-propanol	CAS #78-83-1
Acute criterion: 430 mg/l	Chronic criterion: 35 mg/l
Date criteria derived: December 1, 1993 Applicable waterbodies: Not used during this period.	
Chemical: Methylene chloride	CAS #75-09-2
Acute criterion: 17 mg/l	Chronic criterion: 1.4 mg/l
Human health criterion (HNC): 340 ug/l Date criteria derived: January 21, 1992 Applicable waterbodies: Not used during this period.	
Chemical: Methyl ethyl ketone	CAS #78-93-3

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Acute criterion: 320 mg/l Date criteria derived: July 1, 1992 Applicable waterbodies: Not used during this period.	Chronic criterion: 26 mg/l
Chemical: 4-methyl-2-pentanone Acute criterion: 46 mg/l Date criteria derived: January 13, 1992 Applicable waterbodies: Not used during this period.	CAS #108-10-1 Chronic criterion: 1.4 mg/l
Chemical: 2-methyl phenol Acute criterion: 4.7 mg/l Date criteria derived: November 8, 1993 Applicable waterbodies: Not used during this period.	CAS #95-48-7 Chronic criterion: 0.37 mg/l
Chemical: 4-methyl phenol Acute criterion: 670 ug/l Date criteria derived: January 13, 1992 Applicable waterbodies: Not used during this period.	CAS #106-44-5 Chronic criterion: 120 ug/l
Chemical: methyl tert-butyl ether (MTBE) Acute criterion: 67 mg/l Date criteria derived: September 18, 1997 Applicable waterbodies: Unnamed tributary to Segment HBDB-03 of Butterfield Creek.	CAS #134-04-4 Chronic criterion: 6.7 mg/l
Chemical: Naphthalene Acute criterion: 510 ug/l Date criteria derived: November 7, 1991; revised February 1999 Applicable waterbodies: Not used during this period.	CAS #91-20-3 Chronic criterion: 68 ug/l
Chemical: 4-nitroaniline Acute criterion: 1.5 mg/l Date criteria derived: May 5, 1996 Applicable waterbodies: Not used during this period.	CAS #100-01-6 Chronic criterion: 0.12 mg/l
Chemical: Nitrobenzene Acute criterion: 15 mg/l Human health criterion (HTC): 0.52 mg/l Date criteria derived: February 14, 1992; revised February 1999 Applicable waterbodies: Not used during this period.	CAS #98-95-3 Chronic criterion: 8.0 mg/l
Chemical: Pentachlorophenol Acute criterion: 20 ug/l Date criteria derived: national criterion at pH of 7.8, September 1986 Applicable waterbodies: Not used during this period.	Chronic criterion: 13 ug/l
Chemical: Phenanthrene	CAS #85-01-8

ENVIRONMENTAL PROTECTION AGENCY

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Acute criterion: 46 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.	Chronic criterion: 3.7 ug/l
Chemical: Propylene Acute criterion: 4.0 mg/l Date criteria derived: April 8, 2002 Applicable waterbodies: Not used during this period.	CAS #115-07-1 Chronic criterion 0.40 mg/l
Chemical: Pyrene Human health criterion (HTC): 3.5 mg/l Date criteria derived: December 22, 1992 Applicable waterbodies: Not used during this period.	CAS #120-00-0
Chemical: Tetrachloroethylene Acute criterion: 1,200 ug/l Date criteria derived: March 23, 1992 Applicable waterbodies: Not used during this period.	CAS #127-18-4 Chronic criterion: 150 ug/l
Chemical: Tetrahydrofuran Acute criterion: 220 mg/l Date criteria derived: March 16, 1992 Applicable waterbodies: Not used during this period.	CAS #109-99-9 Chronic criterion: 17 mg/l
Chemical: 1,2,4-trichlorobenzene Acute criterion: 370 ug/l Date criteria derived: December 14, 1993; revised February 1999 Applicable waterbodies: Not used during this period.	CAS #120-82-1 Chronic criterion: 72 ug/l
Chemical: 1,1,1-trichloroethane Acute criterion: 4,900 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.	CAS #71-55-6 Chronic criterion: 390 ug/l
Chemical: 1,1,2-trichloroethane Acute criterion: 19 mg/l Human health criterion (HNC): 12 ug/l Date criteria derived: December 13, 1993; revised February 1999 Applicable waterbodies: Not used during this period.	CAS #79-00-5 Chronic criterion: 4.4 mg/l
Chemical: Trichloroethylene Acute criterion: 12,000 ug/l Human health criterion (HNC): 25 ug/l Date criteria derived: October 23, 1992	CAS #79-01-6 Chronic criterion: 940 ug/l

ENVIRONMENTAL PROTECTION AGENCY

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LISTING OF DERIVED WATER QUALITY CRITERIA

Applicable waterbodies: Not used during this period.
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Lake Michigan Basin Criteria

Chemical: Bis(2-ethylhexyl)phthalate <u>Aquatic Life Criteria:</u> Acute criterion: 76 ug/l <u>Human Health Non-threshold Criteria:</u> Drinking water: 2.8 ug/l Date criteria derived: June 20, 2006 Applicable waterbodies: All waters of the Lake Michigan basin.	CAS #117-81-7 Chronic criterion: 17 ug/l Non-drinking water: 3.2 ug/l
Chemical: Methylene Chloride <u>Aquatic Life Criteria:</u> Acute criterion: 10,803 ug/l <u>Human Health Non-threshold Criteria:</u> Drinking water: 47 ug/l Date criteria derived: June 20, 2006 Applicable waterbodies: All waters of the Lake Michigan basin.	CAS #75-09-2 Chronic criterion: 1,200 ug/l Non-drinking water: 2,600 ug/l
Chemical: Vinyl Chloride <u>Aquatic Life Criteria:</u> Acute criterion: 8,380 ug/l <u>Human Health Non-threshold Criteria:</u> Drinking water: 0.25 ug/l Date criteria derived: June 20, 2006 Applicable waterbodies: All waters of the Lake Michigan basin.	CAS #75-01-4 Chronic criterion: 931 ug/l Non-drinking water: 14.4 ug/l

For additional information concerning these criteria or the derivation process used in generating them, please contact:

Brian Koch
 Illinois Environmental Protection Agency
 Division of Water Pollution Control
 1021 North Grand Avenue East
 Post Office Box 19276
 Springfield, Illinois 62794-9276

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

217-558-2012

PROCLAMATIONS

2006-271**LIFE INSURANCE AWARENESS MONTH**

- WHEREAS, life insurance provides families and loved ones of deceased individuals with monetary compensation to help them emotionally and financially deal with their losses; and
- WHEREAS, surveys consistently indicate that the vast majority of Americans believe that life insurance is an essential part of a sound financial plan; and
- WHEREAS, the unfortunate reality today is that 44 percent of US households say they lack adequate life insurance protection; and
- WHEREAS, when someone who provides for other family members dies prematurely, insufficient life insurance coverage often results in financial hardship for surviving family members, forcing them to take such measures as work additional jobs or longer hours, borrow money from family and friends, scale back educational plans for children, spend down money from savings and investment accounts, and move to less expensive housing; and
- WHEREAS, determining how much and what kind of insurance to buy is one of the most important financial decisions consumers will ever make; individuals, families, and businesses can benefit greatly from the expert advice of a qualified life insurance professional; and
- WHEREAS, the Life and Health Insurance Foundation for Education (LIFE), the National Association of Insurance and Financial Advisors (NAIFA), and a coalition representing hundreds of leading life insurance companies and organizations have designated September 2006 as "Life Insurance Awareness Month," whose goal is to make consumers more aware of their life insurance needs, seek professional advice, and take the actions necessary to achieve the financial security of their loved ones:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 2006 as **LIFE INSURANCE AWARENESS MONTH** in Illinois, and encourage citizens to learn about life insurance and its benefits.

Issued by the Governor on August 15, 2006.

Filed by the Secretary of State August 15, 2006.

2006-272**LITTLE SAUCE ON THE PRAIRIE CONTEST DAY**

PROCLAMATIONS

WHEREAS, on September 22nd and 23rd, 2006, the "Septemberfest" festival, which is being held by the Bloomington Normal Jaycees, is expanding to include the "Little Sauce on the Prairie Contest"; and

WHEREAS, the "Little Sauce on the Prairie Contest," as an Illinois State Championship, allows teams to qualify for national level barbeque competitions; and

WHEREAS, this event, as a Kansas City Barbecue Society (KCBS) sanctioned event, will bring together amazing entertainment and award winning BBQ competitors; and

WHEREAS, the State of Illinois is proud to recognize the many talented individuals who are putting their barbeque grilling skills to the test during this event:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 22-23, 2006 as the **LITTLE SAUCE ON THE PRAIRIE CONTEST DAY** in Illinois, and encourage all citizens to recognize and participate in this entertaining event that will undoubtedly showcase a variety of tasty barbeque recipes.

Issued by the Governor on August 15, 2006.

Filed by the Secretary of State August 15, 2006.

2006-273**UKRAINIAN INDEPENDENCE DAY**

WHEREAS, on August 24, 1991, the Parliament of Ukraine formally declared its independence from the Soviet Union; and

WHEREAS, in the aftermath, the economy and quality of life in Ukraine suffered; and although they were independent, Ukrainians were not free. During his two-five year terms, President Leonid Kuchma created an authoritarian administrative machine; and

WHEREAS, in response, the Ukrainian people showed their unity and desire to live in a democratic society by organizing a non-violent uprising throughout Ukraine, known as the Orange Revolution, that resulted in the free and fair election of Viktor Yushchenko as Ukraine's new president in December 2004; and

PROCLAMATIONS

WHEREAS, today, Ukraine is gradually progressing toward its goal of joining the World Trade Organization, a valuable short-term goal for Ukraine's pro-Western government that will help position Ukraine into the global market economy and spur much needed foreign investment and the improvement of living standards for its 48 million citizens; and

WHEREAS, Americans have a vital interest in the success of democracy and freedom in Ukraine, and Ukrainians around the world, including those in the United States and the State of Illinois, anxiously await their progress:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 24, 2006 as **UKRAINIAN INDEPENDENCE DAY** in Illinois in celebration of Ukrainian Independence, and in support of their worthy efforts to establish a stable and prospering republic.

Issued by the Governor on August 15, 2006.

Filed by the Secretary of State August 15, 2006.

2006-274**CORN PRODUCTS ARGO PLANT DAY**

WHEREAS, Illinois ranks 2nd in the nation in corn production, with over 2 billion bushels of corn produced annually by Illinois farmers; and

WHEREAS, corn refiners are important markets in Illinois and the entire United States for agricultural producers, providing them with significant marketing opportunities for their product; and

WHEREAS, corn refiners produce a large number of consumer products that are used throughout the world, including, sweeteners, starches and food oils. From a single bushel of corn we can produce: 32 pounds of starch, or 33 pounds of sweetener, plus 1.5 pounds of corn oil and 2.6 pounds of gluten meal; and

WHEREAS, Corn Products International is headquartered in Westchester, Illinois and is one of the world's largest corn refiners with net sales of \$2.36 billion annually. It is also the number-one worldwide producer of dextrose and a leading regional manufacturer of starch, high fructose corn syrup and glucose; and

WHEREAS, Corn Products International manufactures products and ingredients used by companies in more than 60 diverse industries including food, beverage,

PROCLAMATIONS

pharmaceutical, paper products, corrugated and laminated paper, textile, brewing, animal nutrition and others; and

WHEREAS, Corn Products International employs approximately 600 people at its Argo Plant in Bedford Park and its headquarters in Westchester, Illinois, providing a major economic anchor for these communities and the state by pumping millions of dollars into the local economy each year; and

WHEREAS, Corn Products International was founded in 1906, began construction of its Argo Plant in Bedford Park, Illinois that same year, and celebrated 100 years of continuous business operations on February 6 of this year; and

WHEREAS, the Argo Plant has purchased billions of bushels of corn from U.S. farmers during its first century of operation in Bedford Park; and

WHEREAS, Corn Products International is now completing construction of a new, state-of-the-art coal fired steam plant at its Argo Plant in Bedford Park, signaling its ongoing commitment to conduct business in Illinois; and

WHEREAS, Corn Products International expects to utilize roughly 500,000 tons annually of Illinois-mined coal at its new steam plant, supporting fifty coal-mining jobs in the southern part of state as well as thousands of secondary jobs in businesses involved in transportation, banking, marketing, food manufacturing and other industries;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 15, 2006 as **CORN PRODUCTS ARGO PLANT DAY** in Illinois, in recognition of the significant contribution of this company and facility to the people, communities and economy of the state.

Issued by the Governor on August 15, 2006.

Filed by the Secretary of State August 15, 2006.

2006-275**HARLAND DAY**

WHEREAS, in 1971, the John H. Harland Company opened a plant in Bolingbrook, Illinois. Thirty-five years later, the company has become a leading provider of products and services to both the financial and educational markets. This year marks the thirty-fifth anniversary of the John H. Harlan Company's Bolingbrook Plant; and

PROCLAMATIONS

WHEREAS, John Herdman Harland founded the John H. Harland Company on June 16, 1923, after immigrating to the United States from Ireland in the early part of the 20th century. John Harland demonstrated the power of the American Dream. Through hard work, initiative and perseverance, he established a company that has become a leader in the industry. By giving back to employees and the communities in which the company operated, he gave others the opportunity to live their own American Dream; and

WHEREAS, in the true spirit of John Harland, the company has continued to contribute significantly to Illinois and the national economy by improving both the quantity and quality of the company's products and services and providing opportunities for its employees and their families. The John H. Harland Company also continues to invest in its communities, believing – as John Harland did – that the strength of a company is measured by the strength of the community; and

WHEREAS, today, the Bolingbrook plant employs more than 190 people and has grown to the size of 120,000 square feet. Since opening 35 years ago, Harland's employees have played a crucial role in helping the company meet the needs of its customers and the community:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 18, 2006 as **HARLAND DAY** in Illinois, on the occasion of the 35th anniversary celebration of the John H. Harland Company's Bolingbrook Plant.

Issued by the Governor on August 16, 2006.

Filed by the Secretary of State August 16, 2006.

2006-276
PEACE DAYS

WHEREAS, Peace Day has been celebrated annually in Chicago, Illinois since September 7, 1978 through the observance of One Minute of Silence for World Peace; and

WHEREAS, in 1981, the United Nations proposed a resolution declaring one day every year as an International Day of Peace. This Day is observed as one of global cease-fire and non-violence from every country across the globe; and

WHEREAS, the day is used as a means of spreading the message of world peace and its vital importance to the future of the human race; and

PROCLAMATIONS

WHEREAS, the goal of Peace Day is to contribute to the peace-making process through positive peace-building activities, and to allow all individuals to harness their abilities and actively participate in creating a more peaceful world; and

WHEREAS, the Peace School, an Illinois not-for-profit organization, has sponsored Peace Day since its inception and has been awarded the United Nations Peace Messenger designation for its significant contributions to peace; and

WHEREAS, in 2001, a resolution was passed by the United Nations declaring September 21 of every year as International Day of Peace as a way of rededicating the United Nations to its goals of strengthening the ideals of peace and alleviating the tensions and causes of conflict; and

WHEREAS, these events encourage all individuals to take a minute for peace every day as a positive step toward making every day Peace Day:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 7 - 21, 2006 as **PEACE DAYS** in Illinois, and encourage all citizens to share in One Minute of Silence for World Peace during this period as part of a sincere effort to build a more peaceful state, a more peaceful county, and a more peaceful world.

Issued by the Governor on August 21, 2006.

Filed by the Secretary of State August 21, 2006.

2006-277**CANAVAN DISEASE AWARENESS MONTH**

WHEREAS, Canavan Research Illinois is an Illinois nonprofit corporation established in April 2000 to meet a critical need to support medical research to treat, cure, and improve the quality of lives of all children battling Canavan disease, a rare fatal genetic neurological disorder; and

WHEREAS, the majority of the victims of Canavan disease do not reach their 10th birthday. These innocent children face the loss of all motor functions, blindness, paralysis, feeding tubes, and eventual disintegration of the brain, at which point they fall into a vegetative state from which they cannot recover; and

PROCLAMATIONS

WHEREAS, Canavan Research Illinois is an all volunteer charity dedicated to raise funds to support cutting-edge research, increase public awareness, and provide a network for Canavan families; and

WHEREAS, on October 21, 2006, Canavan Research Illinois will hold the 8th Annual Canavan Charity Ball:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 2006 as **CANAVAN DISEASE AWARENESS MONTH** in Illinois, and encourage all citizens to observe this month with appropriate programs, ceremonies, and activities to raise awareness of Canavan disease and to improve the quality of life of those who are battling this disease.

Issued by the Governor on August 21, 2006.

Filed by the Secretary of State August 21, 2006.

ILLINOIS ADMINISTRATIVE CODE

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