

2007

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 31, Issue 15
April 13, 2007
Pages 5700-5915

Index Department
Administrative Code Division
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.cyberdriveillinois.com>

Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

TABLE OF CONTENTS

April 13, 2007 Volume 31, Issue 15

PROPOSED RULES

BOARD OF HIGHER EDUCATION

Appropriation Transfers

23 Ill. Adm. Code 10605700

HEALTH FACILITIES PLANNING BOARD

Narrative and Planning Policies

77 Ill. Adm. Code 11005704

HUMAN RIGHTS, DEPARTMENT OF

Procedures of the Department of Human Rights

56 Ill. Adm. Code 25205721

NATURAL RESOURCES, DEPARTMENT OF

Commercial Fishing and Musseling in Certain Waters of the State

17 Ill. Adm. Code 8305737

ADOPTED RULES

CENTRAL MANAGEMENT SERVICES

Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment

74 Ill. Adm. Code 9005751

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND COUNCIL

General Program

35 Ill. Adm. Code 15005756

ENVIRONMENTAL PROTECTION AGENCY

Municipal Brownfields Redevelopment Grant Program

35 Ill. Adm. Code 8855774

HOUSING DEVELOPMENT AUTHORITY

Illinois Affordable Housing Tax Credit Program

47 Ill. Adm. Code 3555797

HUMAN SERVICES, DEPARTMENT OF

Advisory Councils

89 Ill. Adm. Code 5155819

Role of Residential Educational Facilities Operated by the Illinois

Department of Human Services

89 Ill. Adm. Code 7505829

OFFICE OF THE COMPTROLLER

Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment

74 Ill. Adm. Code 3305836

PUBLIC HEALTH, DEPARTMENT OF

Hospital Report Card Code

77 Ill. Adm. Code 2555839

SECRETARY OF STATE

Issuance of Licenses	
92 Ill. Adm. Code 1030	5864
EMERGENCY RULES	
HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF	
Specialized Health Care Delivery Systems	
89 Ill. Adm. Code 146	5876
HOUSING DEVELOPMENT AUTHORITY, ILLINOIS	
Homeowner Mortgage Revenue Bond Program	
47 Ill. Adm. Code 260	5883
JOINT COMMITTEE ON ADMINISTRATIVE RULES AGENDA	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
April Agenda	5895
NOTICE OF MODIFICATION IN RESPONSE TO RECOMMENDATION OF THE	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
PUBLIC HEALTH, DEPARTMENT OF	
Hospital Report Card Code	
77 Ill. Adm. Code 255	5901
SECOND NOTICES RECEIVED	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
Second Notices Received	5905
EXECUTIVE ORDERS AND PROCLAMATIONS	
PROCLAMATIONS	
Knights of Columbus Day	
2007-113	5907
Public Health Week	
2007-114	5907
Zengeler Cleaners	
2007-115	5908
Brain Injury Awareness Day	
2007-116	5910
Sexual Assault Awareness Month	
2007-117	5911
Sarcoidosis Awareness Month	
2007-118	5911
Ride For Kids Day	
2007-119	5913
American Ex-Prisoners of War Recognition Day	
2007-120	5913
Bataan Day	
2007-121	5914

INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

2007 REGISTER SCHEDULE VOLUME #31

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 26, 2006	January 5, 2007
2	January 2, 2007	January 12, 2007
3	January 8, 2007	January 19, 2007
4	January 16, 2007	January 26, 2007
5	January 22, 2007	February 2, 2007
6	January 29, 2007	February 9, 2007
7	February 5, 2007	February 16, 2007
8	February 13, 2007	February 23, 2007
9	February 20, 2007	March 2, 2007
10	February 26, 2007	March 9, 2007
11	March 5, 2007	March 16, 2007
12	March 12, 2007	March 23, 2007
13	March 19, 2007	March 30, 2007
14	March 26, 2007	April 6, 2007
15	April 2, 2007	April 13, 2007
16	April 9, 2007	April 20, 2007
17	April 16, 2007	April 27, 2007
18	April 23, 2007	May 4, 2007
19	April 30, 2007	May 11, 2007
20	May 7, 2007	May 18, 2007
21	May 14, 2007	May 25, 2007
22	May 21, 2007	June 1, 2007
23	May 29, 2007	June 8, 2007

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
24	June 4, 2007	June 15, 2007
25	June 11, 2007	June 22, 2007
26	June 18, 2007	June 29, 2007
27	June 25, 2007	July 6, 2007
28	July 2, 2007	July 13, 2007
29	July 9, 2007	July 20, 2007
30	July 16, 2007	July 27, 2007
31	July 23, 2007	August 3, 2007
32	July 30, 2007	August 10, 2007
33	August 6, 2007	August 17, 2007
34	August 13, 2007	August 24, 2007
35	August 20, 2007	August 31, 2007
36	August 27, 2007	September 7, 2007
37	September 4, 2007	September 14, 2007
38	September 10, 2007	September 21, 2007
39	September 17, 2007	September 28, 2007
40	September 24, 2007	October 5, 2007
41	October 1, 2007	October 12, 2007
42	October 9, 2007	October 19, 2007
43	October 15, 2007	October 26, 2007
44	October 22, 2007	November 2, 2007
45	October 29, 2007	November 12, 2007
46	November 5, 2007	November 16, 2007
47	November 12, 2007	November 26, 2007
48	November 19, 2007	December 1, 2006
49	November 26, 2007	December 7, 2007
50	December 3, 2007	December 14, 2007
51	December 10, 2007	December 21, 2007
52	December 17, 2007	December 28, 2007

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Appropriation Transfers
- 2) Code Citation: 23 Ill. Adm. Code 1060
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1060.10	Amend
1060.15	New
1060.20	Amend
- 4) Statutory Authority: Implementing Section 13.2 of the State Finance Act [30 ILCS 105/13.2] and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/9.05].
- 5) A Complete Description of the Subjects and Issues Involved: The State Finance Act requires that the Board of Higher Education approve transfers among appropriations for public universities and the Illinois Mathematics and Science Academy. This rulemaking incorporates technical amendments necessary to make the Part consistent with statute.
- 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
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporation by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The proposed amendments do not create or expand a State mandate as defined in Section 3 of the State Mandate Act [30 ILCS 805/3].
- 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

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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 2007

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 1060

APPROPRIATION TRANSFERS

Section

1060.10

Purpose

[1060.15](#)[Definitions](#)

1060.20

Criteria for Approval

AUTHORITY: Implementing Section 13.2 of the State Finance Act [30 ILCS 105/13.2] and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/9.05].

SOURCE: Amended and effective April 15, 1976; repealed at 8 Ill. Reg. 16816, effective August 19, 1984; new rules adopted at 9 Ill. Reg. 1071, effective January 16, 1985; amended at 31 Ill. Reg. _____, effective _____.

Section 1060.10 Purpose

~~The State Finance Act~~~~An Act in relation to State finance (Ill. Rev. Stat. 1983, ch. 127, par. 149.2)~~ requires that ~~transfers among appropriations made to the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the Illinois Mathematics and Science Academy~~ ~~the several universities and colleges under the governance of the Board of Governors of State Colleges and Universities, the several Regency Universities under the jurisdiction of the Board of Regents, and the Board of Higher Education~~ require the approval of the Board of Higher Education and the Governor [30 ILCS 105/13.2(d)]. This Part implements the Board's responsibility to approve such transfers.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1060.15 Definitions

"Board" means the Board of Higher Education.

"Governing Board" means the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University or the Board of Trustees of the Illinois Mathematics and Science Academy.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 1060.20 Criteria for Approval

The following criteria will form the basis for Board approval of transfers among line item appropriations:

- a) Sufficient funds must be available to cover the amount of the transfer.
- b) Transfer requests~~Transfers~~ must have governing board approval. ~~(See definition of governing board in 23 Ill. Adm. Code 1040.20.)~~
- c) A rationale for the transfer must be provided. Transfers will be approved if the requirements of the State Finance Act [30 ILCS 105/13.2]~~Section 13.2 of Ill. Rev. Stat. 1983, ch. 127, par. 149.2~~ are met.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Narrative and Planning Policies
- 2) Code Citation: 77 Ill. Adm. Code 1100
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1100.210	Amendment
1100.220	Amendment
- 4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]
- 5) A Complete Description of the Subjects and Issues Involved: The existing definitions in Section 1100.220 pertain to terms used in the rules and planning policies contained throughout Part 1100. The existing definitions for Part 1110 – Category of Service Review Criteria are placed at the beginning of each Subpart – one Subpart for each Category of Service.

The proposed amendments to Part 1100 incorporate all definitions for Part 1100, as well as definitions for each Category of Service within Part 1110. The proposed consolidation of definitions in one location will aid the reader in locating any definition related to Parts 1100 and 1110.

In addition, new definitions have been added to reflect updated information contained in the revised rules of Parts 1100 and 1110.

- 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
- 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

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1100.75	New	31 Ill. Reg. 2548; February 9, 2007
1100.220	Amendments	31 Ill. Reg. 2548; February 9, 2007
1100.440	New	31 Ill. Reg. 2548; February 9, 2007

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Public comment may be submitted at the Health Facilities Planning Board meeting, which starts at 9:00 AM on Wednesday, May 2, 2007.

The meeting will be conducted at:

Inn at 835
835 S. Second Street
Springfield, Illinois

Interested persons may present their comments concerning this rulemaking within 45 days after the publication of this issue of the Illinois Register to:

Claire Burman
Coordinator, Rules Development
Illinois Health Facilities Planning Board
100 W. Randolph Street, 6th Floor
Chicago, Illinois 60601

312/814-2565

e-mail: CLAIRE.BURMAN@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Hospitals, long term care facilities, ESRD facilities, Ambulatory Surgical Treatment Centers, Comprehensive Physical Rehabilitation Centers
 - 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:

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER II: HEALTH FACILITIES PLANNING BOARD
SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

PART 1100

NARRATIVE AND PLANNING POLICIES

SUBPART A: GENERAL NARRATIVE

Section

1100.10	Introduction
1100.20	Authority
1100.30	Purpose
1100.40	Health Maintenance Organizations (Repealed)
1100.50	Subchapter Organization
1100.60	Mandatory Reporting of Data
1100.70	Data Appendices
1100.80	Institutional Master Plan Hospitals (Repealed)
1100.90	Public Hearings

SUBPART B: GENERAL DEFINITIONS

Section

1100.210	Introduction
1100.220	Definitions

SUBPART C: PLANNING POLICIES

Section

1100.310	Need Assessment
1100.320	Staffing
1100.330	Professional Education
1100.340	Public Testimony
1100.350	Multi-Institutional Systems
1100.360	Modern Facilities
1100.370	Occupancy/Utilization Standards
1100.380	Systems Planning
1100.390	Quality
1100.400	Location

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1100.410 Needed Facilities
- 1100.420 Discontinuation
- 1100.430 Coordination with Other State Agencies

SUBPART D: NEED FORMULAS/UTILIZATION TARGETS

Section

- 1100.510 Introduction, Formula Components and Planning Area Development Policies
- 1100.520 Medical-Surgical/Pediatric Categories of Service
- 1100.530 Obstetric Category of Service
- 1100.540 Intensive Care Category of Service
- 1100.550 Comprehensive Physical Rehabilitation Category of Service
- 1100.560 Acute Mental Illness Category of Service
- 1100.570 Substance Abuse/Addiction Treatment Category of Service (Repealed)
- 1100.580 Neonatal Intensive Care Category of Service
- 1100.590 Burn Treatment Category of Service (Repealed)
- 1100.600 Therapeutic Radiology Equipment (Repealed)
- 1100.610 Open Heart Surgery Category of Service
- 1100.620 Cardiac Catheterization Services
- 1100.630 Chronic Renal Dialysis Category of Service
- 1100.640 Non-Hospital Based Ambulatory Surgery
- 1100.650 Computer Systems (Repealed)
- 1100.660 General Long-Term Care-Nursing Care Category of Service
- 1100.661 General Long-Term Care-Sheltered Care Category of Service (Repealed)
- 1100.670 Specialized Long-Term Care Categories of Service
- 1100.680 Intraoperative Magnetic Resonance Imaging Category of Service (Repealed)
- 1100.690 High Linear Energy Transfer (L.E.T.) (Repealed)
- 1100.700 Positron Emission Tomographic Scanning (P.E.T.) (Repealed)
- 1100.710 Extracorporeal Shock Wave Lithotripsy (Repealed)
- 1100.720 Selected Organ Transplantation
- 1100.730 Kidney Transplantation
- 1100.740 Subacute Care Hospital Model
- 1100.750 Postsurgical Recovery Care Center Alternative Health Care Model
- 1100.760 Children's Respite Care Center Alternative Health Care Model
- 1100.770 Community-Based Residential Rehabilitation Center Alternative Health Care Model

- 1100.APPENDIX A Applicable Codes and Standards Utilized in 77 Ill. Adm. Code: Chapter II, Subchapter a

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 15476; amended at 9 Ill. Reg. 3344, effective March 6, 1985; amended at 11 Ill. Reg. 7311, effective April 1, 1987; amended at 12 Ill. Reg. 16079, effective September 21, 1988; amended at 13 Ill. Reg. 16055, effective September 29, 1989; amended at 16 Ill. Reg. 16074, effective October 2, 1992; amended at 18 Ill. Reg. 2986, effective February 10, 1994; amended at 18 Ill. Reg. 8448, effective July 1, 1994; emergency amendment at 19 Ill. Reg. 1941, effective January 31, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 2985, effective March 1, 1995; amended at 19 Ill. Reg. 10143, effective June 30, 1995; recodified from the Department of Public Health to the Health Facilities Planning Board at 20 Ill. Reg. 2594; amended at 20 Ill. Reg. 14778, effective November 15, 1996; amended at 21 Ill. Reg. 6220, effective May 30, 1997; expedited correction at 21 Ill. Reg. 17201, effective May 30, 1997; amended at 23 Ill. Reg. 2960, effective March 15, 1999; amended at 24 Ill. Reg. 6070, effective April 7, 2000; amended at 25 Ill. Reg. 10796, effective August 24, 2001; amended at 27 Ill. Reg. 2904, effective February 21, 2003; amended at 31 Ill. Reg. _____, effective _____.

SUBPART B: GENERAL DEFINITIONS

Section 1100.210 Introduction

The ~~general~~ definitions related to 77 Ill. Adm. Code 1100 and 77 Ill. Adm. Code 1110~~the subchapter~~ are listed in this Subpart~~subpart~~. Where there is disagreement on the applicability of any definition contained in this Subpart~~subchapter~~, the Executive Secretary shall decide the matter. The decision may be appealed to the State Board at the next scheduled State Board meeting.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1100.220 Definitions

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

"Act" means the Illinois Health Facilities Planning Act [20 ILCS 3960].

"Adverse Action" means a disciplinary action taken by IDPH, CMMS, or any other State or federal agency against a person or entity that owns and/or operates a licensed or Medicare or Medicaid certified healthcare facility in the State of Illinois. These actions include, but are not limited to, all Type "A" violations. A "Type A" violation means a violation of the Nursing Home Care Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. [210 ILCS 45/1-129]

"Admissions" means the number of patients accepted for inpatient service during a 12-month period; the newborn are not included.

"Applicable Codes" ~~and/or~~ "Current Recognized Standards" means the current official codes of governmental bodies applicable under law or regulation to Illinois health facilities and/or standards of health facility design, construction and equipment promulgated on a regular or permanent basis by an authority, public or private. A listing of the applicable codes utilized in the application review process may be found in Appendix A of this Part.

"Average Daily Census" ~~or "{ADC}"~~ means over a 12-month period the average number of inpatients receiving service on any given day.

"Average Length of Stay" ~~or "{ALOS}"~~ means over a 12-month period the average duration of inpatient stay expressed in days as determined by dividing total inpatient days by total admissions.

~~"Bed Capacity or Existing Bed Capacity" means the number of beds recognized for planning purposes at a facility as determined by the Illinois Department of Public Health.~~

~~The bed capacity which is utilized for each category of service identified in the Bed Need Determination Section reflects one of the following:~~

~~Measured or Surveyed Bed Capacity — the number of beds by category of service which could be operated based on the amount of clear and usable floor area allowing:~~

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

~~100 square feet per bed in single occupancy rooms.~~

~~80 square feet per bed in multi-occupancy rooms.~~

~~40 square feet per bassinet in pediatric nurseries.~~

~~Functional Bed Capacity—the number of beds by category of service the facility considers appropriate to place in patient rooms taking into account patient care requirements and the ability to perform the regular functions of patient care required for patients for the particular category of service involved.~~

~~Licensed Bed Capacity—the number of beds by category of service recognized and licensed by the Illinois Department of Public Health. (Currently applies only to Long Term Care Facilities.)~~

"Board Certified **Physician**" or "Board Eligible Physician" means a physician who has satisfactorily completed an examination (or is "eligible" to take such examination) in a medical specialty and has taken all of the specific training requirements for certification by a specialty board. For purposes of this definition, "medical specialty" shall mean a specific area of medical practice by health care professionals. A listing of specialty boards may be found in Appendix A of this Part.

"Category of Service" means a grouping by generic class of various types or levels of support functions, equipment, care or treatment provided to patient/residents. Examples include, but are not limited to, medical-surgical, pediatrics, therapeutic radiology, etc. A category of service may include subcategories or levels of care **thatwhich** identify a particular degree or type of care within the category of service.

"Comprehensive Physical Rehabilitation" means a category of service provided in a comprehensive physical rehabilitation facility providing the coordinated interdisciplinary team approach to physical disability under a physician licensed to practice medicine in all its branches, who directs a plan of management of one or more of the classes of chronic or acute disabling disease or injury. Comprehensive physical rehabilitation must include, but is not limited to, the

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

services of: elements as specified in the federal regulations (42 CFR 412.23(b) (2006, no later amendments or **editions** included)). Comprehensive physical rehabilitation services can be provided only by a comprehensive physical rehabilitation facility.

"Comprehensive Physical Rehabilitation Facility" means a distinct bed unit of a hospital or a special referral hospital that provides a program of comprehensive physical rehabilitation; that is designed, equipped, organized and operated to deliver inpatient rehabilitation services; and that is licensed by **IDPH** under the Hospital Licensing Act [210 ILCS 85] or is a facility operated or maintained by the State. There are two types of comprehensive physical rehabilitation facilities:

Freestanding comprehensive physical rehabilitation facility means a specialty hospital dedicated to the provision of comprehensive rehabilitation; and

Hospital-based comprehensive physical rehabilitation facility means a distinct unit, located in a hospital, dedicated to the provision of comprehensive physical rehabilitation.

"Dialysis" means a process by which dissolved substances are removed from a patient's body by diffusion from one fluid compartment to another across a semi-permeable membrane. [210 ILCS 62/5] The two types of dialysis that are recognized in classical practice are hemodialysis and peritoneal dialysis.

"Dialysis Technician" means an individual who is not a registered nurse or physician and who provides dialysis care under the supervision of a registered nurse or physician. [210 ILCS 62/5]

"Distinct Unit" means a physically distinct area comprising all beds served by a nursing station in which a particular category of service is provided and utilizing a nursing staff assigned exclusively to the distinct area.

"DRG" means diagnostic related groups utilized in the Medicare program for health care reimbursement.

"End Stage Renal Disease" or "**ESRD**" means that stage of renal impairment that appears irreversible and permanent and that requires a regular course of dialysis or kidney transplantation to maintain life. [210 ILCS 62]

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

"End Stage Renal Disease Facility" means a freestanding facility or a unit within an existing health care facility that furnishes in-center hemodialysis treatment and other routine dialysis services to end stage renal disease patients. Such types of services may include: self-dialysis, training in self-dialysis, dialysis performed by trained professional staff, and chronic maintenance dialysis, including peritoneal dialysis.

"Executive Secretary or Secretary" means the chief executive officer of the State Board, responsible to the Chairman and, through the Chairman, responsible to the State Board for the execution of its policies and procedures.

"Health Professional Shortage Areas" means urban or rural areas, population groups, or medical or other public facilities that may have shortages of primary medical care, dental care, or mental health providers, as determined by the Shortage Designation Branch in HHS' Health Resources and Services Administration (HRSA) Bureau of Health Professions' National Center for Health Workforce.

"Health Service Area" or "(HSA)" means the following geographic areas:

HSA I – Illinois Counties of Boone, Carroll, DeKalb, Jo Daviess, Lee, Ogle, Stephenson, Whiteside, and Winnebago

HSA II – Illinois Counties of Bureau, Fulton, Henderson, Knox, LaSalle, Marshall, McDonough, Peoria, Putnam, Stark, Tazewell, Warren, and Woodford

HSA III – Illinois Counties of Adams, Brown, Calhoun, Cass, Christian, Greene, Hancock, Jersey, Logan, Macoupin, Mason, Menard, Montgomery, Morgan, Pike, Sangamon, Schuyler, and Scott

HSA IV – Illinois Counties of Champaign, Clark, Coles, Cumberland, DeWitt, Douglas, Edgar, Ford, Iroquois, Livingston, Macon, McLean, Moultrie, Piatt, Shelby, and Vermilion

HSA V – Illinois Counties of Alexander, Bond, Clay, Crawford, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Marion, Massac, Perry, Pope, Pulaski,

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

Randolph, Richland, Saline, Union, Wabash, Washington, Wayne, White, and Williamson

HSA VI – City of Chicago

HSA VII – DuPage County and Suburban Cook County

HSA VIII – Illinois Counties of Kane, Lake, and McHenry

HSA IX – Illinois Counties of Grundy, Kankakee, Kendall, and Will

HSA X – Illinois Counties of Henry, Mercer, and Rock Island

~~HSAH2A~~ XI – Illinois Counties of Clinton, Madison, Monroe, and St. Clair

"Hemodialysis" means a type of dialysis that involves the use of an artificial kidney through which blood is circulated on one side of a semi-permeable membrane while the other side is bathed by a salt dialysis solution. The accumulated toxic products diffuse out of the blood into the dialysate bath solution. The concentration and total amount of water and salt in the body fluid are adjusted by appropriate alternations in composition of the dialysate fluid.

"Home Hemodialysis" means a type of dialysis that is done at home by the patient and a partner. Both are trained in the dialysis facility until the patient and partner become proficient to dialyze at home. The dialysis is usually three times per week.

"Home-Assisted Hemodialysis" means a type of dialysis that is done in a home and/or long term care setting through a staff-assisted program. The patient is not trained to do dialysis himself/herself.

"Hospital" means a facility, institution, place or building licensed pursuant to or operated in accordance with the Hospital Licensing Act ~~[210 ILCS 45]~~ or a State-operated facility that is utilized for the prevention, diagnosis and treatment of physical and mental ills. For purposes of this Subchapter, two basic types of hospitals are recognized:

General Hospital – a facility which offers an integrated variety of

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

categories of service and which offers and performs scheduled surgical procedures on an inpatient basis.

Special or Specialized Hospital – a facility ~~that~~^{which} offers, primarily, a special or particular category of service.

"Illinois Department of Public Health" or "Agency" or "IDPH" means the Department of Public Health of the State of Illinois. [20 ILCS 3960/3]

"In-Center Hemodialysis" means a category of service that is provided in an end stage renal disease facility licensed by the State of Illinois and/or certified by the Centers for Medicare and Medicaid Services.

"In-Center Hemodialysis Treatment" means a regimen of hemodialysis received by a patient usually three times a week, averaging four hours.

"Index of Medically Underserved" or "IMU" means shortage designation criteria applied to designate a Medically Underserved Area or Medically Underserved Population. The four variables of the IMU are ratio of primary medical care physicians per 1,000 population, infant mortality rate, percentage of the population with incomes below the poverty level, and percentage of the population age 65 or over.

"Intensive Care Service" means a category of service providing the coordinated delivery of treatment to the critically ill patient or to patients requiring continuous care due to special diagnostic considerations requiring extensive monitoring of vital signs through mechanical means and through direct nursing supervision. This service is given at the direction of a physician on behalf of patients by physicians, dentists, nurses, and other professional and technical personnel. The intensive care category of service includes the following subcategories: medical Intensive Care Unit (ICU), surgical ICU, coronary care, pediatric ICU, and combinations of such ICUs. This category of service does not include intermediate intensive or coronary care and special care units that are included in the medical-surgical category of service.

"Intensive Care Unit" means a distinct part of a facility that provides a program of intensive care service; that is designed, equipped, organized and operated to deliver optimal medical care for the critically ill or for patients with special diagnostic conditions requiring specialized equipment, procedures and staff; and

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

that is under the direct visual supervision of qualified professional nurses. Effective February 21, 2003 (the date of repeal of 77 Ill. Adm. Code 1110.1010, 1110.1020 and 1110.1030), the beds and corresponding utilization for the burn treatment category of service were included in the intensive care category of service.

"Kidney Transplantation Service" means a category of service that involves the surgical replacement of a nonfunctioning human kidney with a donor kidney in order to restore renal function to the patient.

"Market Area" means a defined geographic designation, such as zip code or census tracts, that accounts for at least 50% of the facility's admissions.

"Medically Underserved Area" means a whole county or a group of contiguous counties, or a group of county or civil divisions or a group of urban census tracts in which residents have a shortage of personal health care services, as determined by the Shortage Designation Branch in HHS' Health Resources and Services Administration Bureau of Health Professions' National Center for Health Workforce.

"Medically Underserved Populations" means groups of persons who face economic, cultural or linguistic barriers to health care, as determined by the Shortage Designation Branch in HHS' Health Resources and Services Administration Bureau of Health Professions' National Center for Health Workforce.

"Medical-Surgical Service" means a category of service pertaining to the medical-surgical care performed at the direction of a physician on behalf of patients by physicians, dentists, nurses and other professional and technical personnel. For purposes of this Subchapter a, the medical-surgical category of service includes such subcategories of service as medical, surgical, ophthalmology, intermediate intensive care, tuberculosis, gynecology (outside obstetric (OB) department), research, eyes-ears-nose and throat, orthopedic, neurology, cardio-thoracic-vascular, trauma, inpatient renal dialysis, special care units, substance abuse/addiction treatment, dental and urology. The medical-surgical category of service does not include the following categories of service and their subcategories:

Obstetric Service;

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

Pediatric Service;

Intensive Care Service;

Rehabilitation Service;

Acute Mental Illness Treatment Service;

Neonatal Intensive Care Service;

Burn Treatment Service;

General Long-Term Care Categories of Service; and

Specialized Long-Term Care Categories of Service.

"Medical-Surgical Unit" means an assemblage of inpatient beds and related facilities in which medical-surgical services are provided to a defined and limited class of patients according to their particular medical care needs.

"Modernization" means modification of an existing health care facility by means of building, alteration, reconstruction, remodeling, replacement, the erection of new buildings, or the acquisition, alteration or replacement of equipment. Modification does not include a substantial change in either the bed count or scope of the facility.

"Observation Days" means the number of days of service provided to outpatients for the purpose of determining whether a patient requires admission as an inpatient or other treatment. The observation period shall not exceed 48 hours.

"Obstetrics" means the following:

"Combined Maternity and Gynecological Unit" means an entire facility or a distinct part of a facility that provides both a program of maternity care and a program of obstetric gynecological care, and that is designed, equipped, organized, and operated in accordance with the requirements of the Hospital Licensing Act.

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

"Fertility Rate" means projections of population fertility based upon resident birth occurrence as provided by IDPH.

"Maternity Care" means a subcategory of obstetric service related to the medical care of the patient prior to and during the act of giving birth either to a living child or to a dead fetus and to the continuing medical care of both patient and newborn infant under the direction of a physician on behalf of the patient by physicians, nurses, and other professional and technical personnel.

"Maternity Facility" or "Maternity Unit" means an entire facility or a distinct part of a facility that provides a program of maternity and newborn care and that is designed, equipped, organized, and operated in accordance with the requirements of the Hospital Licensing Act.

"Obstetric Gynecological Care" means a subcategory of obstetric service where medical care is provided to clean gynecological, surgical, or medical cases that are admitted to a postpartum section of an obstetric unit in accordance with the requirements of the Hospital Licensing Act.

"Obstetric Service" means a category of service pertaining to the medical or surgical care of maternity and newborn patients or medical or surgical cases that may be admitted to a postpartum unit.

"Occupancy Rate" means a measure of inpatient health facility use, determined by dividing average daily census by the calculated capacity. It measures the average percentage of a facility's beds occupied and may be institution-wide or specific for one department or service.

"Occupancy Target" means a minimum utilization level established by IDPH for a facility or service reflecting adequate access as well as operational efficiency.

"Patient Days" means the total number of days of service provided to inpatients of a facility over a 12-month period. This figure includes observation days if the observation patient occupies a bed that is included in the State Agency's Inventory of Health Care Facilities and Services as described in Section 1100.70.

"Pediatrics" means the following:

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

"Designated Pediatric Beds" means beds within the facility that are primarily used for pediatric patients and are not a component part of a distinct pediatric unit.

"Pediatric Facility" or "Distinct Pediatric Unit" means an entire facility or a distinct unit of a facility where the nurses' station services only that unit and that provides a program of pediatric service and is designed, equipped, organized, and operated to render medical-surgical care to the 0-14 age population.

"Pediatric Service" means a category of service for the delivery of treatment pertaining to the non-intensive medical-surgical care of a pediatric patient (0-14 years in age) performed at the direction of a physician on behalf of the patient by physicians, dentists, nurses, and other professional and technical personnel.

"Peritoneal Dialysis" means a type of dialysis in which the dialysate fluid is infused slowly into the peritoneum, causing dialysis of water and waste products to occur through the peritoneal sac, which acts as a semi-permeable membrane. The fluid and waste, after accumulating for a period of time (one hour), are drained from the abdomen, and the process is repeated.

"Pre-Dialysis" means that the initiation of hemodialysis therapy is anticipated within 12 months.

"Population or Population Projections" means the latest estimates available as determined by IDPH.

"Planning Area" means a defined geographic area within the State established by the State Board as a basis for the collection, organization, and analysis of information to determine health care resources and needs and to serve as a basis for planning.

"Selected Organ Transplantation Service" means a category of service relating to the surgical transplantation of any of the following human organs: heart, lung, heart-lung, liver, pancreas, or intestine. It does not include bone marrow or cornea transplants.

"Self-Care Dialysis Training" means a program that trains patients or their

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

helpers, or both, to perform self-care dialysis in the in-center setting.

"Self-Dialysis" or "Self-Care Dialysis" means maintenance dialysis performed by a trained patient in a special facility, with or without the assistance of a family member or other helper.

"Site" means the location of an existing or proposed facility. An existing facility site is determined by street address. In a proposed facility, the legal property description or the street address can be used to identify the site.

"State Board" means the Health Facilities Planning Board established by the Act. [20 ILCS 3960/3]

"Transplant Hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients. A transplant hospital may have one or more types of organ transplant programs operating within the same hospital.

"Transplant Program" or "Transplant Center" means a component within a transplant hospital that provides transplantation of a particular organ type.

"Unit" means the grouping of beds to provide a category of service. Units are physically identifiable areas ~~that~~^{which} are staffed to provide all care required for particular service.

"Urea Reduction Ratio" or "URR" means the amount of blood cleared of urea during dialysis. It is reflected by the ratio of the measured level of urea before dialysis and urea remaining after dialysis. The larger the URR, the greater the amount of urea removed during the dialysis treatment.

"Use Rate" means the ratio of inpatient days per 1,000 population over a 12-month period (Inpatient Days/Population in Thousands = Use Rate).

"Use Rate Maximum" or "Utilization Maximum" means a ceiling placed on an area's use or utilization rate in order to reduce the projected need for beds or services. Use rate maximums are designed to prevent the overestimation of needed beds in formulas ~~that~~^{which} utilize historical demand. Maximums are used in planning areas where historical demand is inflated due to an immigration of patients from other planning areas.

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

"Use Rate **Minimum**" or "Utilization Minimum" means a lower limit placed on an area's use or utilization rate in order to inflate the projected need for beds or services. Use rate minimums are designed to promote the development of beds in areas where historical utilization is too low to create a formula bed need. Low utilization is caused by a lack of services in the area or by an out migration of area residents to other areas for care.

"Utilization" means patterns or rates of use of a single service or type of service, within a given facility or also in combinations of facilities. Use is expressed in rates per unit of population at risk for a given period.

"Variance" means an exception to computed need based upon criteria or conditions for particular categories of service.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

- 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>
2520.770	Amendment
2520.797	Amendment
2520.APPENDIX A	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 2-105(B)(1) of the Illinois Human Rights Act [775 ILCS 5/2-105(B)(1)], every State executive department, State agency, board, commission, and instrumentality must comply with the Department's Rules and Regulations concerning equal employment opportunities and affirmative action. The proposed amendment to Section 2520.770 clarifies the information and documentation required for a State executive agency to submit regarding vacant and filled positions. The proposed amendment to Section 2520.797 clarifies the documentation that the Department's Director will issue if a State executive agency does not comply with its reporting requirements. The proposed amendment to Section 2520.Appendix A clarifies that a State agency must be prepared to respond to, and notify employees of, their rights to file charges of discrimination with other government agencies. The proposed amendment also makes several changes to clarify the Department's requirements.
- 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
- 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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objective: The proposed amendments will assist the Department in enforcing the affirmative action requirements for State executive agencies mandated by Section 2-105(B)(1) of the Illinois Human Rights Act [775 ILCS 5/2-105(B)(1)], and to promote equal opportunity for State residents. 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:
- David T. Rothal
Staff Attorney
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago, IL 60601
- 312/814-6262 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: January 2007

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

DEPARTMENT OF HUMAN RIGHTS

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)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

- 2520.470 Conciliation (Repealed)
- 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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

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

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,

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

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. 18715, effective November 20, 2006; amended at 31 Ill. Reg. _____, effective _____.

SUBPART H: EQUAL EMPLOYMENT OPPORTUNITY AND
AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES**Section 2520.770 Reporting and Record-Keeping**

- a) Employment Profiles – As required by Section 2-105(B) of the Act, each agency shall maintain data reflecting the composition of its workforce in each region, by race, national origin as specified by the Department, sex and disability, EEO job categories, and any other category that the Department may require by rule. This information shall be collected from the agency's employees through the use of a form, developed by Central Management Services and approved by the Director, which shall be completed by each employee and applicant for employment at his/her option. Central Management Services shall compile this data and furnish quarterly reports to each agency and the Department depicting the employment profile of each agency under the Personnel Code [20 ILCS 415]. Other agencies, and agencies under the Code having non-Code employees, shall compile this data themselves and provide it to the Department.
- b) Position Vacancies – Each agency shall maintain a centralized record detailing all its current and anticipated job openings, and indicating for each opening the job title, EEO job category, pay grade or merit compensation level, and region. This information shall be supplied to the agency's EEO Officer, and to the Department upon request. Every agency shall also post conspicuously in its offices all vacancies in nonexempt positions that the agency intends to fill, if the vacant position is one where the proportion of incumbents in one or more affirmative action groups is significantly less than the proportion of those groups in the available local labor force. The posting shall also state that the agency is an Equal Opportunity Employer.
- c) Quarterly Reports – No later than 15 working days after receipt of the CMS-DHR9 and CMS-DHR10 data information at the end of each fiscal quarter, every agency shall file [a report](#) with the Department ~~a report~~. If an agency submits a written request for an extension within 15 working days after receipt of the CMS-DHR10 data information, the Director may grant an extension of up to 15 days. The report, [forwarded with a cover letter](#) signed by the EEO Officer and Chief

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

Executive Officer, shall contain:

- 1) A current employment profile of each of the agency's departments or divisions by EEO job category and affirmative action groups of the incumbents.
 - 2) A breakdown of all employment transactions for the previous quarter by EEO job category and the affirmative action groups of the employees affected.
 - 3) A statement on the agency's progress in meeting its numerical and/or program goals. If a numerical or program goal is not attained, the agency should provide an explanation for the failure to meet the goal.
 - 4) ~~A list of vacancies, by EEO job category, classification, and pay grade or merit compensation level, that the agency intends to fill during the next quarter. Underutilized categories should be indicated.~~
 - 4)5) A narrative describing all charges and complaints of employment discrimination filed or pending against the agency during the previous quarter. The narrative should identify the region out of which the charge or complaint was filed; the organization with whom it was filed; and the current status of the matter, including whether pending, withdrawn, settled or dismissed.
- d) ~~Annual Reports—By August 15 of each year, every agency shall submit to the Department a report, signed by its EEO Officer and Chief Executive Officer. If an agency submits a written request for an extension before August 15, the Director may grant an extension of up to 30 days. The report shall include cumulative data for the full year of the same sort as required under subsection (c)(1), as well as a narrative by the agency's Chief Executive Officer describing the extent to which the agency's yearly numerical and program goals were achieved and the reasons for any unmet goals.~~
- d)e) Federal Compliance Reports – Any agency that is the subject of an EEO compliance review by the federal government shall forward to the Department a copy of any and all reports within 5 working days after the agency's receipt of the report.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

- e)Ⓕ Orders and Settlements – Any agency that is a party to any proceedings, whether judicial or administrative, and whether federal or State, involving allegations of employment discrimination shall forward to the Department a copy of any order, decree, settlement agreement or award that decides or disposes of the proceedings within 15 days after the entry of the order, decree, settlement agreement or award.
- f)Ⓖ Layoff Reports – Each agency shall prepare a layoff report outlining any intended layoff of incumbent employees, in accordance with the procedures established in Appendix C. The report shall be submitted to the agency's EEO Officer and the Department not less than 30 days prior to the expected date of the layoff, unless emergency conditions necessitate a delay of the report; however, the emergency conditions must be documented in the report. The report shall identify, by region, job title and affirmative action group, the employees to be affected by the layoff. The agency's EEO Officer shall review the report to determine if the layoff will have an adverse impact upon minorities, women or disabled persons. The EEO Officer shall submit a written adverse impact report to the Chief Executive Officer and to the Director of his/her findings and, if adverse impact is found, suggested alternatives to lessen or eliminate the impact. The Director of Central Management Services will not approve a layoff until the Director has indicated that the adverse impact report is correct.
- g)Ⓕ Reorganization Reports – Any proposed workforce reorganization that significantly changes lines of authority, wages or job duties and descriptions on an agency-wide basis, or throughout any bureau, division or unit of the agency, must be described in a reorganization report and submitted to the agency's EEO Officer at least 30 days prior to implementation. The agency's EEO Officer shall review the report to determine whether it will have an adverse impact upon minorities, women or disabled persons, and shall submit an adverse impact report, within 15 days after receipt of the reorganization report, to the agency's Chief Executive Officer and the Department. If the EEO Officer determines that an adverse impact is apparent, he/she shall include in the adverse impact report recommendations to lessen the impact.
- h)Ⓕ Hiring and Promotion Monitors – The Hiring Monitor (DHR-19) and the Promotion Monitor (DHR-20) established by the Department shall be ~~completed~~ used by each agency, ~~and completed~~ and submitted ~~as required~~ to Central Management Services on all hires and promotions for all full-time permanent and part-time permanent employees, including trainees, provisional employees, and semi-automatic promotions pursuant to a collective bargaining

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

agreement. On the applicable Monitor, the agency shall indicate the EEO job category and classifications of the position and whether it is an underutilized category. The Monitor shall also indicate the race, sex, whether disabled, and national origin of all persons considered for the position and of the candidate, and whether the candidate meets the affirmative action requirements for that category. If the candidate does not meet the affirmative action requirements for that category, a detailed explanation indicating the reasons for the selection must be completed by the selecting officer and attached to the Monitor. The agency EEO Officer, or designee, shall review and sign the Monitor, indicating concurrence or non-concurrence in the transaction. The EEO Officer or designee shall fully explain on the Monitor his/her reason for any non-concurrence. In all transactions, the agency Chief Executive Officer or designee shall sign and date the Monitor, indicating approval. Central Management Services shall not complete any hire or promotion transaction if the Monitor is not attached to the transaction, is not signed and dated by the EEO Officer or designee, is not approved and signed by the agency's Chief Executive Officer or designee, and is not signed and dated prior to the effective date of the candidate's hire or promotion.

- i) Exit Questionnaire – Each agency shall provide an exit questionnaire to employees at the time of their separation from employment, whether voluntary or involuntary. The questionnaire shall identify the employee by name and affirmative action group, job title and region, date of separation, and reasons for separation, and shall include space for the employee's comments. Completion of the questionnaire shall be at the employee's option. Completed questionnaires shall be forwarded immediately to the agency's EEO Officer.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 2520.797 Sanctions for Noncompliance

- a) Show Cause Notice – If a State agency is determined by the Director to have violated or failed to comply with a requirement of this Subpart and the agency has been afforded an opportunity to respond to or confer with the Department over that determination, the Department shall serve upon the agency's Chief Executive Officer a notice specifying the nature of the violation or noncompliance. The notice shall provide that the agency has 15 days from receipt to respond in writing to the Director setting forth a compromise or resolution of the matter. Within 30 days of receipt of a timely response, the Department shall review it, and if the

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

response is sufficient, may resolve the matter pursuant to written agreement with the agency or by written statement that it will not proceed with the sanctions provided in subsection (b) ~~below~~.

- b) Sanctions – If an agency fails to satisfactorily respond to notice pursuant to subsection (a) of this Section, or if an agency is determined by the Department to have violated or failed to comply with this Subpart and has otherwise been afforded an opportunity to respond to or confer with the Department over that determination without an accord being reached, the Director shall send to the agency's Chief Executive Officer a Letter of [Finding of Noncompliance](#) specifying the nature of the violation or noncompliance. A copy shall be submitted to the Governor. A Letter of [Finding of Noncompliance](#) shall be a "public record", subject to disclosure pursuant to the Freedom of Information Act (~~Ill. Rev. Stat. 1991, ch. 116, pars. 201 et seq.~~) [5 ILCS 140]. In addition to sending the Letter of [Finding of Noncompliance](#), the Director may initiate a charge of a civil rights violation against the agency pursuant to Section ~~7A-1027(A)~~-102 of the Act, alleging the matters ~~that~~~~which~~ constitute the agency's noncompliance, and shall cause the Department to conduct an in-depth compliance review of the agency's equal opportunity and affirmative action posture and practices. The Director may also cause judicial proceedings to be commenced against the agency to compel the agency's compliance with the Act and this Part.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

Section 2520.APPENDIX A Contents of Affirmative Action Plans

Part I

- A. A completed Equal Employment Opportunity/Affirmative Action Certification Form;
- B. An agency EEO/AA policy statement signed by the Chief Executive Officer;
- C. An agency profile statement, describing the mission of the agency and its specific EEO/AA problems and needs;
- D. Identification of the agency's primary EEO Officer and his/her work location and telephone number;
- E. An organizational chart depicting the agency personnel at all levels responsible for implementing and monitoring the agency's affirmative action plan; and
- F. A description of the methods to be used in accomplishing both internal and external dissemination of the agency's affirmative action policy and plan.

Part II

- A. Internal Workforce Analysis: an assessment of the agency's personnel transactions for the previous fiscal year; an analysis of the distribution of present employees separated by code, non-code and combined workforce among the eight EEO job categories; and a breakdown of new hires, promotions, demotions, transfers, terminations, superior performance increases and salary comparisons by affirmative action group; and
- B. External Workforce Analysis: a determination of the number of minorities, women and disabled persons available to the workforce of the agency, calculated according to methodology determined to be appropriate by the Department.

Part III

- A. Goals and Timetables: Program goals must be developed in conjunction with the problems identified as the result of the agency's internal and external workforce analyses. Numerical goals must be developed utilizing methodology determined

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

to be appropriate by the Department. Each numerical or program goal should include a brief description of the area of concern, objectives ~~that~~^{which} delineate specific intentions, action items outlining steps to be taken to achieve the objectives, the individual responsible for carrying out the action item, the target date for completion, and the procedure for monitoring the progress toward meeting the goal.

- B. Methodology for Women and Minorities:
- 1) Factors: Numerical goals must be determined for each affirmative action group by computing the availability of that group in each of the EEO job categories in the agency workforce considering the total number and the percentage of the affirmative action group:
 - a) in the population of the State of Illinois;
 - b) geographic region where the facility is located;
 - c) in the total workforce in the geographic region;
 - d) among those having requisite skills in the geographic region;
 - e) having the requisite skills in State government;
 - f) among those promotable in the geographic region;
 - g) of those who are transferable within the geographic region;
 - h) at institutions in the geographic region providing training in the requisite skills;
 - i) among those in the geographic region the agency can train in the requisite skills. Agencies may consider other appropriate factors, if approved by the Director.
 - 2) The availability of members of each affirmative action group is determined by using the following methodology:
 - a) Each factor is assigned a value weight by the agency on a scale of

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

1% to 100%. The value weight assigned must fall within the parameters found in Appendix B of this rulemaking. The value weight indicates the applicability of each factor to the agency/facility in recruiting employees for that EEO job category. The sum of all value weights must be 100%, representing all persons available to work in a job category.

- b) Each value weight is multiplied by the percentage of the affirmative action group in each of the factors. The result is a weighted factor for each of the categories.
- c) The sum of the weighted factors is the availability percentage or ratio for that affirmative action group for that category for the agency. This availability percentage or ratio is applied to the total number of positions in the agency's EEO job category to determine the numerical availability of the affirmative action group in each EEO job category.
- d) The agency must indicate the sources of all its statistics in computing the availability percentage or ratio, and the reasons~~reason(s)~~ for its weighting value.

C. Methodology for Disabled Persons:

- 1) Factors: A numerical goal must be determined on an agency-wide basis, considering the proportion of people with work disabilities in the Illinois labor force, as reflected in the most recent decennial Census.
- 2) Survey: After this subpart C has been adopted, employees shall be surveyed to determine the State's utilization of people with disabilities, as defined in Section 2520.700. Subsequently hired employees will be surveyed at the time of hire.
- 3) Availability: Availability must be determined by using the following methodology:
 - a) The total number of agency employees is multiplied by the percentage of employees with work disabilities in the Illinois labor force (as supplied by the Department);

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

- b) [Central Management Services](#)CMS will supply the number of agency employees with disabilities by determining the number of employees who disclose such conditions on the latest "Illinois Department of Human Rights Survey for Disabled Employees" form (IL 442-0254);
 - c) The number of employees in 2(b) is subtracted from the result of 2(a);
 - d) If the result of 2(c) is a positive number, the agency must adopt that number as its goal for employing persons with disabilities. If the result of 2(c) is "0" or a negative number, the agency is considered to be at parity with the external labor force.
- D. Monitoring Procedures: An outline of the procedures to be used by the agency to determine whether the objectives are met by the dates indicated.

Part IV

Discrimination Complaint Process: A description of the procedures established by the agency to address charges of employment discrimination. This Part should include a statement that employees will be advised of their rights to file charges of discrimination with the Department, ~~and~~ the U.S. Equal Employment Opportunity Commission, or any other appropriate government agency.

Part V

Affirmative Action for Disabled Persons

- A. Recruitment Procedures
- B. Application Process Procedures
 - 1) A review of employment criteria to assure they have no adverse impact on disabled persons;
 - 2) Pre-employment inquiries – a statement regarding the inadmissibility of inquiries regarding an applicant's disability during the interview process;

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

- 3) Employment testing (for agencies conducting their own tests) – a statement that the tests do not have an adverse impact on disabled applicants;
 - 4) The prohibition of pre-employment medical examinations before an offer of employment;
 - 5) The prohibition of pre-employment medical examinations after an offer of employment, unless such examinations are job related and required of all applicants for that position.
- C. Reasonable Accommodation
- 1) Agency policy committing the agency to providing reasonable accommodations to disabled employees, signed by the Chief Executive Officer of the agency.
 - 2) A description of the procedure to determine reasonable accommodation.
- D. Physical Accessibility for Employment
- 1) Of personnel offices;
 - 2) Of the worksite;
 - 3) For evacuation of disabled persons in emergency situations.

Part VI

Applicable EEO Laws: This Part should set forth the relevant text of any federal law that mandates the agency to adhere to additional EEO/AA requirements.

Part VII

[This part should have an appendix to the affirmative action plan that contains all supporting data, including the Hiring and Promotion Monitors and the exit questionnaire.](#) ~~Appendix: This should include all support data.~~

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 31 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Commercial Fishing and Musseling in Certain Waters of the State
- 2) Code Citation: 17 Ill. Adm. Code 830
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
830.5	Amendment
830.10	Amendment
830.13	New Section
830.20	Amendment
830.30	Amendment
830.60	Amendment
830.70	Amendment
830.90	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35, and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35, and 25-5].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to: add language to clarify definitions regulations, water areas, species that may be taken and size limits; add a new Section on Special Regulations for the Commercial Harvest of Roe-Bearing Species, and add regulations for monthly records submitted to the Department.
- 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
- 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: This rulemaking does not affect units of local government.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 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:

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Persons issued licenses by the Department for commercial harvest of fish and mussels.

- B) Reporting, bookkeeping or other procedures required for compliance: Commercial fishermen shall submit to the Department by January 31 of the following year, an accurate annual record of the undressed weights of the species of fish and/or crayfish harvested whether or not any fish and/or crayfish were harvested.

Commercial roe harvesters shall submit to the Department by the 5th of the month following harvest, an accurate monthly record of the undressed weight of roe-bearing species, and the unprocessed weight of roe from these fishes. Submission of these reports is required whether or not roe-bearing species were harvested.

Commercial roe dealers shall submit to the Department by the 5th of the month following the harvest of these fishes, an accurate monthly record of the unprocessed and processed weight of roe purchased from commercial roe harvesters. These reports are required whether or not roe was purchased.

Holders of a commercial mussel harvest license shall submit an accurate record of the types and pounds of each species of mussel and/or relic mussel shells harvested or purchased on a monthly basis during the season by the 10th of each month following harvest, whether or not any mussels or mussel shells were harvested. Reports must be submitted on official Department of Natural Resources report forms.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Holders of a commercial mussel dealer's license shall submit an accurate record of the types and pounds of each species of mussel and/or relic mussel shells purchased on a monthly basis during the season by the 10th of each month following purchase, whether or not any mussels or mussel shells were purchased. Reports must be submitted on official Department of Natural Resources report forms.

- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2007

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

SUBCHAPTER b: FISH AND WILDLIFE

PART 830

COMMERCIAL FISHING AND MUSSELING IN CERTAIN WATERS OF THE STATE

Section

830.5	Definitions
830.10	Waters Open to Commercial Harvest of Fish
830.13	Special Regulations for the Commercial Harvest of Roe-Bearing Species
830.15	Waters Open to Commercial Harvest of Crayfish
830.20	Waters Open to Commercial Harvest of Mussels and Seasons
830.30	Special Regulations
830.40	Devices
830.50	Permission
830.60	Species
830.70	Size Limit
830.80	Commercial Fishing and Musseling in Additional Waters
830.90	Revocation and Suspension of Commercial Fishing and Musseling Privileges, Hearings and Appeals and Reporting Requirements

AUTHORITY: Implementing and authorized by Sections 1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35, and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35, and 25-5].

SOURCE: Adopted at 5 Ill. Reg. 6809, effective June 16, 1981; codified at 5 Ill. Reg. 10648; emergency amendment at 6 Ill. Reg. 6468, effective May 18, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 10680, effective August 20, 1982; amended at 7 Ill. Reg. 2707, effective March 2, 1983; amended at 10 Ill. Reg. 6926, effective April 15, 1986; amended at 11 Ill. Reg. 9513, effective May 5, 1987; amended at 12 Ill. Reg. 11714, effective June 30, 1988; amended at 15 Ill. Reg. 8544, effective May 24, 1991; amended at 16 Ill. Reg. 5257, effective March 20, 1992; amended at 17 Ill. Reg. 3177, effective March 2, 1993; emergency amendments at 18 Ill. Reg. 4671, effective March 14, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 9985, effective June 21, 1994; amended at 19 Ill. Reg. 5250, effective March 27, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 4700, effective April 1, 1997; amended at 22 Ill. Reg. 6697, effective March 30, 1998; amended at 24 Ill. Reg. 4945, effective March 13, 2000; amended at 29 Ill. Reg. 6277, effective April 25, 2005; amended at 31 Ill. Reg. _____, effective _____.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Section 830.5 Definitions

- a) A relic (dead) mussel shell is defined as one which apparently died of natural causes within the water and contains no meat or soft parts; it readily exhibits noticeable sediment, vegetation, algal or mineral stains, discolorations, soiling, weathering or other visual evidence on its interior surface which clearly and unambiguously shows the mussel shell has not been cooked-out or freshly cleaned.
- b) A legal size mussel for a particular species is defined as a mussel size as set out in Section 830.70 which will not pass through a minimum harvest size circle cutout in a metal plate.
- c) Basket dredge - mussel harvesting device consisting of a heavy metal box or square which collects the shells in a net or wire cage, weighs over 70 pounds, and is not operated by hand as described in subsection (e).
- d) Hand dredge (hand rake, hand powered rake) - mussel harvesting device weighing less than 70 pounds consisting of a metal frame having coarse teeth on the bottom to which a bag constructed of wire mesh or netting material is attached and fastened by a line to a boom attached to the bow of the boat and held on the bottom by means of a long handle.
- e) Hand fork - mussel harvesting device similar in appearance to a common cornfork and utilized while wading.
- f) Mechanical devices - refers to dredges and suction devices operated by motorized (internal combustion or electrical) power used in the actual harvest of mussels and does not refer to the manner in which the mussel harvest device is raised into the boat or the device used in propelling the boat.
- g) Commercial fishing – includes the commercial harvest of both legal fish and legal crayfish.
- h) [Bar mesh measure - all net mesh measurements shall be determined by bar measure from the outside of one knot to the inside of the adjoining knot on the same thread or strand.](#)

(Source: Amended at 31 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Section 830.10 Waters Open to Commercial Harvest of Fish

- a) Mississippi River and connected public (wholly accessible by boat) adjacent backwaters, including that portion of the Kaskaskia River below the navigation lock and dam, except Quincy Bay, including Quincy Bay Waterfowl Management Area, Spring Lake in the Upper Mississippi River Wildlife and Fish Refuge and Mark Twain U.S. Fish and Wildlife Service National Wildlife Refuge Waters (except by special permit).
- b) Illinois River and connected public (wholly accessible by boat) adjacent backwaters from Route 89 highway bridge downstream, except for:
 - 1) U.S. Fish and Wildlife National Wildlife Refuge waters;
 - 2) Donnelly/Depue Fish and Wildlife Area;
 - 3) Rice Lake Complex, including all of Big Lake;
 - 4) Meredosia Lake in Cass and Morgan Counties during the central zone duck season; and
 - 5) Clear Lake in Mason County 7 days prior to and during the central zone duck season.
- c) Wabash River.
- d) Embarras River, except from Route 130 in Coles County upstream to Route 16 including Lake Charleston.
- e) Sangamon River, downstream of Belt Route 48 southwest of Decatur to mouth in Cass County.
- f) Kaskaskia River south of Route U.S. 50 Bridge to mouth in Randolph County.
- g) Little Wabash River.
- h) Big Muddy River south of State Route 14 highway bridge in Franklin County to mouth in Jackson County.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- i) Skillet Fork.
- j) Cache River from Route 51 downstream to the Mississippi River via Cache Diversion Channel but not including that portion of the Cache River between the Cache Diversion Channel Levee and the Ohio River.
- k) Saline River in Gallatin and Saline Counties.
- l) Ohio River.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 830.13 Special Regulations for the Commercial Harvest of Roe-Bearing Species

- a) That portion of the Mississippi River identified under Section 830.10, excluding the area from Lock and Dam 19 to the State Highway 9 Bridge in Niota, the Ohio River and the Wabash River from October 1 through May 31 inclusive.
- b) Paddlefish may not be commercially harvested except in the Ohio River, the Illinois River below Route 89, and the Mississippi River below Lock and Dam 19.
- c) Shovelnose sturgeon may not be commercially harvested except in the Mississippi River, the Ohio River or the Wabash River.
- d) All commercial roe harvesters engaged in harvesting of roe-bearing species, including shovelnose sturgeon, paddlefish and bowfin, shall:
 - 1) leave the roe of harvested shovelnose sturgeon and bowfin whole, intact and inside the body cavity of the fish while on the water. However, the intact ovaries of paddlefish may be removed while on the water with the carcasses of the fish the ovary is harvested from being retained for identification purposes;
 - 2) after complete retrieval of fishing tackle, immediately remove all aquatic species that are not in compliance with size limits or are illegal species to take or possess and immediately return them without unnecessary injury to the waters from which taken. "Complete retrieval" means as soon as an individual piece of fishing tackle has been retrieved in whole to the fisherman's boat.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 830.20 Waters Open to Commercial Harvest of Mussels and Seasons

- a) Mississippi River and backwaters, April 1 to August 31 inclusive, except for the following areas:
- 1) All of the area directly above Lock and Dam 12 (RM 556.7) from the center of the navigation channel east to the Illinois shoreline and northward to a line extending from RM 558.4 to the Blanding's Landing boat ramp, including but not limited to all of the area contained within the designated U.S. Military Reservation area.
 - 2) All of the waters contained within Sylvan Slough from the Interstate 74 highway bridge (RM 485.8) west to the lower tip of Arsenal Island (RM 482.6).
 - 3) All of the area north of and perpendicular to the center line of the navigation channel to the Illinois shoreline lying between RM 433.0 (New Boston Boat Launching Ramp) to RM 433.8 (lower tip of the first upstream island along the Illinois shoreline).
 - 4) Pontoosuc Bay contained within and described as that area from the center of the main navigation channel and perpendicular to the Illinois shoreline located between RM 388.0 (Pontoosuc light and daymark) and RM 390.2 (Dallas City boat access area).
 - 5) All of the area southward of the center of the navigation channel and perpendicular to the Illinois shoreline on a line from the Des Moines River daymark (Iowa side) and the Des Moines River lighted buoy (Illinois side), both of which are at RM 361.7, to Lock and Dam 19 (RM 364.5) including any slough channels of the Mud Island area along the Illinois side.
 - 6) All of the area east of the center of navigation channel and perpendicular to the Illinois shoreline between RM 314.0 (Whitney light and daymark) and RM 316.0 (Hadley Island Goale light and daymark).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 7) All of the area east of the center of navigation channel and perpendicular to the Illinois shoreline between River Mile 238.4 (Hasting's Landing light and daymark) and River Mile 246.8 (Turner Landing light and daymark).
 - 8) Mark Twain U.S. Fish and Wildlife Service National Wildlife Refuge Waters.
- b) Ohio River and backwaters, April 1 to September 30 inclusive.
 - c) [Illinois River, from the LaGrange Lock and Dam downstream to the confluence of the Mississippi and Illinois Rivers at Grafton, from July 15 through August 31 inclusive.](#)

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 830.30 Special Regulations

- a) Commercial fishing and musseling will not be permitted in any streams, ditches, or tributaries connected to the backwaters of the waters listed in Section 830.10, 830.15 or 830.20.
- b) Any person harvesting mussels for commercial use may possess during the open season only those mussels identified in Section 830.60 of legal size as established by Section 830.70. Mussels smaller than the legal size and all mussels not identified in Section 830.60 must be immediately returned to the mussel bed or location from which they were taken.
- c) It shall be illegal to possess mussel shell more than 15 days after the close of the season without a mussel dealer license.
- d) Paddlefish may not be commercially harvested except in the Ohio River, the Illinois River below Route 89, and in the Mississippi River below Lock and Dam 19.
- e) Commercial fishing devices must be checked and emptied of catch at the following time intervals:
 - 1) Hoop nets and basket traps must be attended at least once every [7248](#) hours during open water conditions. During ice cover conditions, hoop nets and basket traps must be attended at least once every 20 days.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 2) Trammel and gill nets must be attended at least every 24 hours during open water conditions. During ice cover conditions, trammel and gill nets must be attended at least every 96 hours.
- 3) Trotlines and other hook and line devices must be checked at least every 24 hours.
- 4) Seines and trammel or gill nets fished by driving or drifting methods must be constantly attended.
- 5) Commercial gear containing dead or moribund fish as a result of failure to check gear and empty catch shall be considered an illegal device.
- f) Washboard mussels may not be taken on the Mississippi River.
- g) Crayfish may be taken by licensed commercial fishermen with legal seine only on waters open to the commercial harvest of crayfish. Nothing in this Part shall prohibit a licensed commercial fisherman from using as bait legal species of crayfish taken and used by a commercial fisherman on those bodies of water open to the commercial harvest of crayfish.
- h) In accordance with Section 830.60(b), crayfish may be possessed and used as bait by licensed commercial fishermen while operating commercial gear on other bodies.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 830.60 Species

- a) The following species of fish may be taken by licensed commercial fishermen:
 - 1) Common Carp and Black Carp
 - 2) Buffalo
 - 3) Freshwater drum
 - 4) Catfishes (includes bullheads)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 5) Paddlefish (only in waters specified in Section 830.30; [roe harvester permit required](#))
 - 6) Carpsuckers
 - 7) Suckers (except Longnose Sucker)
 - 8) Redhorses (except River Redhorse and Greater Redhorse)
 - 9) Goldeye and Mooneye
 - 10) Gar (except alligator gar)
 - 11) Bowfin ([only in waters specified in Section 830.13; roe harvester permit required](#))
 - 12) American eel
 - 13) Shovelnose sturgeon ([only in waters specified in Section 830.13; roe harvester permit required](#))
 - 14) Gizzard shad
 - 15) White amur (grass carp)
 - 16) Minnows
 - 17) Goldfish
 - 18) Bighead Carp and Silver Carp
- b) With the exception of the crayfish species listed in 17 Ill. Adm. Code 1010 (Illinois List of Endangered and Threatened Fauna) and the rusty crayfish, all crayfish species are legal to possess and may be taken by licensed commercial fishermen with legal commercial devices (seines only) and used, consumed or sold for bait.
- c) The following species of mussels may be taken by licensed commercial musselers:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Washboard (*Megalonaias nervosa*) (Ohio River Only)
- 2) Threeridge (*Amblema plicata*)
- 3) Mapleleaf (*Quadrula quadrula*)
- 4) ~~Pimpleback (*Quadrula pustulosa*)~~
- 5) ~~Monkeyface (*Quadrula metanevra*)~~
- 6) ~~Wartyback (*Quadrula nodulata*)~~
- 7) ~~Pigtoe (*Fusconaia flava forma undata*)~~
- 8) ~~Hickory Nut (*Obovaria olivaria*)~~
- 9) ~~Pink Heelsplitter (*Potamilus alatus*)~~
- 10) ~~Pocketbook (*Lampsilis ovata*)~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 830.70 Size Limit

- a) No channel catfish, blue catfish, flathead catfish or white catfish under 15 inches in length, undressed, or 12 inches in length, dressed, or 10.7 inches when dressed with the first vertebrae (T bone) removed, may be taken except in the Ohio River.
- b) No shovelnose sturgeon under 24 inches or over 32 inches in length may be taken from the Mississippi River or the Ohio River. No shovelnose sturgeon under 25 inches in length may be taken from the Wabash River. All shovelnose sturgeon shall be measured using fork length, defined as: "the length from the most anterior part of the fish to the tip of the median caudal fin rays" (from tip of the snout to the fork of the tail).
- c)b) There is no size limit on other species listed in Section 830.60(a).
- d)e) All ~~washboard~~Washboard mussels shall measure not less than 4.0 inches. All relic (dead) Washboards shall measure not less than 4.0 inches.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- e) All mapleleaf mussels shall measure not less than 2.75 inches.
- f) All ~~threeridge~~ Threeeridge mussels shall measure not less than 3.0 inches.
- g) All other mussels listed in 830.60(b), shall measure not less than 2.5 inches.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 830.90 Revocation and Suspension of Commercial Fishing and Musseling Privileges, Hearings and Appeals and Reporting Requirements

- a) In accordance with Section 20-105 of the Fish and Aquatic Life Code [515 ILCS 5/20-105], failure to comply with the provisions of the Fish and Aquatic Life Code of Illinois pertaining to commercial fishing and/or musseling in Illinois waters and this Part will result in suspension or revocation of the commercial fishing and/or musseling licenses. The procedure by which suspensions and revocations are made, the rights of commercial fishermen and musselers to notice and hearing, and the procedures governing such hearings are set forth in 17 Ill. Adm. Code 2530 (Rules governing Department Formal Hearings Conducted for Rule-Making and Contested Cases).
- b) Where waters of the State are open to commercial fishing or musseling by contract, the contract will be revoked upon failure of the contractor to comply with all terms of the contract. Furthermore, any violation of a contract issued by the Director of the Department of Natural Resources or his agents shall be considered a violation of this Part and subject to the penalties as set forth in Sections 20-35 and 20-105 of the Fish and Aquatic Life Code [515 ILCS 5/20-35, 20-105].
- c) Commercial fishermen shall submit an accurate annual record of the undressed weights of the species of fish and/or crayfish harvested to the Department by January 31 of the following year, whether or not any fish and/or crayfish were harvested.
- d) Commercial roe harvesters shall submit an accurate monthly record of the undressed weight of roe-bearing species and the unprocessed weight of roe from these fishes to the Department by the 5th of the month following harvest. Submission of these reports is required whether or not roe-bearing species were harvested. ~~Commercial fishermen on the Ohio River shall submit to the Department an accurate monthly record of the undressed weights and species of~~

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

~~fish harvested by the 10th of each month following harvest, whether or not any fish were harvested.~~

- e) Commercial roe dealers shall submit an accurate monthly record of the unprocessed and processed weight of roe purchased from commercial roe harvesters to the Department by the 5th of the month following the harvest of these fishes. These reports are required whether or not roe was purchased.
- f)e) Holders of a commercial mussel harvest license shall submit an accurate record of the types and pounds of each species of mussel and/or relic mussel shells harvested or purchased on a monthly basis during the season by the 10th of each month following harvest, whether or not any mussels or mussel shells were harvested. Reports must be submitted on official Department of Natural Resources report forms.
- g)f) Holders of a commercial mussel ~~dealers~~dealer's license shall submit an accurate record of the types and pounds of each species of mussel and/or relic mussel shells purchased on a monthly basis during the season by the 10th of each month following purchase, whether or not any mussels or mussel shells were purchased. Reports must be submitted on official Department of Natural Resources report forms.
- g) ~~Failure of licensed commercial mussel dealers, fishermen or musselors to submit the required reports in a manner and time frame specified by the Department is a Class B misdemeanor and shall be grounds for refusal on the part of the Department to issue those individuals a license until all required reports are received by the Department.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment
- 2) Code Citation: 74 Ill. Adm. Code 900
- 3) Section Number: 900.90 Adopted Action: Amendment
- 4) Statutory Authority: Implementing the State Prompt Payment Act [30 ILCS 540]
- 5) Effective Date of Amendment: March 29, 2007
- 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 was Published in the Illinois Register: 30 Ill. Reg. 16114; October 13, 2006
- 10) Has JCAR issued a Statement of Objection to the amendment? No
- 11) Differences between proposal and final version: No changes were made.
- 12) Have all of 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 rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This rulemaking allows pharmacies participating in the All Kids program to be reimbursed for interest amounting to less than \$5 upon request to the Department of Healthcare and Family Services.
- 16) Information and questions regarding this adopted amendment shall be directed to:

CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield IL 62706

217/785-1793

- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 74: PUBLIC FINANCE

CHAPTER VIII: CENTRAL MANAGEMENT SERVICES

PART 900

JOINT RULES OF THE COMPTROLLER AND
THE DEPARTMENT OF CENTRAL MANAGEMENT SERVICES:
PROMPT PAYMENT

Section	
900.10	Scope
900.20	Definitions
900.30	General Duties of State Agencies
900.35	Duties of State Agencies: Interest Payments
900.40	Statement Indicating That Interest Penalty May Be Available
900.50	Other Interest Provisions
900.60	When a Payment is Late
900.70	Approval by the State
900.80	Submission and Receipt of Bills
900.90	When and How Vendors Must Request Interest
900.100	Calculation of Interest
900.110	No Interest on Interest
900.120	Exclusions
900.130	Special Rules and Procedures Regarding the Application of the Act to the State Employee's Group Insurance Program
900.140	Resolution of Disputes

AUTHORITY: Implementing the State Prompt Payment Act [30 ILCS 540].

SOURCE: Emergency rule adopted at 17 Ill. Reg. 11168, effective July 1, 1993, for a maximum of 150 days; emergency expired November 28, 1993; adopted at 18 Ill. Reg. 11498, effective July 11, 1994; amended at 24 Ill. Reg. 19049, effective December 18, 2000; amended at 25 Ill. Reg. 11351, effective August 28, 2001; emergency amendment at 26 Ill. Reg. 10939, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 14666, effective September 19, 2002; amended at 31 Ill. Reg. 5751, effective March 29, 2007.

Section 900.90 When and How Vendors Must Request Interest

- a) Interest amounting to \$50 or more need not be requested by a Vendor. Agencies are responsible for calculating and paying such interest and are to do so within a

CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

reasonable time.

- b) Interest amounting to \$5 but less than \$50 must be requested by the Vendor.
- 1) The Vendor must submit a written statement to the appropriate State agency specifically requesting the State agency to pay an interest penalty to the Vendor.
 - 2) The statement must include a description of the original transaction, the Vendor's taxpayer identification number, the date of the Vendor's invoice, the invoice amount and the date the bill was presented to the Agency.
 - 3) The statement should, if possible, include the Vendor's invoice number, the voucher number, the appropriation account code, the obligation number, the exact name of the Vendor or payee as the name appeared on the payment warrant, an estimate of the date upon which the interest penalty begins to accrue and any other information reasonably needed by the State agency to verify the interest penalty payment.
 - 4) A request for the late payment interest penalty should be submitted within 90 days after the Date of Payment.
 - 5) Agencies are responsible for paying such interest and are to do so within a reasonable time.
 - 6) Upon written request by the Vendor, an agency must disclose to the Vendor the date upon which an interest penalty begins to accrue.
- c) Interest amounting to less than \$5 will not be paid by the State, except in relation to a request that results from the application of the provisions of this Part to claims for prescription services submitted pursuant to Article V of the Public Aid Code [305 ILCS 5/Art. V], covering ALL KIDS Health Insurance Act [215 ILCS 170] and the Children's Health Insurance Program Act [215 ILCS 106] by a pharmacy to the Department of Healthcare and Family Services whether or not requested.
- d) Interest is to be calculated for each individual Vendor bill received. A determination of whether an interest penalty is owed is to be made for each individual bill and may not be based upon summing interest from two or more

CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

bills together. If a State agency divides a Vendor bill into parts for payment from multiple funding sources, interest is to be calculated for each individual part in order to determine if interest is owed for that part of that bill.

(Source: Amended at 31 Ill. Reg. 5751, effective March 29, 2007)

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1500.40	Amendment
1500.55	Amendment
- 4) Statutory Authority: 415 ILCS 135(20)
- 5) Effective Date of Amendments: March 27, 2007
- 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 at the Third Party Administrator of the Drycleaner Council's office located at 1000 Tower Lane, Suite 140, Bensenville, Illinois and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: December 8, 2006; 30 Ill. Reg. 18801
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: In Section 1500.40(g)(2) – after "... from the Agency" deleted "~~via~~" and replaced with "using"
- 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 rulemaking currently in effect? No
- 14) Are there any amendments pending to this Part? No
- 15) Summary and Purpose of Amendments: This rulemaking modifies the remedial claim prioritization methodology to allow for funding of site investigation activities at drycleaning facilities that can obtain a No Further Remediation letter with minimal

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

additional cost and classifies Green Earth drycleaning solvent as a "green" solvent for licensing and taxing purposes.

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

H. Patrick Eriksen
Administrator
Drycleaner Environmental Response Trust Fund Council of Illinois
PO Box 480
Bensenville IL 60106-480

630/741-0022

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

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

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

PART 1500
GENERAL PROGRAM

Section

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

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

SOURCE: Emergency rule adopted at 24 Ill. Reg. 307, effective January 1, 2000, for a maximum of 150 days; emergency expired May 29, 2000; adopted at 24 Ill. Reg. 10162, effective June 26, 2000; amended at 28 Ill. Reg. 9051, effective June 21, 2004; amended at 30 Ill. Reg. 7939, effective April 13, 2006; amended at 30 Ill. Reg. 19631, effective December 12, 2006; amended at 31 Ill. Reg. 5756, effective March 27, 2007.

Section 1500.40 Drycleaner Remedial Account

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

- a) *The following claimants are eligible for reimbursement from the remedial action account:*
 - 1) *The owner or operator of an inactive drycleaning facility who was also the*

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

owner or operator of that drycleaning facility when it was an active drycleaning facility.

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

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

2000, whichever is earlier. An uninsured drycleaning facility that has filed an application for insurance with the Fund by January 1, 2004, obtained insurance through that application, and maintained that insurance coverage continuously shall be considered to have conformed with the requirements of this subsection (b)(7). To conform with this requirement, the applicant must pay the equivalent of the total premiums due for the period beginning June 30, 2000 through the date of application plus a 20% penalty of the total premiums due for that period and the claimant must provide to the Council proof of implementation and maintenance of the following pollution prevention measures: (Section 40(c)(5) and (6) of the Act)

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

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

solvent is utilized, which shall be capable of containing a capacity of 100 percent of the drycleaning solvent capacity of the largest portable waste container, or at least 10 percent of the total volume of the portable waste containers stored within the containment device, whichever is greater, for any leak, spill, or release of drycleaning solvent from that item. The portable waste container and containment dike should be located within the drycleaning facility. If the portable waste container is not located within the drycleaning facility, then the portable waste container and the containment device must be located in a structure designed to prevent unauthorized access and prevent exposure to natural elements and provide safety to human health and the environment. (Section 40(c)(5)(C)(I) of the Act)

- F) *Petroleum underground storage tank systems that are upgraded in accordance with USEPA upgrade standards pursuant to 40 CFR 280 (1998) for the tanks and related piping systems and use a leak detection system approved by USEPA or the Agency are exempt from this secondary containment requirement. (Section 40(c)(5)(C)(I) of the Act)*
 - G) *All diked floor surfaces on which a drycleaning solvent may leak, spill or otherwise be released must be sealed or otherwise rendered impervious to drycleaning solvents. (Section 40(c)(5)(C)(II) of the Act)*
 - H) *Chlorine-based drycleaning solvents shall be delivered to the drycleaning facility by means of closed, direct-coupled delivery and vapor recovery systems. (Section 40(c)(5)(D) of the Act)*
 - I) *All petroleum based drycleaning solvents shall be delivered to the drycleaning facility by means of a direct-coupled delivery system with proper vent lines for receiving the product.*
- c) *Subject to Fund limitations, eligibility requirements, prioritization and reimbursement limitations, the Council may reimburse up to but not to exceed \$300,000 per active drycleaning facility and \$50,000 per inactive drycleaning facility. (Section 40(f)(1) of the Act)*

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- d) *An eligible claimant submitting a claim for an active drycleaning facility is responsible for the first \$5,000 of eligible focused site investigation costs and for the first \$15,000 of eligible remedial action costs incurred in connection with the release from the drycleaning facility and is only eligible for reimbursement for costs that exceed those amounts, subject to any other limitations of the Act. An eligible claimant submitting a claim for an active drycleaning facility is responsible for the first \$5,000 of eligible focused site investigation costs and for the first \$10,000 of eligible remedial action costs incurred in connection with the release from the drycleaning facility if the focused site investigation is completed and accepted by the Agency and a remedial action plan has been prepared and submitted to the Agency by January 1, 2008, and is only eligible for reimbursement for costs that exceed those amounts subject to any other limitations of the Act. (Section 40(e)(1) of the Act)*
- e) *An eligible claimant submitting a claim for an inactive drycleaning facility is responsible for the first \$10,000 of eligible focused site investigation costs and for the first \$15,000 of eligible remedial action costs incurred in connection with the release from that drycleaning facility, and is only eligible for reimbursement for costs that exceed those amounts, subject to any other limitations of the Act. An eligible claimant submitting a claim for an inactive drycleaning facility is responsible for the first \$10,000 of eligible focused site investigation costs and for the first \$10,000 of eligible remedial action costs incurred in connection with the release from that drycleaning facility if the focused site investigation is completed and accepted by the Agency and a remedial action plan has been prepared and submitted to the Agency by January 1, 2008, and is only eligible for reimbursement for costs that exceed those amounts subject to any other limitations of the Act. (Section 40(e)(2) of the Act)*
- f) For the purpose of claimant reimbursement, eligible expenses are limited subject to the following:
- 1) For remedial action activities that occurred on or after July 1, 1999, only those costs that are pre-approved by the Council are eligible for reimbursement unless an emergency exists. In the case of an emergency, the Council may reimburse reasonable expenses for remediation services required to mitigate the emergency conditions.

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- 2) For remedial action activities that occurred prior to July 1, 1999, the Council may reimburse costs that the Council determines were reasonable and necessary.
- 3) To be pre-approved for reimbursement, remedial action activities must be required under the site remediation program. Only services required to obtain a no further remediation letter for the drycleaning solvent of concern, based upon continued land use as a drycleaning facility, are reimbursable.
- 4) *A contract in which one of the parties to the contract is a claimant, for goods or services that may be payable or reimbursable from the Council, is void and unenforceable unless and until the Council has found that the contract terms are within the range of usual and customary rates for similar or equivalent goods or services within this State and has found that the goods or services are necessary for the claimant to comply with Council standards or with the site remediation program. (Section 40(f)(2) of the Act)*
- 5) *The Council may require a claimant to obtain and submit 3 bids and may require that the bids contain specific terms and conditions consistent with the requirements of the site remediation program and the site specific characteristics of the drycleaning facility for which budget approval is requested. Approval of a bid will be both price and scope specific. (Section 40(f)(4) of the Act)*
- 6) *If a claimant has pollution liability insurance coverage other than coverage provided by the insurance account under the Act, that coverage shall be primary. Reimbursement from the remedial account shall be limited to the deductible amounts under the primary coverage and the amount that exceeds the policy limits of the primary coverage, subject to the deductible amounts of the Act. If there is a dispute between the claimant and the primary insurance provider, reimbursement from the remedial action account may be made to the claimant after the claimant assigns all of his or her interests in the insurance coverage to the Council. (Section 40(f)(9) of the Act)*
- 7) Reimbursement of any amount from the Fund for remedial action shall be

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

subject to the Council acquiring by subrogation the rights of any claimant or other person to recover the costs of remedial action for which the Fund has compensated the claimant.

- 8) If, for any reason, the Council determines that an excess payment has been paid from the Fund, the Council may take steps to collect the excess amount.
- 9) *Cost recovery; enforcement.*
 - A) *The Council may seek recovery from a potentially responsible party liable for a release that is the subject of a remedial action and for which the Fund has expended moneys for remedial action. The amount of recovery sought by the Council shall be equal to all moneys expended by the Fund for and in connection with the remediation, including but not limited to reasonable attorneys' fees and costs of litigation expended by the Fund in connection with the release. (Section 50(a) of the Act)*
 - B) *Except as provided in subsections (f)(9)(C) and (D):*
 - i) *The Council shall not seek recovery for expenses in connection with remedial action for a release from a claimant eligible for reimbursement except for any unpaid portion of the deductible. (Section 50(b)(1) of the Act)*
 - ii) *A claimant's liability for a release for which coverage is admitted under the insurance account shall not exceed the amount of the deductible, subject to the limits of insurance coverage. (Section 50(b)(2) of the Act)*
 - C) *Notwithstanding subsection (f)(9)(B), the liability of a claimant to the Fund shall be the total costs of remedial action incurred by the Fund, as specified in subsection (f)(9)(A), if the claimant has not complied with the Environmental Protection Act [415 ILCS 5] and its rules or with the Act and its rules. (Section 50(c) of the Act)*
 - D) *Notwithstanding subsection (f)(9)(B), the liability of a claimant to*

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

the Fund shall be the total costs of remedial action incurred by the Fund, as specified in subsection (f)(9)(A), if the claimant received reimbursement from the Fund through misrepresentation or fraud, and the claimant shall be liable for the amount of the reimbursement. (Section 50(d) of the Act)

- E) *Upon reimbursement by the Fund for remedial action under the Act, the rights of the claimant to recover payment from a potentially responsible party are assumed by the Council to the extent the remedial action was paid by the Fund. A claimant is precluded from receiving double compensation for the same injury. A claimant may elect to permit the Council to pursue the claimant's cause of action for an injury not compensated by the Fund against a potentially responsible party, provided the Attorney General or his or her designee determines the representation would not be a conflict of interest. (Section 50(e) of the Act)*
- F) *This subsection (f)(9) does not preclude, limit, or in any way affect any of the provisions of or causes of action pursuant to Section 22.2 of the Environmental Protection Act [415 ILCS 5/22.2]. (Section 50(f) of the Act)*
- 10) Upon receipt of a signed, written request from the claimant and verification that the applicable deductibles have been paid by the claimant, the Council will directly pay to the primary service provider the amount of reimbursement due the claimant from the Fund for remedial action activities. The claimant must submit to the Fund a copy of cancelled checks supporting that the applicable deductibles have been paid, along with a signed, written statement from the primary service provider verifying the applicable deductibles have been paid. This request will remain in effect until:
- A) it is rescinded in writing by the claimant; or
- B) the Fund has reimbursed the maximum benefit allowed; or

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- C) the claim is closed and the Fund has reimbursed the total amount approved for remedial action activities performed at the facility.
- 11) Upon enrollment in the Agency's site remediation program and receipt of a signed, written request from the claimant, the Fund may pay the Agency directly, on eligible claims, the cost incurred by the Agency in its oversight of the drycleaning facility with respect to which the claimant obtained a No Further Remediation letter. This request will remain in effect until:
- A) the Fund has reimbursed the maximum benefit allowed; or
 - B) the claim is no longer eligible for benefits from the Fund; or
 - C) the facility has completed the project with the Agency and all related oversight costs have been paid in full to the Agency.
- g) Prioritization based upon Fund limitations.
- 1) The liability of the Fund is further limited by the monies made available to the Fund, and no remedy shall be provided that would require the Fund to exceed its then current funding limitations to satisfy an award or that would restrict the availability of monies for higher priority sites. *The Council may prioritize the expenditure of funds from the remedial action account whenever it determines that there are not sufficient funds to settle all current claims. In prioritizing, the Council may consider the following:*
- A) *The degree to which human health is affected by the exposure posed by the release (Section 25(c)(1) of the Act);*
 - B) *The reduction of risk to human health derived from remedial action compared to the cost of the remedial action (Section 25(c)(2) of the Act);*
 - C) *The present and planned uses of the impacted property (Section 25(c)(3) of the Act).*

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- 2) If the Council determines that there are not sufficient funds to settle all current claims and that prioritization is necessary, the Council will provide notice to all eligible claimants of the need for prioritization and the prioritization schedule. The Council may designate cash reserves to pay for focused site investigations performed through June 30, 2006 and to pay for unknown remediation costs associated with claims that have been prioritized. The Council shall designate funding up to \$800,000 per year for 3 consecutive years to complete the focused site investigation at eligible drycleaning facilities that should be able to obtain a No Further Remediation letter from the Agency using institutional controls with minimal funding. The initial claim prioritization will include all eligible claims as of the prioritization date set by the Council. Subsequent claim prioritizations will include all eligible claims as of the prioritization date set by the Council, excluding all claims that have previously been prioritized. All claims in the initial prioritization must be funded before conducting subsequent prioritizations. This funding methodology will apply to all subsequent prioritizations.
- 3) The prioritization schedule is as follows:
 - A) First priority will be the abatement of emergency conditions that present an immediate threat to human health and safety, such as explosive vapors in basements or utility conduits and migration of free products into the water supply line or to the off site property.
 - B) Second priority will be the drycleaning facilities located in a township without a groundwater ordinance and when the drycleaning solvent contamination of soil and groundwater of such facilities is likely to cause an immediate adverse effect on human health by contaminating potable water resources.
 - C) Third priority will be the drycleaning facilities with drycleaning solvent contaminants of soil and groundwater where migration of these contaminants to neighboring properties seems imminent or immediate, which can result in more costly and complicated remediations in the future.

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- D) Fourth priority will be drycleaning facilities at which soil and/or groundwater contamination is at concentration higher than soil saturation limits of drycleaning solvents, according to TACO regulations of the Agency. Active remediation is required to address free product drycleaning solvent contamination.
- E) Fifth priority will be the drycleaning facilities in which soil and/or groundwater contamination is higher than the TACO Tier II level but less than the TACO soil saturation limit. Active remediation may be required or a No Further Remediation letter may be achieved through installation of an engineering barrier and/or through the use of institutional controls.
- F) When the Council determines it necessary to prioritize the claims, each individual claim will be ranked using the following numerical ranking system:

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

Where:

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

- i) Emergency condition (S1)

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

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

Points: 5

ii) Potable water resources contamination (S2)

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

Distance	Points
Within 500 feet	5
Within ¼ mile	4
Within ½ mile	3
Within 1 mile	2
Within 1½ miles	1

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

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

Time	Points
Within 6 months	5
Within 1 year	4
Within 1½ years	3
Within 2 years	2
Within 2½ years	1

iv) Facilities with free product solvents (S4)

The soil at the facility is contaminated with drycleaning solvent higher than TACO soil saturation limits (i.e., PCE

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

> 240 ppm and TCE > 1300 ppm) and/or free product was discovered in on-site wells

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

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

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

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

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

Facilities with higher than the TACO Tier I level but less than Tier II level of solvent contamination (i.e., Tier I for PCE & TCE \geq ~~60300~~ ppb for Class I and ~~30060~~ ppb for Class II)

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

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- G) The highest ranked claims will receive priority funding, subject to an analysis of the claimant's ability to pay for remediation costs that are anticipated to exceed the Fund's maximum benefit cap.
- 4) Ability to Pay Remediation Costs
- A) The final step in the prioritization process is to analyze each claimant's ability to pay for remedial action costs that are anticipated to exceed the Fund's maximum benefit cap for the facility. This analysis will be done at the completion of the remedial action plan or, in the case of substantial soil and groundwater contamination, at the completion of the focused site investigation.
- B) If it is apparent that the cost of remedial action will exceed the benefits available to an eligible drycleaning facility, the Administrator will contact the claimant and ask that the claimant respond in writing as to whether it has the financial resources and is willing to expend those resources to remediate the facility.
- C) If the claimant states that it chooses to remediate the facility, the following mechanisms would be deemed acceptable in order to ensure that the claimant has the necessary resources to complete the remedial action once the Fund's maximum benefits have been expended:
- i) Escrow 100% of the estimated remedial action costs that will exceed the Fund's remedial benefit cap. Cash or cash equivalents, such as a certificate of deposit, marketable bonds, etc., would be acceptable for escrow; or
 - ii) A letter of credit from a federally insured financial institution for 100% of the estimated remedial action costs that will exceed the Fund's remedial benefit cap; or
 - iii) Personal or corporate guarantees for 100% of the estimated cleanup costs that will exceed the Fund's remedial benefit

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

cap. The guarantees would need to be collateralized by liquid assets.

- D) Any eligible claimant who determines that it has neither the financial resources nor the desire to spend its resources on remediation of the facility will be moved to a new and separate prioritization pool. Funding for these claims will only be made available once the cleanups have been completed on all of the other eligible claims that do not exercise these funding limitations.
- 5) Once a claim has been prioritized, it cannot be removed from the prioritized listing unless the claim becomes ineligible for benefits from the Fund or the claimant refuses to remediate the facility in a timely manner.
- 6) If the claimant does not obtain and submit to the Council cost proposals for beginning the remedial action process within 120 days after being notified that his/her remedial claim has been prioritized for funding, the claim will be removed from the prioritization list and the next highest ranked claim will be added to the list. Any claim removed from the prioritization list due to non-timely remedial action by the claimant will be included in the next prioritization pool.
- h) Remedial claim benefits for a specific drycleaning facility can be transferred to a successor drycleaning facility operator or owner upon execution of a remedial benefits transfer form prescribed by the Council and signed by the original claimant and the successor claimant and approved by the Council.

(Source: Amended at 31 Ill. Reg. 5756, effective March 27, 2007)

Section 1500.55 Drycleaning Solvent Tax

- a) *On or after January 1, 1998, a tax is imposed on the use of a drycleaning solvent by a person engaged in the business of operating a drycleaning facility in this State at the rate of:*
- 1) *\$10 per gallon of perchloroethylene or other chlorinated drycleaning solvent used in drycleaning operations;*

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- 2) \$2 per gallon of petroleum-based drycleaning solvent; and
 - 3) \$1.75 per gallon of green solvents, unless the green solvent is used at a virgin facility, in which case the rate is \$.35 per gallon. All drycleaning solvents shall be considered chlorinated solvents unless the Council determines that the solvents are petroleum-based solvents or green solvents. (Section 65(a) of the Act)
- b) In determining if a drycleaning solvent is a green solvent, the manufacturer and/or distributor of the solvent must present to the Council the solvent's material safety data sheet, the material safety data sheet of the detergents used in conjunction with the solvent, and such other information the Council deems necessary to determine if the solvent should be classified as a green solvent.
- c) In accordance with this Section, the Council has determined the following solvents should be classified as a green solvent:
- 1) Carbon Dioxide (CO₂)
 - 2) Propylene Glycol Ether DPnB
 - 3) [Green Earth](#)

(Source: Amended at 31 Ill. Reg. 5756, effective March 27, 2007)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Municipal Brownfields Redevelopment Grant Program
- 2) Code Citation: 35 Ill. Adm. Code 885
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
885.105	Amended
885.201	Amended
885.210	Amended
885.215	Amended
885.230	Amended
885.232	New
885.235	Amended
885.245	Amended
885.300	Amended
885.305	Amended
- 4) Statutory Authority: Implementing and authorized by Section 58.13 of the Environmental Protection Act [415 ILCS 5/58.13]
- 5) Effective Date of Amendments: March 30, 2007
- 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 rulemaking, including any material incorporated by reference, is on file in the Illinois EPA's principal office located at 1021 North Grand Avenue East, P.O. Box 19276 Springfield, Illinois 62794-9276 and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: 30 Ill. Reg. 15345; September 29, 2006
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:

In Section 885.105 the definition of "River Edge Redevelopment Zone" was revised to read "River Edge Development Zone means an area of the State created by the

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

Department of Commerce and Economic Opportunity as a River Edge Redevelopment Zone pursuant to the River Edge Redevelopment Zone Act [65 ILCS 115]".

In Sections 885.210(d)(1)(F) and 885.300(b)(2) the term "Remediation Applicant" was capitalized.

In Section 885.230(d) the comma was deleted after the text "No more than 90 days after receipt of a request for an amendment to the grant agreement".

In Section 885.230(e) the word "sections" was capitalized.

In Section 885.235(a)(2)(O) the period at the end of "including sample collection and analysis" was changed to a semicolon.

- 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 amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Recently enacted legislation (P.A. 94-1021, effective July 12, 2006) increased the maximum grant amount that municipalities with designated River Edge Redevelopment Zones may be awarded under the Municipal Brownfields Redevelopment Grant Program. The proposed amendments update the Municipal Brownfields Redevelopment Grant Program rules to reflect this increase. The proposed amendments also revise the process by which grantees obtain Illinois Environmental Protection Agency approval for changes to grant projects, and amend the list of costs that can be paid from grant funds.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Lorraine Robinson
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19726
Springfield, Illinois 62794-9276

217/524-5951

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

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

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 885

MUNICIPAL BROWNFIELDS REDEVELOPMENT GRANT PROGRAM

SUBPART A: GENERAL PROVISIONS

Section	
885.100	Purpose
885.105	Definitions
885.110	Severability

SUBPART B: [MUNICIPAL](#) BROWNFIELDS REDEVELOPMENT GRANTS

Section	
885.200	Scope and Availability of Grants
885.201	Limitations on Grant Amounts
885.205	Grant Assistance Criteria
885.210	Applications for Municipal Brownfields Redevelopment Grants
885.215	Agency Action on Application
885.220	Grant Award Acceptance
885.225	Grant Agreement
885.230	Amendments to Grant Agreement
885.232	Project Change Approvals
885.235	Cost Criteria
885.240	Grant Payment
885.245	Grantee Responsibilities
885.250	Evaluation of Performance
885.255	Requirements Applicable to Contracting and Subcontracting
885.260	Agency Cost Recovery

SUBPART C: NONCOMPLIANCE WITH GRANT CONDITIONS

Section	
885.300	Agency Action for Noncompliance with Grant Conditions
885.305	Project Termination by Grantee
885.310	Stop-Work Orders

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

885.315	Covenant Against Contingent Fees
885.320	Recovery of Grant Funds
885.325	Indemnification
885.330	Statutory Requirements

SUBPART D: ACCESS, AUDITING AND RECORDS

Section

885.400	Access
885.405	Audit and Records

AUTHORITY: Implementing and authorized by Section 58.13 of the Environmental Protection Act [415 ILCS 5/58.13].

SOURCE: Adopted at 23 Ill. Reg. 467, effective December 23, 1998; amended at 27 Ill. Reg. 14604, effective August 28, 2003; amended at 31 Ill. Reg. 5774, effective March 30, 2007.

SUBPART A: GENERAL PROVISIONS

Section 885.105 Definitions

Unless specified otherwise, all terms shall have the meanings set forth in the Illinois Environmental Protection Act. Additionally, for purposes of this Part, the following definitions apply:

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

"Agency" means the Illinois Environmental Protection Agency.

"Applicant" means a municipality that applies for a municipal brownfields redevelopment grant.

"Municipal brownfields redevelopment grant" means a grant issued pursuant to Section 58.13 of the Act and Subpart B of this Part.

"Brownfields site" or "brownfields" means *a parcel of real property, or a portion of the parcel, that has actual or perceived contamination and an active potential for redevelopment.* (Section 58.2 of the Act)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

"Grant agreement" means the written grant agreement documents and amendments thereto signed by both the Agency and a grantee in which the terms and conditions governing the grant are stated and agreed to by both parties.

"Grantee" means a municipality that has been awarded a grant for brownfields redevelopment under Section 58.13 of the Act.

"Municipality" means *an incorporated city, village, or town in this State. Municipality does not mean a township, town when that term is used as the equivalent of a township, incorporated town that has superseded a civil township, county, or school district, park district, sanitary district, or similar governmental district.* (Section 58.2 of the Act)

"River Edge Redevelopment Zone" means an area of the State created by the Department of Commerce and Economic Opportunity as a River Edge Redevelopment Zone pursuant to the River Edge Redevelopment Zone Act [65 ILCS 115].

"State" means the State of Illinois.

(Source: Amended at 31 Ill. Reg. 5774, effective March 30, 2007)

SUBPART B: MUNICIPAL BROWNFIELDS REDEVELOPMENT GRANTS

Section 885.201 Limitations on Grant Amounts

a) Except for grants to municipalities with designated River Edge Redevelopment Zones, grants shall be limited to a maximum of \$240,000 and no municipality shall receive more than ~~this~~ amount under this Part (Section 58.13(a)(4) of the Act). The following applies to municipalities other than municipalities with designated River Edge Redevelopment Zones:

1) ~~b)~~ Except as provided in subsection (a)(2)(~~e~~) of this Section, the total amount of grant funds awarded to a municipality under this Part ~~requested by a single grant applicant~~ shall not exceed \$120,000.

2) ~~e)~~ A grantee may request grant funds in excess of the limit set forth in subsection (a)(1) of this Section ~~submit a supplemental application or an~~

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

~~amendment seeking an increase in grant budget in excess of \$120,000 only after demonstrating the following:~~

- ~~A)1) The grantee is current on all reporting requirements set forth in Section 885.245 of this Part;~~
- ~~B)2) The grantee is current with the grant project work plan schedule; and~~
- ~~C)3) The Agency has approved payment of at least \$96,000 in grant funds for grant-eligible work, or the grantee has received Agency approval of a remedial action plan under 35 Ill. Adm. Code 740. The grantee has requested payment for grant-eligible work from the Agency for at least 80% of the total grant funds.~~

b) For grants to municipalities with designated River Edge Redevelopment Zones, grants shall be limited to a maximum of \$2,000,000 and no municipality shall receive more than this amount under this Part (Section 58.13(a)(4) of the Act). The following applies to municipalities with designated River Edge Redevelopment Zones:

- 1) Except as provided in subsection (b)(2) of this Section, the total amount awarded to a municipality under this Part shall not exceed \$1,000,000.
- 2) A grantee may request grant funds in excess of the limit set forth in subsection (b)(1) of this Section only after demonstrating the following:
 - A) The grantee is current on all reporting requirements set forth in Section 885.245 of this Part;
 - B) The grantee is current with the grant project work plan schedule; and
 - C) The Agency has approved payment of at least \$800,000 in grant funds for grant-eligible work, or the grantee has received Agency approval of a remedial action plan under 35 Ill. Adm. Code 740.
- 3) Grant funds in excess of \$240,000 must be used for grant projects located within the River Edge Redevelopment Zone.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 31 Ill. Reg. 5774, effective March 30, 2007)

Section 885.210 Applications for **Municipal Brownfields Redevelopment Grants**

- a) A municipality may apply for grant funds only if the following conditions are met:
- 1) The municipality commits in writing to enroll, or has enrolled, the brownfields site in the Site Remediation Program;
 - 2) A Phase I or II environmental audit has been or will be completed for the brownfields site and has been or will be submitted to the Site Remediation Program for review and approval;
 - 3) The municipality provides a cost estimate for the cleanup, prepared by a professional engineer, for the brownfields site for which grant funds are to be expended and commits to work toward acquiring a No Further Remediation letter; and
 - 4) If the costs to complete corrective action and to acquire a No Further Remediation letter exceed the maximum amount available to the municipality under this grant program, the municipality has reasonably demonstrated that there is sufficient capital available to cover such costs.
- b) To be considered for a **municipal** brownfields redevelopment grant, an applicant must file with the Agency a complete application, in accordance with the requirements of this Section and relevant statutes.
- c) Applicants for **municipal** brownfields redevelopment grants must use grant application forms furnished by the Agency, or a similar format. Grant applications, including budget forms, may be obtained from and must be submitted to:

Illinois Environmental Protection Agency
Bureau of Land
Office of Brownfields Assistance
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

- d) A complete **municipal** brownfields redevelopment grant application must include:
- 1) Background information on the applying municipality and proposed project, including:
 - A) The negative effects on the local community of the brownfields site and the positive effects on the local community of funding and implementation of the proposed project;
 - B) The local government involvement and planned additional involvement in the proposed project;
 - C) If the brownfields site is located in an enterprise zone, as defined at Section 3(b) of the Illinois Enterprise Zone Act [20 ILCS 655/3(b)], a map that identifies the designated enterprise zone and the specific brownfields site location;
 - D) The anticipated long-term benefits of the project and the means by which the municipality will sustain the benefits;
 - E) How the success of the project will be measured;
 - F) A commitment by the grantee that the site for which the grant is sought will be entered into the Site Remediation Program with the grantee as the Remediation Applicant, to the extent that activities funded by the grant are not statutorily excluded under the Site Remediation Program; ~~and~~
 - G) If the property is not municipally owned, ~~the grantee must provide~~ the following:
 - i) An explanation as to why grant funds are requested for privately held property and the anticipated benefit to the municipality of expending grant funds at privately held property;
 - ii) Identification of the owner of the property; and

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

- iii) Tenant information, including but not limited to tenant name, type of lease/rental and type of business; and.
 - H) If a designated River Edge Redevelopment Zone is located within the municipality, a copy of the River Edge Redevelopment Zone Certificate and all amendments to the certificate issued for the River Edge Redevelopment Zone pursuant to the River Edge Redevelopment Zone Act.
- 2) The project plan, including:
- A) A description of all components and phases of the proposed project;
 - B) A description of planned or proposed tasks to be performed by parties involved;
 - C) A schedule of the work plan by tasks, including specific activities and events;
 - D) A detailed explanation of all anticipated expenses covered by the grant and a discussion of costs not covered by the grant, but anticipated to achieve the stated long-term project goals and measures;
 - E) Letter(s) of agreement or other documentation showing the applicant is authorized, by law or consent, to act on behalf of or in lieu of the owner or operator of the site;
 - F) Letter(s) of agreement or other documentation from the contractor or subcontractors involved in or responsible for components or phases of the proposed project;
 - G) Map(s) indicating location(s) of the proposed project, areas affected by the proposed project and, if relevant to the project, enterprise zone;
 - H) A designation of the total acreage of the project site; ~~and~~

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

- D) Location of the project site by latitude and longitude;:
 - J) A description of the planned use for the project site following the completion of remediation activities and the issuance of a No Further Remediation Letter under 35 Ill. Adm. Code 740; and
 - K) If funding for performance of a remedial action is being requested, a copy of the remedial action plan approval letter issued by the Agency under 35 Ill. Adm. Code 740.
- 3) Information on project team members, including:
- A) The name of the project manager and a description of his or her previous management experience and other pertinent experience and capabilities;
 - B) The names of other project team members and a description of their job titles, work assignments and experience;
 - C) Documentation showing resource commitment by the grantee adequate for the project manager to successfully organize, administer, and complete the project specified in the proposal, such as:
 - i) Evidence of the relevant experience of all project team members; and
 - ii) Proposed allocation of resources, both capital and labor, to the project;
 - D) The name, telephone number, fax number, and e-mail address, if any, of the project team member designated to serve as liaison with the Agency.
- 4) Information on any environmental consultant to be employed by the applicant, including:
- A) The previous project management experience and other pertinent experience and capabilities of the environmental consultant;

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

- B) The names of key environmental consultant personnel and a description of their job titles, work assignments and experience;
 - C) A detailed description of the tasks the consultant is to perform in the proposed project;
 - D) Evidence of relevant experience of all environmental consultant personnel involved in the project;
 - E) Statement that work will be performed as outlined in the work plan approved as part of the application, including adherence to the supplied work schedule;
 - F) A copy of the consultant's current normal and customary billing rates; and
 - G) Evidence of relevant experience for all subcontractors to be used and a copy of each subcontractor's signed formal bid.
- 5) The grant amount requested and a budget, on a form prescribed by the Agency, or in a similar format, outlining the expenses to be incurred. All amounts must be rounded to the nearest dollar and all percentages must be carried to one decimal place. The budget must include costs of:
- A) Personnel services;
 - B) Equipment;
 - C) All other direct costs; and
 - D) Contractor and subcontractors.
- 6) Any additional information required by the Agency.

(Source: Amended at 31 Ill. Reg. 5774, effective March 30, 2007)

Section 885.215 Agency Action on Application

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

- a) Issuance of **municipal** brownfields redevelopment grants is subject to availability of funding.
- b) The Agency shall take action on all pending complete **municipal** brownfields redevelopment grant applications at the close of each of two grant application periods per year, the first ending January 1 and the second ending July 1, except as provided in subsection (c) of this Section.
- c) The Agency may award and fund any grant prior to the end of a grant application period provided that the grant applicant demonstrates that:
 - 1) The brownfields redevelopment project for which the grant is sought is specific to one or more sites;
 - 2) **Remediation** of the project site or sites is necessary to assure protection of human health and the environment; and
 - 3) **Failure** to fund the grant prior to the end of the grant application period would substantially impair implementation of the project.
- d) If an applicant submits an incomplete application, the Agency shall so notify the applicant in writing, identifying the information that is lacking.
- e) The Agency shall, no more than 90 days after the close of each grant application period, or in accordance with subsection (c) of this Section, in writing, notify each applicant with a pending application:
 - 1) If funding is available for **municipal** brownfields redevelopment grants, of that applicant's selection or rejection for a grant award; or
 - 2) If funding is not available, of the unavailability of grant assistance.
- f) Municipalities cannot obtain grant assistance by default due to failure by the Agency to act within the time **frames** set forth in ~~subsection (d) of this~~ Section.

(Source: Amended at 31 Ill. Reg. 5774, effective March 30, 2007)

Section 885.230 Amendments to Grant Agreement

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

- a) The grantee must obtain an amendment to the grant agreement for the following project changes:
- 1) An increase in the total amount of grant funds awarded under this Part;
 - 2) The addition or deletion of one or more project sites; or
 - 3) The extension of any contractual or grant completion date for the project. ~~To implement a project change, the grantee must obtain a formal amendment to the grant agreement. The grantee may request an amendment to the grant agreement by submitting an amended grant application to the Agency at any point during the grant term. Any such application shall include at a minimum any reports required pursuant to Section 885.245(a) and not already submitted.~~
- b) The grant agreement may be amended only by the mutual consent of the parties set forth in writing as a formal grant agreement amendment, signed and dated by the Agency and the grantee. The grantee may request an amendment at any point during the grant term. Requests for amendments must be submitted on forms prescribed by the Agency and must include all reports due under Section 885.245(a) of this Part that have not been submitted. Grant amendments at the request of the grantee will be considered by the Agency only if the grantee is current on all reporting requirements set forth in Section 885.245(a) of this Part.
- c) Project changes other than those identified in subsection (a) of this Section must be approved by the Agency pursuant to Section 885.232 of this Part. ~~The grantee may request amendments for project changes including, but not limited to:~~
- 1) ~~Increasing the amount of State funds needed to complete the project;~~
 - 2) ~~Altering the scope of the grant, as agreed to at the time of the grant award, e.g., by changing methodologies or personnel to be used; or~~
 - 3) ~~Extending any contractual or grant completion date for the project.~~
- d) No more than 90 days after receipt of a request for an amendment to the grant agreement~~an amended grant application~~, the Agency shall notify the grantee in

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

writing of its approval or rejection of the requested amendment ~~to the grant agreement.~~

- e) The Agency shall not approve any amendment to the grant agreement in violation of the limitations on grants set forth in ~~Sections~~ sections 885.200 and 885.201 of this Part.
- f) The Agency shall approve an amendment to the grant agreement, to the extent that the Agency may approve the amendment consistent with ~~Sections~~ sections 885.200 and 885.201 of this Part, if the grantee makes a showing that:
- 1) The original project cost approval was based on estimated costs or contractor bids, where the actual costs or contractor bids are over or under the estimated costs;
 - 2) Amendments to State statutes have affected or will affect the project costs;
 - 3) A project element was inadvertently omitted; or
 - 4) ~~An approved project element has been found unnecessary; or~~
 - 4)5) A project element was added pursuant to requirements of the Site Remediation Program.
- g) If the Agency approves a requested amendment to the grant agreement, the Agency shall sign the amendment and the amendment shall become a part of the grant agreement. The amendment becomes effective on the date it is signed by the Agency. ~~send a signed formal amendment signature page and a copy of the amended grant application to the grantee. After the grantee signs and returns the signature page, the Agency shall date the signature page and attach the amended grant application, the notification of Agency approval of the requested amendment and the signature page to the grant agreement documents.~~
- h) A grantee cannot obtain an amendment to the grant agreement by default due to the Agency's failure to act within the time frames set forth in this Section.

(Source: Amended at 31 Ill. Reg. 5774, effective March 30, 2007)

Section 885.232 Project Change Approvals

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

- a) Project changes other than those identified in Section 885.230(a) of this Part must be approved by the Agency in writing (e.g., personnel changes, reallocation of budgeted amounts). The grantee may request approval of a project change at any point during the grant term. Requests for project change approvals must be submitted on forms prescribed by the Agency and must include all reports due under Section 885.245(a) of this Part that have not been submitted. Requests will be considered by the Agency only if the grantee is current on all reporting requirements set forth in Section 885.245(a) of this Part. This Section cannot be used to approve project changes identified in Section 885.230(a) of this Part.
- b) No more than 90 days after receiving a request for approval of a project change, the Agency shall notify the grantee in writing of its approval or rejection of the request.
- c) The Agency shall not approve a project change in violation of the limitations on grants set forth in Sections 885.200 and 885.201 of this Part.
- d) The Agency shall approve a project change, to the extent that the Agency may approve the project change consistent with Sections 885.200 and 885.201 of this Part, if the grantee makes a showing that:
- 1) The original project cost approval was based on estimated costs or contractor bids, where the actual costs or contractor bids are over or under the estimated costs;
 - 2) Amendments to State statutes have affected or will affect the project costs;
 - 3) A project element was inadvertently omitted;
 - 4) An approved project element has been found unnecessary; or
 - 5) A project element was added pursuant to requirements of the Site Remediation Program.
- e) The Agency shall notify the grantee in writing of its approval or rejection of the requested project change. A project change approval becomes effective on the date the Agency issues its written notification of approval.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

- f) [A grantee cannot obtain approval of a project change by default due to the Agency's failure to act within the time frames set forth in this Section.](#)

(Source: Added at 31 Ill. Reg. 5774, effective March 30, 2007)

Section 885.235 Cost Criteria

- a) The Agency shall approve for reimbursement to the grantee, under the terms set forth in Section 885.240 of this Part, only costs contained in the quarterly reports and meeting the following criteria:
- 1) Costs within the scope of the redevelopment project for which the grant was awarded;
 - 2) Costs that are reasonable and necessary, including, but not limited to:
 - A) Site Remediation Program enrollment costs and Agency oversight costs of participating in the Site Remediation Program of Title XVII of the Act and No Further Remediation letter assessment fees;
 - B) Environmental consultant oversight services;
 - C) Remedial investigation and design;
 - D) Development and implementation of activities necessary to establish remediation objectives;
 - E) Laboratory services necessary to determine site characterization and to establish cleanup objectives;
 - F) Installation and operation of groundwater investigation and groundwater monitoring wells;
 - G) Development and implementation of a soil sampling plan;
 - H) Development of a groundwater corrective action system;
 - I) Development of a soil corrective action plan;

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

- J) Costs associated with seeking reimbursement from the municipal brownfields redevelopment grant program, including, but not limited to, completion of documentation for partial or final payment;
 - K) Purchase costs for non-expendable materials, supplies, equipment or tools purchased and used for the brownfields project; ~~and~~
 - L) Development and implementation of corrective action plans;
 - M) If asbestos that poses a threat to human health or the environment is detected outside a structure, costs associated with identifying the source of the asbestos and remediating the asbestos until it no longer poses a threat to human health or the environment;
 - N) For grants to municipalities with a designated River Edge Redevelopment Zone, costs associated with demolition within the River Edge Redevelopment Zone; and
 - O) For grants to municipalities with a designated River Edge Redevelopment Zone, costs associated with an asbestos study, survey, or abatement conducted within or associated with a structure or dwelling located within the River Edge Redevelopment Zone, including sample collection and analysis;
 - 3) Costs in amounts up to, but not exceeding, the total amount of the grant award;
 - 4) Costs incurred on or after the date the grant agreement is executed;
 - 5) Costs incurred without knowing violation of any State or federal law or regulation; and
 - 6) Costs incurred under a contract or subcontract in conformance with Section 885.255 of this Part.
- b) The Agency shall not approve for reimbursement any costs that are not necessary for completion of the work required under the grant agreement, including but not

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

limited to:

- 1) Costs or losses resulting from business interruption at the specific site;
- 2) Costs associated with improperly installed sampling or monitoring wells;
- 3) Costs associated with improperly collected, transported or analyzed laboratory samples;
- 4) Interest or finance costs charged as direct costs;
- 5) Insurance costs charged as direct costs;
- 6) Costs associated with an asbestos study, ~~or~~ survey, or abatement conducted within or associated with a structure or dwelling, including sample collection and analysis, except as provided in subsection (a)(2)(O) of this Section;
- 7) Costs associated with a lead paint study or survey conducted within or associated with a structure or dwelling, including sample collection and analysis;
- 8) Costs associated with demolition, except as provided in subsection (a)(2)(N) of this Section;
- 9) Costs outside the scope of the Agency-approved project;
- 10) Costs incurred prior to the execution of the grant agreement;
- 11) Costs of geotechnical sampling and study;
- 12) Costs associated with resampling, when it has been determined that such resampling is necessary due to failure by the consultant to follow standard procedures or advice or direction from the Site Remediation Program; and
- 13) Costs for expediting of lab analysis of samples, unless approved in advance by the Agency.

(Source: Amended at 31 Ill. Reg. 5774, effective March 30, 2007)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

Section 885.245 Grantee Responsibilities

- a) The grantee must submit quarterly progress reports to the Agency, [using forms provided by the Agency](#), during the term of the grant. Each progress report should be a short narrative of the activities performed and the dates they were performed during that quarter. [The quarterly progress report must also include, but not be limited to, the following:](#)
- 1) [Date the site was enrolled in the Site Remediation Program and a copy of the enrollment application;](#)
 - 2) [Any change in ownership or intended use of the Brownfields site;](#)
 - 3) [Any land use changes within the quarter; and](#)
 - 4) [Any deviations from the grant application work plan schedule.](#)
- b) The grantee must submit a detailed final report to the Agency at the end of the grant term. In the final report, the grantee must, [at a minimum](#), describe how the tasks described in the project plan submitted by the grantee have been fulfilled and [provide a completed Match Funding Certification, on a form provided by the Agency, certifying that the required, local match has been met, in accordance with Section 885.200\(c\) of this Part.](#)
- c) If the grantee fails to timely submit quarterly progress reports or a final report, the Agency may impose any of the sanctions set forth in Subpart C of this Part.
- d) [If a designated River Edge Redevelopment Zone is located within the municipality, within 10 days after the amendment or decertification of a River Edge Redevelopment Zone pursuant to the River Edge Redevelopment Zone Act the grantee must notify the Agency of the amendment or decertification and provide the Agency with a copy of the amendment or decertification documents.](#)

(Source: Amended at 31 Ill. Reg. 5774, effective March 30, 2007)

SUBPART C: NONCOMPLIANCE WITH GRANT CONDITIONS

Section 885.300 Agency Action for Noncompliance with Grant Conditions

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

- a) In addition to such other remedies as may be provided by law, in the event of noncompliance with any condition imposed pursuant to a municipal brownfields redevelopment grant or other violation of this Part, the Agency may:
- 1) Revoke the grant and recover all grant funds disbursed;
 - 2) [Take no action on reimbursement requests;](#)
 - 3) Terminate the grant;
 - 4) Suspend all project work; or
 - 5) Take such other action as the Agency is authorized to take.
- b) [Noncompliance includes, but is not limited to:](#)
- 1) [Failure to submit a quarterly report or a final report;](#)
 - 2) [Failure to deliver or act upon any grant commitment, such as a commitment to enter into the Site Remediation Program as the Remediation Applicant;](#)
 - 3) [Failure to provide local matching funds, as required under Section 885.200\(c\); ~~or~~](#)
 - 4) [Failure to limit use of the brownfields site to uses consistent with the end use designated in the grant application; or;](#)
 - 5) [Failure to remediate the brownfields site consistent with the end use designated in the grant application, such as failure to remediate a site with a residential end use to residential cleanup levels.](#)
- c) No action shall be taken under this Section without prior oral or written consultation with the grantee.
- d) In determining whether to take action and which action to take under this Section, the Agency shall consider factors including, but not limited to:

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

- 1) **The** severity of the violation(s);
 - 2) **The** number of violations by the grantee;
 - 3) **Whether** the violation is a continuing one;
 - 4) **Whether** the grantee can remedy the violation; and
 - 5) **Whether** the grantee and any contractor or subcontractor remain capable of complying with the approved work project.
- e) Recovery actions under this Section shall be taken pursuant to the Illinois Grant Funds Recovery Act [30 ILCS 705].

(Source: Amended at 31 Ill. Reg. 5774, effective March 30, 2007)

Section 885.305 Project Termination by Grantee

- a) The grantee may request the termination of an incomplete project for which a grant has been awarded only for good cause.
- b) The Agency shall review the grantee's request to terminate a project and make a finding, no more than 90 days after the date of receipt of the request to terminate, as to good cause. Good cause shall include, but not be limited to:
 - 1) A change in grant program requirements or priorities;
 - 2) Lack of adequate **public or private** funding **for the completion of the project**; or
 - 3) Advancements in technology.
- c) If the Agency finds that the grantee's request to terminate the project is for good cause, it shall terminate the grant, effective upon the date the request to terminate the project was received by the Agency. The grantee may keep all grant funds previously paid.
- d) If the Agency finds that the grantee's request to terminate the project is without good cause, the grant shall be revoked and the grantee shall return to the State all

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

grant funds previously paid. The grantee shall return such funds no more than 30 days after the date the grant is revoked by sending a certified check to the Brownfields Redevelopment Fund.

- e) [A grantee cannot obtain approval of a request to terminate a project for good cause by default due to the Agency's failure to act within the time frames set forth in this Section.](#)

(Source: Amended at 31 Ill. Reg. 5774, effective March 30, 2007)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED 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>Adopted Action:</u>
355.103	Amended
355.106	Amended
355.204	Amended
355.205	Amended
355.206	Amended
355.207	Amended
355.208	Amended
355.209	Amended
355.301	Amended
355.302	Amended
355.303	Amended
355.306	Amended
355.307	Amended
355.311	New Section
355.403	Amended
355.406	Amended
355.502	Amended
355.601	Amended
- 4) Statutory Authority: Implemented and authorized by the Illinois Housing Development Act [20 ILCS 3805/7.28]
- 5) Effective Date of Amendments: March 30, 2007
- 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 at the Illinois Housing Development Authority, located at 401 N. Michigan Ave., Ste. 700, Chicago, IL 606011, and is available for public inspection.
- 9) Notices of Proposed Published in the Illinois Register: September 1, 2006; 30 Ill. Reg. 14220

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:
- Section 355.204 was revised to correct minor typographical errors.
- Section 355.206 was revised to correct minor typographical errors.
- Section 355.209 was revised to correct minor typographical errors.
- Section 355.307 was revised to correct minor typographical errors.
- Section 355.403 was revised to reference "March 31" instead of "March".
- Section 355.406 was revised to reference "March 31" instead of "March".
- Section 355.502 was amended to state that the amount of the annual compliance monitoring fee shall be established on July 1 of the year in which the decision is made to assess a compliance monitoring fee. An agency may redetermine the amount of its compliance monitoring fee as of each July 1. The Agency shall determine the amount of the fee, or the amount of the redetermined fee, based on the cost to the Agency of compliance monitoring of Affordable Housing Projects for the previous State fiscal year.
- 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 rulemakings currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The amendments involve the administration of the Illinois affordable housing tax credit program.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Richard B. Muller
401 N. Michigan Ave., Ste. 700
Chicago, IL 60611

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

312/836-5327

- 17) Does this rulemaking require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED 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
355.106	Fees and Charges
355.107	Amendment
355.108	Severability
355.109	Gender and Number
355.110	Titles and Captions

SUBPART B: AFFORDABLE HOUSING TAX CREDIT ALLOCATIONS

Section	
355.201	Authority to Allocate Affordable Housing Tax Credits
355.202	Transfer of Agency Affordable Housing Tax Credit Ceiling
355.203	Application Process
355.204	Agency Review
355.205	Approval or Rejection by Agency
355.206	Sponsor Participation
355.207	Regulatory Agreement for Rental Projects
355.208	Affordable Housing Project Documentation and Certification
355.209	Affordable Housing Tax Credit Allocation
355.210	Recapture of Affordable Housing Tax Credits
355.211	Return and Reallocation of Affordable Housing Tax Credits

SUBPART C: DONATIONS

Section	
355.301	Acceptable Types of Donations

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

355.302	Aggregation of Donations
355.303	Minimum Donation Amount
355.304	Cash
355.305	Securities
355.306	Real Property
355.307	Personal Property
355.308	Limitation on Donations
355.309	Transfer of Affordable Housing Tax Credits
355.310	Material Participation of Sponsor
355.311	Donations from State and Local Governments

SUBPART D: PROJECTS

Section	
355.401	Single Family Project Requirements
355.402	Down Payment and Closing Cost Assistance (Repealed)
355.403	Employer-Assisted Housing Projects
355.404	Recapture Agreement
355.405	Multifamily Housing Projects
355.406	Set-Aside for Technical Assistance and General Operating Support
355.407	Limitations on Amount of Technical Assistance and General Operating Support
355.408	Technical Assistance – Home Ownership Counseling

SUBPART E: COMPLIANCE MONITORING

355.501	Compliance Monitoring
355.502	Monitoring Fees
355.503	Books and Records
355.504	Furnishing Information

SUBPART F: REPORTS

355.601	Agency Reports
---------	----------------

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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

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 Ill. Reg. 14310, effective August 21, 2003; amended at 31 Ill. Reg. 5797, effective March 30, 2007.

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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

Housing Tax Credits.

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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

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:

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.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

"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.

"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 that 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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

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 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 building; 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.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

"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 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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

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 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.106 Fees and Charges

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 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 31 Ill. Reg. 5797, effective March 30, 2007)

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;

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

- 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 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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

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.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

- 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.

(Source: Amended at 31 Ill. Reg. 5797, effective March 30, 2007)

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 31 Ill. Reg. 5797, effective March 30, 2007)

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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

~~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 31 Ill. Reg. 5797, effective March 30, 2007)

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 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.209 Affordable Housing Tax Credit Allocation

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

- [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 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 31 Ill. Reg. 5797, effective March 30, 2007)

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 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.302 Aggregation of Donations

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

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 31 Ill. Reg. 5797, effective March 30, 2007)

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 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 31 Ill. Reg. 5797, effective March 30, 2007)

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 ~~holdshold~~ 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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

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 31 Ill. Reg. 5797, effective March 30, 2007)

Section 355.307 Personal Property

A Donation 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 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 31 Ill. Reg. 5797, effective March 30, 2007)

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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

- 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 31 Ill. Reg. 5797, effective March 30, 2007)

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 31~~January 31~~ of that State fiscal year, the funds shall be available for Reservation and Allocation for Affordable Housing Projects, Technical Assistance or General Operating Support.

(Source: Amended at 31 Ill. Reg. 5797,, effective March 30, 2007)

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 31~~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 31 Ill. Reg. 5797,, effective March 30, 2007)

SUBPART E: COMPLIANCE MONITORING

Section 355.502 Monitoring Fees

An Agency may ~~assesse~~charge an annual fee for compliance monitoring of Affordable Housing Projects. If an Agency decides to charge such a fee, the amount of such fee shall be established on July 1 of the year in which such decision is made. An Agency may redetermine the amount

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

of its compliance monitoring fee as of each July 1. The Agency shall determine the amount of the fee, or the amount of the redetermined fee, based on the cost to the Agency of compliance monitoring of Affordable Housing Projects for the previous State fiscal year 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 31 Ill. Reg. 5797., effective March 30, 2007)

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:
 - 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~~

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

- 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 31 Ill. Reg. 5797, effective March 30, 2007)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Advisory Councils
- 2) Code Citation: 89 Ill. Adm. Code 515
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
515.200	Repealed
515.300	Repealed
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]; Sections 5-505 and 5-550 of the Civil Administrative Code of Illinois [20 ILCS 5/5-505 and 5-550]; the Bureau for the Blind Act [20 ILCS 2410]; and Section 6 of the Head and Spinal Cord Injury Act [410 ILCS 515/6]
- 5) Effective Date of Amendments: March 28, 2007
- 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 the Illinois Register: June 9, 2006; 30 Ill. Reg. 10241
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: None
- 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 made.
- 13) Will these amendments replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This rulemaking will repeal Section 515.200 because consumer advisory councils have not existed for many years. Section 515.300 is repealed in this Part and added to 89 Ill. Adm. 750 so that it is in the same Part as the other school rules. Blind Services and the Community Services for the Visually

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Handicapped (renamed to Community and Residential Services for the Blind and Visually Impaired) and the Illinois Visually Handicapped Institute (renamed ICRE-Wood) are now handled under the Blind Services Planning Council.

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

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

217/785-9772

- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONSPART 515
ADVISORY COUNCILS

SUBPART A: STATE REHABILITATION COUNCIL

Section	
515.100	State Rehabilitation Council
515.110	Powers and Duties
515.120	Composition
515.130	Meetings
515.140	Terms of Membership
515.150	General Provisions

SUBPART B: CONSUMER ADVISORY COUNCILS

Section	
515.200	Consumer Advisory Councils (Repealed)

SUBPART C: FACILITY ADVISORY [COUNCIL COUNCILS](#)

Section	
515.300	Facility Advisory Councils (Repealed)

SUBPART D: STATEWIDE INDEPENDENT LIVING COUNCIL

Section	
515.400	Statewide Independent Living Council
515.410	Composition
515.420	Meetings
515.430	Membership Terms
515.440	Powers and Duties
515.450	General Provisions

SUBPART E: BLIND SERVICES PLANNING COUNCIL

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section
515.500 Blind Services Planning Council

SUBPART F: ADVISORY COUNCIL ON SPINAL CORD AND HEAD INJURIES

Section
515.600 Advisory Council on Spinal Cord and Head Injuries
515.610 Powers and Duties
515.620 Composition
515.630 Meetings
515.640 Membership Terms
515.650 General Provisions

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]; and Sections 5-505 and 5-550 of the Civil Administrative Code of Illinois [20 ILCS 5/5-505 and 5-550]; and the Bureau for the Blind Act [20 ILCS 2410]; and Section 6 of the Head and Spinal Cord Injury Act [410 ILCS 515/6].

SOURCE: Adopted and codified at 7 Ill. Reg. 8127, effective June 24, 1985; amended at 8 Ill. Reg. 1975, effective February 1, 1984; amended at 12 Ill. Reg. 17942, effective October 24, 1988; amended at 15 Ill. Reg. 7211, effective April 26, 1991; emergency amendment at 17 Ill. Reg. 11589, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20278, effective November 15, 1993; amended at 18 Ill. Reg. 11623, effective July 7, 1994; amended at 20 Ill. Reg. 10162, effective July 16, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 3957, effective March 19, 1999; amended at 24 Ill. Reg. 6399, effective March 31, 2000; amended at 31 Ill. Reg. 5819, effective March 28, 2007.

SUBPART B: CONSUMER ADVISORY COUNCILS

Section 515.200 Consumer Advisory Councils (Repealed)

- a) ~~In order to give the people for whom DHS-ORS programs are designed full opportunity to participate in policy formulation and initial planning to assure that programs for disabled individuals are relevant to their priorities, there is hereby established a Regional Consumer Advisory Council (RCAC) for each DHS-ORS Region and one State Consumer Advisory Council (SCAC).~~

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- b) ~~Composition of Councils~~
- 1) ~~Each RCAC shall consist of the Regional Administrator as an ex officio member and of no less than nine consumer members. All vacancies shall be filled by election by the RCAC. Nominations at such meetings may be made by anyone, including the general public.~~
 - 2) ~~The SCAC shall consist of two members from each RCAC, elected by the RCAC and one consumer member elected from each Facility Advisory Council. In addition, the SCAC may elect Members at Large, as provided for in its constitution or bylaws, and may elect additional members as it may provide for from time to time in its bylaws.~~
 - 3) ~~For the purpose of this Section, "consumers" shall be defined as current, past or potential recipients of DHS ORS services, or as appropriate, their parents, guardians, or other representatives designated by the consumer elected, if he or she cannot articulate for himself or herself.~~
 - 4) ~~All Consumer Advisory Councils shall make every effort to assure representation of a broad range of disability groups. DHS ORS employees are not eligible for membership.~~
- e) ~~For RCACs all elections shall be for three year terms. For the SCAC, all regionally elected members shall serve for two years, and all other members shall serve one year terms.~~
- d) ~~Each Consumer Advisory Council shall provide in their bylaws for the removal of members.~~
- e) ~~Each RCAC and the SCAC shall meet quarterly. Public notice of the dates, times and locations of regularly scheduled meetings will be posted the beginning of the calendar year at DHS ORS administrative offices at 623 E. Adams, Springfield and 100 W. Randolph, Chicago. Copies of the public notice will also be provided to news media upon written or oral request. The Chairperson and/or a quorum of each Council may call a special meeting provided that written notice stating the purpose of the meeting is given at least fifteen (15) days prior to such meeting date. Public notice of the date, time, location and agenda of any special meeting will be posted at the DHS ORS administrative offices at 623 E. Adams, Springfield and 100 W. Randolph, Chicago at least 24 hours in advance of the~~

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~meeting and in accordance with Sections 2.02 and 2.03 of the Open Meetings Act [5 ILCS 120/2.02 and 2.03]. Travel expenses will be reimbursed in accordance with State travel regulations (80 Ill. Adm. Code 2800).~~

- ~~f) Each Consumer Advisory Council shall elect its own officers and develop its own constitution and bylaws in compliance with the requirements of this Rule. The Associate Director shall approve any changes or additional items which are in compliance with federal and state regulations and procedures and within any budgetary constraints. The Chairperson of each Regional Council shall submit copies of meeting notices, minutes, and written reports to the Secretary's designee and to other DHS-ORS staff as deemed appropriate by the Council. The Chairperson of the State Consumer Advisory Council shall submit copies of meeting notices, minutes, and written reports to the Associate Director, and other DHS-ORS staff as deemed appropriate by the Council. The Chairperson of the State Consumer Advisory Council shall meet with or provide reports to the Rehabilitation Services Advisory Council upon request of that Council. DHS shall maintain a copy of all documents identified in this Part for inspection by anyone in its Springfield Central Office and, further, shall provide copies upon request in accordance with the Freedom of Information Act [5 ILCS 140] and the DHS rule "Access to Public Records" (2 Ill. Adm. Code 1176).~~
- ~~g) DHS-ORS shall provide reasonable support services (meeting places, clerical assistance, supplies, postage, etc.) as required by the Consumer Advisory Councils; technical assistance whenever possible; and access to reports, records, and information unless otherwise prohibited by law. The Associate Director or designee shall also assure that prompt response and feedback is provided through oral and written reports at meetings, correspondence, and distribution of annual plans, manual releases and other official DHS-ORS documents. The Associate Director shall attend at least one SCAC meeting per year and a designee of the Associate Director shall serve as the Council's liaison with the Associate Director and other staff.~~
- ~~h) The areas of concern of Consumer Advisory Councils shall include, but not be limited to:~~
- ~~1) insuring consumer input and involvement in planning, evaluating, and developing program standards and policies;~~
 - ~~2) focusing on a broad range of issues which benefit all disability groups, not~~

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~one particular group of disabled people;~~

- ~~3) supplying current information to identify statewide problem areas with recommendations and/or strategies for solution;~~
- ~~4) assisting DHS-ORS in tapping and securing full utilization of resources in meeting the needs of disabled individuals;~~
- ~~5) gaining insight into the realities and limitations of rehabilitation programs and, through increased understanding and input, joining in cooperative efforts to make service more effective and efficient and to provide increased public awareness of their availability; and~~
- ~~6) accepting a leadership role in consumer advocacy, client assistance, and affirmative action.~~

- ~~i) Meetings shall be open to the public.~~

~~Meetings shall be open to the public; except that meetings or portions of meetings may, upon a majority vote of a quorum present be declared closed, in accordance with Sections 2 and 2a of the Open Meetings Act [5 ILCS 120/2 and 2a].~~

- ~~j) The proceedings of meetings may be recorded in accordance with Section 2.05 of the Open Meetings Act [5 ILCS 120/2.05], which allows any person to record a meeting required to be open unless a witness testifying before the Council refuses to testify on the basis his or her testimony will be broadcast, televised or motion pictures will be taken during testimony. If such occurs, recording shall be prohibited.~~

(Source: Repealed at 31 Ill. Reg. 5819, effective March 28, 2007)

SUBPART C: FACILITY ADVISORY COUNCIL

Section 515.300 Facility Advisory Councils (Repealed)

- ~~a) The Community Services for the Visually Handicapped and the Illinois Visually Handicapped Institute, the Illinois Children's School and Rehabilitation Center, the Illinois School for the Deaf, and the Illinois School for the Visually Impaired shall each have an Facility Advisory Council (FAC). Each FAC shall consist of~~

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~the Superintendent and the President of the Student Council, as ex-officio members, and of no less than nine members elected by the FAC. Additional members may be appointed to the FAC or its committees as may be provided for from time to time in the FAC's constitution or bylaws. Such additional members and ex-officio members shall have the right to sit on committees and speak on the floor, but shall not have the right to vote or hold office.~~

- b) ~~In electing members or appointing ex-officio members, the FAC shall maintain the following composition of members on the FAC:~~
- 1) ~~One third of its members shall be consumers who are past, current, or potential recipients of the facility's services, or as appropriate, the parent, guardian or other representative designated by the consumer elected if he or she cannot articulate for him or herself;~~
 - 2) ~~one third individuals from related agencies or organizations;~~
 - 3) ~~one third from individuals who are not employed by governmental agencies;~~
 - 4) ~~employees of DHS ORS are not eligible for membership.~~
- e) ~~All members will serve for three year terms and vacancies shall be filled, as they occur, by election by the FAC through procedures established in that FAC's constitution or bylaws. Nominations at such meetings may be made by anyone including the general public.~~
- d) ~~Each FAC shall provide in its constitution or bylaws for the removal of members.~~
- e) ~~Each FAC shall elect a consumer member to the SCAC and, thereby, have a mechanism for input into DHS ORS programs, policies, issues, and problems. See rule on Consumer Advisory Councils (89 Ill. Adm. Code 515.200).~~
- f) ~~Each FAC shall meet quarterly. Public notice of the dates, times and locations of regularly scheduled meetings will be posted on the beginning of the calendar year at the DHS ORS administrative offices at 623 E. Adams, Springfield and 100 W. Randolph, Chicago. Copies of the public notice will also be provided to news media upon written or oral request. The Chairperson or a quorum of each FAC may call a special meeting provided that written notice stating the purpose of the~~

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~meeting is given at least 15 days prior to such meeting date. Public notice of the date, time, location and agenda of any special meeting will be posted at the DHS-ORS administrative offices at 623 E. Adams, Springfield and 100 W. Randolph, Chicago at least 24 hours in advance of the meeting and in accordance with Sections 2.02 and 2.03 of the Open Meetings Act [5 ILCS 120/2.02 and 2.03]. Travel expenses will be reimbursed in accordance with state travel regulations (80 Ill. Adm. Code 2800).~~

g) Council Documents

- 1) ~~Each FAC shall elect its own officers and develop its own constitution and bylaws in compliance with the requirements of this Rule. The Associate Director shall approve any changes or additional items which are in compliance with federal and State regulations and procedures and within any budgetary constraints. The Chairperson of each FAC shall submit copies of meeting notices, minutes, and written reports to the Superintendent, the Deputy Director, the Associate Director's designee and to other DHS staff as deemed appropriate by the FAC. The Chairperson of each FAC shall meet with or provide reports to the RSCAC upon request of that Council. See Section 6.23 of Civil Administrative Code of Illinois [20 ILCS 5/6.23].~~
- 2) ~~The facility Superintendent of each facility shall maintain a copy of all documents in this Part as related to that facility's FAC for inspection by anyone and, further, shall provide copies upon request in accordance with the Freedom of Information Act [5 ILCS 140] and the DHS rule "Access to Public Records" (2 Ill. Adm. Code 1176).~~

- h) ~~DHS-ORS shall provide support services (meeting place, clerical assistance, supplies, postage, etc.) as required by the FACs, technical assistance whenever possible, and access to reports, records, and information unless otherwise prohibited by law. The Associate Director or designee shall also assure that prompt response and feedback is provided through oral and written reports at meetings, correspondence, and distribution of plans, reports and other official DHS-ORS documents pertaining to each FAC facility. The Deputy Director shall attend at least one FAC meeting per year of each facility for which he/she is responsible and shall also serve as the FAC liaison with the Associate Director and other DHS-ORS staff. Each Superintendent shall attend a minimum of 51% of his/her FAC meetings each year; the Superintendent or designee shall attend~~

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~the remaining 49% of the meetings of each FAC each year. Each FAC shall have the power to go into Executive Session and conduct discussion without the presence of the Superintendent or designee when necessary.~~

- i) ~~The areas of concern of each Council shall include, but not be limited to:~~
- ~~1) eligibility requirements and admission procedures for students or clients;~~
 - ~~2) educational and training programs;~~
 - ~~3) residential care;~~
 - ~~4) relationships with parents, families, and other interested individuals;~~
 - ~~5) relationships with related agencies;~~
 - ~~6) follow up studies of former students or clients;~~
 - ~~7) fiscal and budgetary issues;~~
 - ~~8) physical plant adequacy;~~
 - ~~9) input into DHS programs, policies, issues, and problems through its representative on the SCAC.~~
- j) ~~Meetings shall be open to the public.~~
~~Meetings shall be open to the public; except that meetings or portions of meetings may, upon a majority vote of a quorum present be declared closed, in accordance with Sections 2 and 2a of the Open Meetings Act [5 ILCS 120/2 and 2a].~~
- k) ~~The proceedings of meetings may be recorded in accordance with the Open Meetings Act, which allows any person to record a meeting required to be open unless a witness testifying before the Council refuses to testify on the basis his or her testimony will be broadcast, televised or motion pictures will be taken during testimony. If such occurs, recording shall be prohibited.~~

(Source: Repealed at 31 Ill. Reg. 5819, effective March 28, 2007)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Role of Residential Educational Facilities Operated by the Illinois Department of Human Services
- 2) Code Citation: 89 Ill. Adm. Code 750
- 3) Section Number: 750.400 Adopted Action:
New Section
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 11 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10 and 11]
- 5) Effective date of Amendment: March 28, 2007
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of proposal Published in the Illinois Register: 30 Ill. Reg. 10251; June 9, 2006
- 10) Has JCAR issued a Statement of Objection to this adopted rulemaking? No
- 11) Difference between proposal and final version: The authority note was changed from [20 ILCS 2405/3(b), (f) and (k)] to [20 ILCS 2405 10 and 11].
- 12) Have all 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 amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: This adopted rulemaking will add a new section on Advisory Councils for DRS Residential Schools. The name of the Advisory Council is being changed from Facility Advisory Council to Residential Advisory Council to address the needs of Residential Schools. Companion amendments were also proposed to 89 Ill. Adm. Code 515 that repeal a section on Advisory Councils.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

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

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield Illinois 62762

217/785-9772

- 17) Does this adopted amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 750
ROLE OF RESIDENTIAL EDUCATIONAL FACILITIES OPERATED BY THE
ILLINOIS DEPARTMENT OF HUMAN SERVICES

SUBPART A: EDUCATIONAL PROGRAM

Section

- 750.10 Legislative Mandate
- 750.20 Special Education and Related Services
- 750.30 Demonstration Projects and Research Programs
- 750.40 Responsibility of State School
- 750.50 Comprehensive Program
- 750.60 Rights and Privileges of Students

SUBPART B: LIMITATIONS OF SERVICES

Section

- 750.100 Legal Authority to Place Students
- 750.110 Referral of a Student by DHS
- 750.120 Home and Hospital Programs

SUBPART C: EVALUATION AND COORDINATION OF SPECIAL EDUCATION

Section

- 750.200 Extent of Fulfilling Responsibilities
- 750.210 Evaluation Focus
- 750.220 Evaluation
- 750.230 Written Reports
- 750.240 Recognition Status
- 750.250 Coordination

SUBPART D: SURROGATE PARENTS

Section

- 750.300 Need for Surrogate Parents

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

750.310	Withdrawal of Surrogate Parent
750.320	Expenses of Surrogate Parents
750.330	Notification When Surrogate Parent Not Needed

SUBPART E: ADVISORY COUNCILSSection750.400 DHS-DRS Residential School Advisory Councils

AUTHORITY: Implementing and authorized by Sections 10 and 11 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10 and 11].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 12, 1982; codified at 6 Ill. Reg. 13792; amended at 12 Ill. Reg. 5450, effective March 8, 1988; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 10240, effective August 10, 1999; amended at 31 Ill. Reg. 5829, effective March 28, 2007.

SUBPART E: ADVISORY COUNCILSSection 750.400 DHS-DRS Residential School Advisory Councils

Advisory councils (councils) to the DHS-DRS residential schools exist to offer recommendations and advice to the schools and to express concerns relative to the educational services provided to children who are deaf, hard of hearing, blind, visually impaired, physically disabled and/or health impaired.

- a) Each council's membership shall consist of a maximum of 16 individuals.
 - 1) Ex-officio members are included among the 16 members and they are not eligible to vote or to hold office. The ex-officio members appointed to each council shall consist of:
 - A) the Superintendent of the DHS-DRS residential school;
 - B) the DHS-DRS Assistant Director or his or her designee;
 - C) the DHS-DRS Education Liaison; and

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- D) a Student Body/Council Representative.
- 2) As established in each council's bylaws or constitution, the remaining members are elected by the council as follows:
- A) one-third of the members shall represent parents or guardians of current students;
- B) one-third of the members shall represent persons with a disability (including school alumni); and
- C) one-third of the members shall represent professionals in a field related to the disability accommodated by the school (including former employees).
- b) The length of a member's term and the number of terms he or she can serve shall be established in each council's bylaws or constitution. Vacancies shall be filled, as they occur, by election of the council. Elections shall be conducted in accordance with procedures established in each council's bylaws or constitution.
- c) Officers shall be elected according to procedures established in each council's bylaws or constitution.
- d) Procedures for removing members who do not attend regularly scheduled meetings or who are deemed not appropriate members of the council shall be established in each council's bylaws or constitution.
- e) Each council shall meet quarterly. Meeting dates shall be scheduled during the first meeting of the new school year.
- 1) A notice with the quarterly meeting dates, times and locations must be published as required under Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02] and shall be posted on each school's website, as well as on the DHS-DRS website. This information shall also be available at the DHS-DRS Administrative Offices in Springfield and Chicago.
- 2) Special meetings of each council may be called by the chairperson, or by a quorum of voting members. As required by the Open Meetings Act, a notice must be published at least 48 hours prior to the meeting date and shall

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

include the purpose, agenda, time, date, and location of the meeting. This information shall be posted in the same manner as specified in subsection (e)(1).

- 3) Meetings are open to the public, except for portions of the meeting that are considered closed for executive session through a majority vote of the quorum present, in accordance with Sections 2 and 2a of the Open Meetings Act.
- 4) The proceedings of the meetings may be recorded by any person in accordance with Section 2.05 of the Open Meetings Act, which allows any person to record a meeting required to be open unless a witness testifying before the council refuses to testify on the basis that his or her testimony will be broadcast or televised or that motion pictures will be taken during testimony. If a witness objects to recording, the meeting shall not be recorded.
- 5) The chairperson or his or her designee shall submit written copies of meeting information to the school Superintendent and other DHS-DRS employees as determined by each council. This information shall include, but not be limited to, the meeting dates, times, locations, agendas, minutes or reports.
- 6) Travel expenses incurred by voting members for regular and special meetings shall be reimbursed according to State travel regulations (80 Ill. Adm. Code 2800 and 3000).
- f) Each council shall develop its own bylaws or constitution. The DHS-DRS Assistant Director shall approve all changes or additions to ensure compliance with federal and State laws and regulations, and shall approve all council procedures to ensure budgetary constraints are recognized and improprieties do not exist.
- g) The Superintendent shall maintain a copy of all documents required by this Part related to his or her school's council for inspection by anyone and shall provide copies, upon request, in accordance with the Freedom of Information Act [5 ILCS 140] and 2 Ill. Adm. Code 1176 (Access to Public Records).
- h) The Superintendent shall provide support services (meeting place, clerical

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

assistance, supplies, postage, etc.) and technical assistance whenever possible. The DHS-DRS Assistant Director or his or her designee shall assure that a prompt response, as well as feedback, is provided to each council member through oral and written reports at meetings, correspondence, and the distribution of DHS-DRS plans, reports and other official documents pertaining to the schools.

- i) The Superintendent shall attend annually a minimum of 3 of his or her school's council meetings, with the remaining meeting attended by either the Superintendent or his or her designee. Each council shall have the authority to enter into executive session and conduct discussion without the presence of the Superintendent or his or her designee when necessary.
- j) Areas to be addressed by the councils shall include, but not be limited to:
 - 1) education and residential care programs;
 - 2) training programs;
 - 3) relationships with parents, families and other interested parties;
 - 4) relationships with related agencies (State, federal, local and private);
 - 5) follow up studies of former students;
 - 6) fiscal and budgetary issues;
 - 7) physical plant adequacy (buildings, grounds, heating/cooling, etc.); and
 - 8) DHS-DRS programs, policies and issues relative to the school's interests.

(Source: Added at 31 Ill. Reg. 5829, effective March 28, 2007)

OFFICE OF THE COMPTROLLER

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment
- 2) Code Citation: 74 Ill. Adm. Code 330
- 3) Section Number: 330.90 Adopted Action: Amendment
- 4) Statutory Authority: Implementing the State Prompt Payment Act [30 ILCS 540]
- 5) Effective Date of Amendment: March 29, 2007
- 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 was Published in the Illinois Register: 30 Ill. Reg. 16239; October 13, 2006
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version? No changes were made.
- 12) Have all of 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 rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This rulemaking allows pharmacies participating in the All Kids program to be reimbursed for interest amounting to less than \$5 upon request to the Department of Healthcare and Family Services.
- 16) Information and questions regarding this adopted amendment shall be directed to:

OFFICE OF THE COMPTROLLER

NOTICE OF ADOPTED AMENDMENT

Whitney Wagner Rosen
Chief Counsel
Office of the Comptroller
201 State Capitol
Springfield, Illinois 62706

217/782-6000

- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

OFFICE OF THE COMPTROLLER

NOTICE OF ADOPTED AMENDMENT

TITLE 74: PUBLIC FINANCE
CHAPTER II: COMPTROLLERPART 330
JOINT RULES OF THE COMPTROLLER AND
THE DEPARTMENT OF CENTRAL MANAGEMENT SERVICES:
PROMPT PAYMENT

SOURCE: Emergency rule adopted at 17 Ill. Reg. 11170, effective July 1, 1993, for a maximum of 150 days; emergency expired November 28, 1993; adopted at 18 Ill. Reg. 11521, effective July 11, 1994; amended at 24 Ill. Reg. 19123, effective December 18, 2000; amended at 25 Ill. Reg. 11358, effective August 28, 2001; emergency amendment at 26 Ill. Reg. 10981, effective July 1, 2002; amended at 26 Ill. Reg. 14678, effective September 19, 2002; amended at 31 Ill. Reg. 5836, effective March 29, 2007.

(Editor's Note: This Part is a joint rule of the Comptroller and the Department of Central Management Services. The text of the Part appears at 74 Ill. Adm. Code 900.)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Hospital Report Card Code
- 2) Code Citation: 77 Ill. Adm. Code 255
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
255.100	New
255.110	New
255.120	New
255.150	New
255.200	New
255.250	New
255.260	New
255.270	New
255.280	New
- 4) Statutory Authority: Hospital Report Card Act [210 ILCS 86]
- 5) Effective Date of Rulemaking: March 28, 2007
- 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 Proposed Rules Published in Illinois Register: 30 Ill. Reg. 6089; April 7, 2006
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: The following changes were made in response to comments received during the First Notice or public comment period:
 1. In Section 255.100, in the definition of "Clinical service area", the following was added: "'Perioperative' clinical Service areas are defined in the definition of 'perioperative' in this Part."
 2. In Section 255.100, the definition of "CMS" was changed to "CMMS". The change from "CMS" to "CMMS" was made throughout the remainder of the rules.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

3. In Section 255.100, in the definition of "Full-time equivalent", "40" was changed to "37.5", "80" was changed to "75", and "2080" was changed to "1950".
4. In Section 255.100, the following definitions were added:

"'Inpatient' means a person admitted for at least one overnight stay to health facilities, usually hospitals, that provide board and room, for the purpose of observation, care, diagnosis or treatment."

"'Intensive Care Unit' or 'ICU' means a hospital facility for provision of intensive nursing and medical care of critically ill patients, characterized by high quality and quantity of continuous nursing and medical supervision and by use of sophisticated monitoring and resuscitative equipment. An ICU may be organized for the care of specific patient groups, e.g., neonatal or newborn ICU, neurological ICU, or pulmonary ICU."

"'Observation care' means those services furnished by a hospital on the hospital's premises, including use of a bed and at least periodic monitoring by a hospital's nursing or other staff, that are reasonable and necessary to evaluate an outpatient's condition or determine the need for a possible admission to the hospital as an inpatient. In general, the duration of observation care services does not exceed 24 to 48 hours, depending on the hospital, physician and health plan."
5. In Section 255.100, in the definition of "Medical-surgical", "receive" was deleted and "have available" was added in the third line.
6. In Section 255.100, in the definition of "Pediatrics," "medical-surgical" was deleted after "non-intensive" in line 2.
7. In Section 255.100, the definition of "Skill mix" was deleted.
8. In Section 255.110, "c) Freedom of Information Act [5 ILCS 140]" was added.
9. In Section 255.150(b), line 6, "print outs of" was added before "electronic screens."
10. In Section 255.150(b), lines 7 and 8, "licensed nurse" was added after "employee" and "other" was added after "or".

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

11. In Section 255.150(c), "should" was changed to "shall" in the third line.
12. In Section 255.150(h), the following was added before "Information": "Copies of schedules, rosters, or other nurse staffing records made available to the public must not contain information identifying a patient, employee, licensed nurse, or other licensed professional."
13. In Section 255.250(a)(3), line 2, "set forth in SCIP" was deleted.
14. In Section 255.250(a)(3)(A), "set forth in SCIP" was added after "process measures".
15. In Sections 255.250(a)(3)(A) and (B), "October 1, 2006" was changed to "Commencing on June 1, 2007".
16. In Section 255.250(a)(3)(B) and (D), "as set forth in SCIP" was added after "hospitalization".
17. In Section 255.250(a)(3)(C) and (D), "October 1, 2007" was changed to "Commencing on July 1, 2008".
18. In Section 255.260 "from June 1, 2007" was added after "shall be phased in" and "from October 1, 2006" was deleted.
19. In Section 255.270(a), the following was added after "(Section 25(d) of the Act)": "The annual report required by statute to be submitted by December 31 will consist of the first three final, edited quarterly reports for the calendar year, and will be considered provisional."
20. In the last sentence of Section 255.270(a), "containing all final, edited quarterly reports" was added after "Final, edited annual reports".
21. In Section 255.270(a), the following was added after the last sentence: "The Department shall make final, edited quarterly reports and final, edited annual reports available on its public website and in accordance with provisions for inspection and copying of public records required by the Freedom of Information Act provided that such information satisfied the provisions of subsection 25(c) of the Hospital Report Card Act. (Section 20 of the Act) Each hospital shall provide

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

copies of final, edited quarterly reports and final, edited annual reports specific to its facility within seven days of receipt of a written request."

The following changes were made in response to comments and suggestions of JCAR:

1. In Section 255.100, in the definition of "Surgical Care Improvement Project," "(see www.medqic.org/scip)" was added before the period.
2. In Section 255.110, a new subsection was added as follows, and the existing subsections were relabeled: "b) Hospital Quality Alliance Surgical Care Improvement Project (SCIP) www.medquic.org/scip".
3. In Section 255.150(h), the sentence "Information required to be made available...." was moved so that it now follows the sentence that begins: "Copies of schedules....".
4. In Section 255.270(a), "(www.idph.state.il.us)" was added after "public website".
5. In the last line of Section 255.270(a), "of the receipt" was changed to "after the receipt".
6. In Section 255.280, line 7, "provision" was changed to "provisions".

In addition, various typographical, grammatical, and form changes were made in response to the comments from JCAR.

The following changes were made in response to a Recommendation from JCAR:

1. In Section 255.100, in the definition of "Pediatrics", after "areas", "in acute care hospitals" was added.
2. A definition of "acute care" was added in Section 255.100 as follows: "'Acute care' means the treatment of a condition or disease for a short period of time in which a patient is treated for a brief but severe episode of illness with the goal of discharging the patient."
3. In the definition of "Pediatrics", the following was added after the period: "Pediatric hospitals, however, may incorporate any or all of these clinical service areas in fulfilling their role of specialty treatment facilities for the medical care of

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

infants, children and adolescents. Pediatric hospitals shall consider all care provided as pediatric without regard for where in the facility the service was rendered. For patients in specialty pediatric hospitals, age requirements are extended to include those patients who, due to condition, care and treatment requirements, continue to be considered pediatric. In the event of an adult or specialty hospital operating a pediatric hospital within the larger hospital, the embedded pediatric hospital shall report using its National Provider Identifier and taxonomy codes to allow differentiation of nursing hours and more meaningful comparisons." Also in the definition of "Pediatrics", "14" was changed to "17" in line 2.

4. In the definition of "Productive hours", after "absences", the following was added: "with the following inclusions and exclusions: agency, per diem and registry RNs with direct patient care responsibility shall be included in the number of productive hours for the mandated reports. The number of productive hours for reports under this Section shall not include nurse managers, charge nurses who are not assigned direct patient care responsibilities, or any other licensed nursing personnel who do not have a direct care patient assignment. The mandated report shall not include licensed nurses who are participating in orientation in the number of productive hours."
5. In the definition of "Surgical Care Improvement Project", "(HQA)" was added after "Alliance".
6. In Section 255.150(c), "and provide instruction for obtaining nurse staffing information" was added after "information" in the second line.
7. In Section 255.150(c), "on obtaining nurse staffing information" was added after "information" in the last line.
8. In Section 255.150(h)(1)(B), "during normal business hours during the week and within 4 hours on weekends and evening hours" was added after "request".
9. In Section 255.250(a)(1)(E), "Nursing hours per patient day" was italicized.
10. In Section 255.250(a)(1)(E), "(Section 25(a)(1) of the Act)" was added after the period.
11. In Section 255.250(a)(1)(G), "Average daily hours worked" was italicized.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

12. In Section 255.250(a)(1)(G), "(Section 25(a)(1) of the Act)" was added before the comma.
13. In Section 255.250(a)(1)(H), "Average daily census" was changed to "Average daily census per clinical service area".
14. In Section 255.250(a)(1)(H), "(Section 25(a)(1) of the Act)" was added after the period.
15. Section 255.250(a)(2), including subsections (A)-(D), was deleted.
16. In Section 255.250(a), subsection "3" to was changed to "2".
17. In Section 255.250(a)(2), after "schedule", "for patients ages 18 and over in hospitals providing services where these treatments are clinically appropriate" was added.
18. In Section 255.250(a)(2)(A), "June" was changed to "July"; after "2007", "for Medicare PPS (prospective payment system) inpatient hospitals and October 1, 2007 for inpatient hospitals that are not Medicare PPS" was added.
19. In Section 255.250(a)(2)(A), "according to the following implementation dates and schedules or as modified by SCIP for CMMS/HQA" was added after "SCIP".
20. In Section 255.250(a)(2)(A)(i), "received within one hour" was added after "antibiotic".
21. In Section 255.250(a)(2)(A)(iii), "end time" was added after "surgery".
22. The following was added after Section 255.250(a)(2)(A) (iii): "B) Commencing on October 1, 2007, surgical process measures as set forth in SCIP according to the following implementation dates and schedules or as modified by SCIP for CMMS/HQA:".
23. In Section 255.250(a)(2)(B), "iv)" was changed to "i)" and "For cardiac" was changed to "Cardiac".

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

24. In Section 255.250(a)(2)(B), "v" was changed to "ii", "For cardiac" was changed to "Cardiac", the comma was changed to "with" and "6 a.m." was added after "controlled".
 25. In Section 255.250(a)(2), "B" was changed to "C".
 26. In Section 255.250(a)(2), "C" was changed to "D".
 27. In Section 255.250(a)(2), "D" was changed to "E".
 28. In Section 255.250(a)(2)(C),(D), and (E), "June 1" was changed to "July 1".
 29. In Section 255.250(a)(2) (C), "as set forth in SCIP" was deleted.
 30. In Section 255.260(a), "June" was changed to "July".
 31. In Section 255.270(a), "(January through March)" was added after "1st quarter" and "(April through June)" was added after "2nd quarter".
 32. In Section 255.270(a), "(July through September)" was added after "3rd quarter" and "(October through December)" was added after "4th quarter".
- 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 amendments pending on this Part? No
 - 15) Summary and Purpose of Rulemaking: These adopted rules implement the Hospital Report Card Act as amended by Public Act 94-275, effective July 19, 2005. The Hospital Report Card Code requires individual hospitals to make nurse staffing schedules, nurse staffing assignment rosters, the methods for determining and adjusting staffing levels, and staff training information available within specific time frames upon request from the public. It also requires hospitals to maintain documentation of staff orientation and initial job training information for five years. The Hospital Report Card Code also requires individual hospitals to submit quarterly reports to the Department of Public Health of direct care hours, productive direct nursing care and infection-related measures for specific clinical procedures. Individual hospitals may also submit optional quarterly

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

reports containing the total number of nursing hours per patient day and licensed nursing hours per patient for those licensed nursing personnel with indirect patient care responsibilities and average daily hours worked and average daily census. Hospitals shall also submit annual reports to the Department of Public Health that include vacancy and turnover rates for licensed nurses per clinical service area. The required reports will be phased in according to a specific schedule.

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

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, 5th Floor
Springfield Illinois 62761

217/782-2043
e-mail: rules@idph.state.il.us

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 255

HOSPITAL REPORT CARD CODE

Section

255.100	Definitions
255.110	Referenced Materials
255.120	Confidentiality
255.150	Staffing Levels
255.200	Orientation and Training
255.250	Hospital Reports
255.260	Compliance
255.270	Reporting
255.280	Enforcement

AUTHORITY: Implementing and authorized by the Hospital Report Card Act [210 ILCS 86].

SOURCE: Adopted at 31 Ill. Reg. 5839, effective March 28, 2007.

Section 255.100 Definitions

For the purpose of this Part:

"Act" means the Hospital Report Card Act [210 ILCS 86].

"Actual nurse staffing assignment roster" means the nurse-patient assignment on each unit that reflects direct nursing services provided within a 24-hour time period to each patient, excluding any information that might identify a particular patient or nurse.

"Acute care" means the treatment of a condition or disease for a short period of time in which a patient is treated for a brief but severe episode of illness with the goal of discharging the patient.

"Appropriately trained" means has completed the orientation course for the job title as specified by the employing hospital.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

"Artificial life support" is a system that uses medical technology to aid, support, or replace a vital function of the body that has been seriously damaged.

"Assigned" means that the registered professional nurse, licensed practical nurse, or other nursing personnel have responsibility for the provision of care to a particular patient within their scope of practice.

"Assistive nursing personnel" means personnel assigned responsibility for the provision of nursing care to a particular patient within their scope of practice, other than registered professional nurses or licensed practical nurses.

"Average daily census" means the average number of inpatients receiving service on any given 24-hour period beginning at midnight in each clinical service area of the hospital. (Section 10 of the Act) Average daily census must be calculated as the sum of inpatients every day at midnight for the quarter, divided by the number of days in the quarter.

"Average daily hours worked" means the total number of direct care nursing hours paid in the quarter per clinical service area, divided by the total number of calendar days in the quarter, to obtain the average number of worked hours per calendar day.

"Behavioral health" means the clinical service areas in which inpatients are receiving care and treatment for mental illnesses, substance abuse disorders and/or dependence, co-occurring mental illness and substance abuse disorders, or organic brain disorders, such as Alzheimer's Disease or senile dementia with psychotic or depressive symptoms. For the purpose of this Part, behavioral health clinical service areas do not include the following areas and their subcategories: critical care; maternal-child; medical-surgical; pediatrics; perioperative; and telemetry.

"Clinical service area" means a grouping of clinical services by a generic class of various types or levels of support functions, equipment, care, or treatment provided to inpatients. Hospitals may have, but are not required to have, behavioral health, critical care, maternal-child care, medical-surgical, pediatrics, perioperative services, and telemetry. (Section 10 of the Act) These services shall be measured in patient day units. "Perioperative" clinical service areas are defined in the definition of "perioperative" in this Part.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

"CMMS" means the Centers for Medicare and Medicaid Services.

"Critical care" means the clinical service areas organized, operated, and maintained to provide for monitoring and caring for patients with severe or potentially severe physiologic instability requiring technical support and often requiring artificial life support.

"Critical care service area", as defined in this Part, does include adult and pediatric critical care patient populations, but does not include intensive care newborn nursery services. Furthermore, for the purpose of this Part, critical care clinical service areas do not include the following areas and their subcategories: behavioral health; maternal-child; medical-surgical; pediatrics; perioperative; and telemetry.

"Current nursing staff schedules" means the prospective staffing schedules for each patient care unit, excluding any information that might identify a particular nurse, made in advance of a designated time frame, e.g., weekly, monthly or quarterly.

"Department" means the Department of Public Health. (Section 10 of the Act)

"Direct-care nurse" and "direct-care nursing staff" include any registered nurse, licensed practical nurse, or assistive nursing personnel with direct responsibility to oversee or carry out medical regimens or nursing care for one or more patients. (Section 10 of the Act)

"Direct patient care responsibilities" means the activities of direct care nurses and direct care assistive nursing personnel who are assigned to a patient or patients.

"Direct supervision" means a situation in which an individual is responsible for directing the actions of another individual in the facility and is physically close enough to be readily available, if needed, by the supervised individual. "Direct supervision" must be conducted by a registered professional nurse.

"Employee" means any full-time or part-time direct care nursing staff employee who works a regularly scheduled number of hours in a defined pay period. Not included are direct care nursing staff who work on an as-needed basis and are not

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

guaranteed work hours, including, but not limited to, casual, per diem, and registry personnel.

"Full-time equivalent" means hospital-employed licensed nursing hours budgeted to work in a seven-day time period divided by 37.5, or in a 14-day time period divided by 75, or annually divided by 1950.

"Indirect patient care responsibilities" means the activities of nurses, such as nurse managers, charge nurses, clinical nurse specialists and other ancillary licensed nursing personnel, when they are not assigned to direct patient care activities.

"Hospital" means a health care facility licensed under the Hospital Licensing Act. (Section 10 of the Act)

"Hospital Quality Alliance" means the public-private collaboration that collects and reports hospital quality performance information and makes it available to consumers through CMMS information channels.

"Inpatient" means a person admitted for at least one overnight stay to health facilities, usually hospitals, that provide board and room, for the purpose of observation, care, diagnosis or treatment.

"Intensive Care Unit" or "ICU" means a hospital facility for provision of intensive nursing and medical care of critically ill patients, characterized by high quality and quantity of continuous nursing and medical supervision and by use of sophisticated monitoring and resuscitative equipment. An ICU may be organized for the care of specific patient groups, e.g., neonatal or newborn ICU, neurological ICU, or pulmonary ICU.

"Licensed nursing hours per inpatient day" means, for the quarter, the total number of productive hours worked by licensed nursing personnel with direct care responsibilities, divided by the total inpatient days.

"Licensed practical nurse" or "LPN" means a person meeting the requirements for licensure by the Department of Financial and Professional Regulation as a licensed practical nurse pursuant to the Illinois Nursing and Advanced Practice Nursing Act.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

"Maternal-child" means the clinical service areas that are designed, equipped, organized and operated in accordance with the requirements of the Hospital Licensing Act relating to the medical-surgical care of a patient prior to and during the act of giving birth to either a living child or a dead fetus and the continuing care of both patient and newborn infant. For the purpose of this Part, intensive care newborn nursery services are included in maternal-child clinical service areas. However, maternal-child clinical service areas do not include the following clinical service areas and their subcategories: behavioral health; critical care; medical-surgical; pediatrics; perioperative; and telemetry.

"Medical-surgical" means the clinical service areas in which patients who require less care than that which is available in intensive care units or telemetry units have available 24-hour inpatient general medical services, post-surgical services, or both general medical and post-surgical services. These units may include mixed patient populations of diverse diagnoses and diverse age groups. For the purpose of this Part, medical-surgical clinical service areas do not include the following areas and their subcategories: behavioral health; critical care; maternal-child; pediatrics; perioperative; and telemetry.

"Nursing care" means care that falls within the scope of practice set forth in the Nursing and Advanced Practice Nursing Act or is otherwise encompassed within recognized professional standards of nursing practice, including assessment, nursing diagnosis, planning, intervention, evaluation, and patient advocacy.
(Section 10 of the Act)

"Nursing hours per inpatient day" means, for the quarter, the total number of productive hours worked by registered nurses, licensed practical nurses, and assistive nursing personnel, in each case, with direct patient care responsibilities, divided by the total inpatient days.

"Observation care" means those services furnished by a hospital on the hospital's premises, including use of a bed and at least periodic monitoring by a hospital's nursing or other staff, that are reasonable and necessary to evaluate an outpatient's condition or determine the need for a possible admission to the hospital as an inpatient. In general, the duration of observation care services does not exceed 24 to 48 hours, depending on the hospital, physician and health plan.

"Pediatrics" means the clinical service areas in acute care hospitals that are designed, equipped, organized and operated to render non-intensive care to the 0-

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

17 age population performed at the direction of a physician on behalf of the patient by physicians, dentists, nurses, and other professional and technical personnel. For the purpose of this Part, pediatric clinical service areas in acute care hospitals do not include the following areas and their subcategories: behavioral health; critical care; maternal-child; medical-surgical; perioperative; and telemetry. Pediatric hospitals, however, may incorporate any or all of these clinical service areas in fulfilling their role of specialty treatment facilities for the medical care of infants, children, and adolescents. Pediatric hospitals shall consider all care provided as pediatric without regard for where in the facility the service was rendered. For patients in specialty pediatric hospitals, age requirements are extended to include those patients who, due to condition, care and treatment requirements, continue to be considered pediatric. Clinical service area comparisons for pediatric hospitals should follow the guidelines of national pediatric organizations. In the event of an adult or specialty hospital operating a pediatric hospital within the larger hospital, the embedded pediatric hospital should report using its National Provider Identifier and taxonomy codes to allow differentiation of nursing hours and more meaningful comparisons.

"Perioperative" means the clinical service areas that are designed, equipped, organized and operated to provide care for inpatients during the preoperative, intraoperative and immediate postoperative periods of a hospital stay. For the purpose of this Part, perioperative clinical service areas do not include the following areas and their subcategories: behavioral health; critical care; maternal-child; medical-surgical; pediatrics; and telemetry.

"Productive hours" means the actual work hours, exclusive of vacation, holidays, sick leave and any other absences, with the following inclusions and exclusions.

Agency, per diem and registry RNs with direct patient care responsibility shall be included in the number of productive hours for the mandated reports.

The number of productive hours for reports under this Section shall not include nurse managers, charge nurses who are not assigned direct patient care responsibilities, or any other licensed nursing personnel who do not have a direct care patient assignment.

The mandated report shall not include licensed nurses who are participating in orientation in the number of productive hours.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

"Registered professional nurse" or "RN" means a person meeting the requirements for licensure by the Department of Financial and Professional Regulation as a registered professional nurse pursuant to the provisions of the Illinois Nursing and Advanced Practice Nursing Act.

"Separated" means any licensed nursing employee who is permanently removed for any reason, including voluntary, involuntary or employee transfer, from the payroll allotted for a clinical service area.

"Staffing levels" means the numerical nurse to patient ratio by licensed nurse classification within a nursing department or unit. (Section 10 of the Act)

"Surgical Care Improvement Project" or "SCIP" means the infection-related quality measures developed under the Surgical Care Improvement Project of the Hospital Quality Alliance (HQA) (see www.medqic.org/scip).

"Telemetry unit" means a unit organized, operated and maintained to provide care for and continuous cardiac monitoring of patients in a stable condition, having or suspected of having a cardiac condition or a disease requiring the electronic monitoring, recording, retrieval, and display of cardiac electrical signals.

"Telemetry unit" as defined in this Part does not include fetal monitoring or fetal surveillance. Furthermore, for the purpose of this Part, telemetry clinical service areas do not include the following areas and their subcategories: behavioral health; critical care; maternal-child; medical-surgical; pediatrics; and perioperative.

"Technical support" means specialized equipment and/or personnel providing for invasive monitoring, telemetry, or mechanical ventilation, for the immediate amelioration or remediation of severe pathology.

"Unit" means a functional division or area of a hospital in which nursing care is provided. (Section 10 of the Act)

Section 255.110 Referenced Materials

- a) The following statutes are referenced in this Part:
 - 1) Hospital Licensing Act [210 ILCS 85]

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- 2) Nursing and Advanced Practice Nursing Act [225 ILCS 65]
 - 3) Freedom of Information Act [5 ILCS 140]
- b) Hospital Quality Alliance
Surgical Care Improvement Project (SCIP)
www.medqic.org/scip

Section 255.120 Confidentiality

All disclosures by hospitals shall be in accordance with the provisions for disclosure and protection of information under the Act and shall not contain information identifying a patient, employee, or licensed professional.

Section 255.150 Staffing Levels

- a) *The number of registered professional nurses, licensed practical nurses, and other nursing personnel assigned to each patient care unit shall be consistent with the types of nursing care needed by the patients and the capabilities of the staff. Patients on each unit shall be evaluated near the end of each change of shift by criteria developed by the nursing service. There shall be staffing schedules reflecting actual nursing personnel required for the hospital and for each patient unit. Staffing patterns shall reflect consideration of nursing goals, standards of nursing practice, and the needs of the patients.* (Section 15(a) of the Act)
- b) *Current nursing staff schedules shall be available upon request at each patient care unit. Each schedule shall list the daily assigned nursing personnel and average daily census for the unit.* (Section 15(b) of the Act) The schedules shall be provided to the public for inspection in accordance with subsection (h) of this Section by providing a hard copy of the schedule, which may be in the form of scheduling logs, schedule postings, print outs of electronic screens, and sign-up sheets, but shall not contain information identifying a patient, employee, licensed nurse, or other licensed professional. Hospitals may also make schedules available by other means in addition to the hard copy format. The average daily census that must be referenced on each prospective schedule should reflect the unit's average daily census from the prior fiscal year data.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- c) Hospitals and the Department shall notify the public of the right to access nurse staffing information and provide information for obtaining nurse staffing information. The Department shall include this information on its web site. Hospitals shall provide this information through one or more communication channels, for example, disseminate patient education materials or include information on obtaining nurse staffing information on the hospital web site.
- d) *The actual nurse staffing assignment roster for each patient care unit shall be available upon request at the patient care unit for the effective date of that roster.* (Section 15(b) of the Act) The actual nurse staffing assignment rosters will be provided to the public for inspection in accordance with subsection (h) of this Section by providing a hard copy of the roster. Hospitals may also make rosters available by other means in addition to the hard copy format. Hospitals shall have the ability to satisfy requests for the current rosters or schedules by providing the information at each unit. Requests for non-current rosters or schedules may be satisfied by directing the requestor from the unit to a hospital location where the information is kept for the purpose of providing information to the public.
- e) *All records required under this Section, including anticipated staffing schedules and the methods to determine and adjust staffing levels, shall be made available to the public upon request.* (Section 15(c) of the Act) Methods for determining and adjusting staffing levels may be contained in hospital policies and procedures, administrative regulations, staff plans, accreditation standards, collective bargaining agreements and commercially developed patient acuity tools and protocols. Nothing in this Part requires hospitals to adopt any particular staffing level methodology. This information shall be made available to the public for inspection as provided in subsection (h) of this Section at a central location or at specific patient care units.
- f) *All records required under Section 15 of the Act shall be maintained by the facility for no less than 5 years.* (Section 15(d) of the Act)
- g) Requests for information under this Section may be communicated to the hospital by any reasonable means, including, but not limited to, written, telephone or on-site inquiries. Hospitals shall be prepared to receive requests and respond accordingly as outlined in subsection (h) of this Section. Hospitals may require these requests to be made in writing in order to document the specifics of each request. If individual hospitals choose to require requests to be made in writing,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

the hospitals shall then develop a simple form that will fulfill this writing requirement.

- h) Copies of schedules, rosters, or other nurse staffing records made available to the public must not contain information identifying a patient, employee, licensed nurse, or other licensed professional. Information required to be made available to the public under this Section shall be made available as follows:
 - 1) For requests related to an individual person's pending or current inpatient hospital stay:
 - A) The current nursing staff schedule may be requested at any time and shall be made available within two hours after the request.
 - B) The current actual nurse staffing assignment roster may be requested at any time and shall be made available within 2 hours after the request during normal business hours during the week and within 4 hours on weekends and evening hours.
 - 2) For requests unrelated to an individual person's pending or current inpatient hospital stay:
 - A) Other nurse staffing records, including the methods to determine and adjust staffing levels, historical records, and records in off-site storage, may be requested at times specified by the hospital, but at least Monday through Friday from 9:00 a.m. to 5:00 p.m. The hospital shall comply with a written request for these records within seven business days after its receipt. These records shall be made available at a central location on hospital grounds.
 - B) If the hospital is unable to provide the requested records in the time frame required by subsection (h)(2)(A) of this Section, the hospital shall notify the individual making the written request within the time limits specified in subsection (h)(2)(A) of this Section of the reason for the delay and the date by which the requested records shall be made available.

Section 255.200 Orientation and Training

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- a) *All health care facilities shall have established an orientation process that provides initial job training and information and assesses the direct care nursing staff's ability to fulfill specified responsibilities.* (Section 20(a) of the Act)
Documentation of training and orientation processes and ongoing assessments of the direct care nursing staff's ability to fulfill specified responsibilities shall be maintained by health care facilities for five years.
- b) Personnel who have not completed the established orientation course for a position may not work in the position without direct supervision by a registered professional nurse.
- c) *Staff training information will be available upon request, without any information identifying a patient, employee, or licensed professional at the hospital, for personnel who work in inpatient direct care areas for each of the following employee classifications: direct-care nursing staff, transport and housekeeping services, dietary personnel, and licensed allied health professionals.* (Section 20(c) of the Act)
 - 1) The information shall provide the following by employee classification: the requisite education, training, licensure and/or certifications necessary to secure employment; coursework, competencies, training and/or certifications required to successfully complete the established orientation process; and continuing education or training required to maintain employment, listed by topic, that applies to patient care, safety or infection control.
 - 2) This information shall be made available to the public for inspection upon request at a central location on hospital grounds or at specific patient care units as deemed appropriate by the hospital. The information shall be available Monday through Friday from 9:00 a.m. to 5:00 p.m.

Section 255.250 Hospital Reports

- a) *Individual hospitals shall prepare a quarterly report including all of the following* (Section 25(a) of the Act):
 - 1) Direct care hours, by reporting individually all of the following:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- A) Total inpatient days, which is the sum of each daily census for the time period.
- B) Total direct care RN hours, which equals the sum of the paid, productive hours for direct care RN employees, including agency, per diem and registry RNs.
- C) Total direct care LPN hours, which equals the sum of the paid, productive hours for direct care LPN employees, including agency, per diem and registry LPNs.
- D) Total direct care hours for assistive nursing personnel, which is the sum of the paid, productive hours for direct care assistive nursing personnel, including agency, per diem and registry assistive nursing personnel.
- E) *Nursing hours per patient day* for direct care, which is the sum of total direct care RN hours and total direct care LPN hours and total direct care assistive nursing personnel hours divided by total inpatient days. (Section 25(a)(1) of the Act)
- F) Licensed nursing hours per patient day - by RNs and LPNs (RN hours per patient day, LPN hours per patient day), which is:
- i) the total direct care hospital employed RN hours divided by the total inpatient days for the quarter,
 - ii) the total direct care commercial agency contracted RN hours divided by the total inpatient days for the quarter,
 - iii) the total direct care hospital employed LPN hours divided by the total inpatient days for the quarter, and
 - iv) the total direct care commercial agency contracted LPN hours divided by the total inpatient days for the quarter.
- G) *Average daily hours worked* (Section 25(a)(1) of the Act) - by RNs and LPNs (average daily RN hours worked, average daily LPN hours worked), which is:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- i) the total direct care hospital employed RN hours divided by the number of calendar days for the quarter,
 - ii) the total direct care commercial agency contracted RN hours divided by the number of calendar days for the quarter,
 - iii) the total direct care hospital employed LPN hours divided by the number of calendar days for the quarter, and
 - iv) the total direct care commercial agency contracted LPN hours divided by the number of calendar days for the quarter.
- H) *Average daily census per clinical service area*, which is the total inpatient days divided by the days in the quarter. (Section 25(a)(1) of the Act)
- 2) *Infection-related measures for the facility for the following clinical procedures* (Section 25(a)(2) of the Act) according to the following schedule for patients ages 18 and over in hospitals providing services where these treatments are clinically appropriate:
- A) Commencing on July 1, 2007 for Medicare PPS (prospective payment system) inpatient hospitals and October 1, 2007 for inpatient hospitals that are not Medicare PPS, surgical process measures as set forth in SCIP according to the following implementation dates and schedules or as modified by SCIP for CMMS/HQA as follows:
 - i) Prophylactic antibiotic received within one hour prior to surgical incision.
 - ii) Prophylactic antibiotic selection for surgical patients.
 - iii) Prophylactic antibiotics discontinued within 24 hours after surgery end time.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- B) Commencing on October 1, 2007, surgical process measures as set forth in SCIP, according to the following implementation dates and schedules or as modified by SCIP for CMMS/HQA
 - i) Cardiac surgery patients with prophylactic antibiotics discontinued within 48 hours after surgery.
 - ii) Cardiac surgery patients with controlled 6 a.m. postoperative serum glucose.
 - C) Commencing on July 1, 2007, surgical outcome measures by reporting postoperative wound infection diagnosed during index hospitalization.
 - D) Commencing on July 1, 2008, central vascular catheter-related bloodstream infection rates in designated critical care units.
 - E) Commencing on July 1, 2008, patients diagnosed with postoperative ventilator-associated pneumonia (VAP) during index hospitalization as set forth in SCIP.
- b) Individual hospitals may also, but are not required to, submit the following optional reports: (Agency, per-diem and registry RNs must be included in the number of productive hours for the optional report. The optional report may not include licensed nursing orientees in the number of productive hours.)
- 1) Total number of nursing hours per patient day and licensed nursing hours per patient day for those licensed nursing personnel with indirect patient care responsibilities. The licensed nursing hours per patient day will be reported separately for registered professional nurses and licensed practical nurses. Hospitals may also submit the number of licensed nursing hours per patient day that are associated with caring for outpatient and observation patients.
 - 2) Average daily hours worked and average daily census for the quarter per clinical service area.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- c) *Individual hospitals shall prepare annual reports including vacancy and turnover rates for licensed nurses per clinical service area for direct care nurses as follows: (Section 25(b) of the Act)*
- 1) **Vacancy Rate:**
The vacancy rate submitted for licensed nurses per clinical service area must equal the number of full-time equivalent openings for licensed nursing personnel on January 1 of each year, divided by the number of full-time equivalents for licensed nursing personnel budgeted as of January 1. Budgeted positions include both filled positions and vacant positions for which the hospital is recruiting on January 1. The vacancy rate does not include those licensed nursing employees who are on family, medical or disability leave or who provide per diem services to the hospital. The vacancy rate shall be reported separately for registered nurses and licensed practical nurses.
 - 2) **Turnover Rate:**
The turnover rate submitted for licensed nurses per clinical service area must equal the number of separated employees for licensed nursing personnel for the calendar year preceding January 1, divided by the number of employees for licensed nursing personnel on the hospital's payroll for the same clinical service area as of the preceding January 1. The turnover rate does not include those licensed nursing employees who are on family, medical or disability leave or who provide per diem services to the hospital. The turnover rate shall be reported separately for registered nurses and licensed practical nurses.

Section 255.260 Compliance

- a) The staffing data to be reported under Section 25(a)(1) of the Act shall be phased in from July 1, 2007 according to the following schedule:
- 1) For the first three months, the Department shall educate hospitals about the reporting requirements, format and process for data required under Section 25(a)(1) of the Act;
 - 2) For the next three months, the Department shall conduct a voluntary pilot program that will give all hospitals that wish to participate the opportunity to work with the reporting form and process for data covered under

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

Section 25(a)(1) of the Act and to give the Department an opportunity to make any necessary or helpful modifications to the format and process for such reporting; and

- 3) For the next three months, all hospitals shall be required to report staffing level data using the modified form or process developed under subsection (a)(2).
- b) All hospitals shall be required to submit quarterly reports in accordance with this Part beginning with data from the next full calendar quarter from the date the Department notifies hospitals that the reporting form and process have been finalized.

Section 255.270 Reporting

- a) *Quarterly reports shall be submitted to the Department by April 30, July 31, October 31, and January 31 each year for the previous quarter. Data in quarterly reports must cover a period ending not earlier than one month prior to submission of the report. Annual reports shall be submitted by December 31. All reports shall be made available to the public on-site and through the Department.* (Section 25(d) of the Act) The annual report required by statute to be submitted by December 31 will consist of the first three final, edited quarterly reports for the calendar year, and will be considered provisional. Final, edited quarterly reports must be submitted to the Department according to the following calendar schedule: 1st quarter (January through March) by the following July 1; 2nd quarter (April through June) by the following October 1; 3rd quarter (July through September) by the following January 1; and 4th quarter (October through December) by the following April 1. Final, edited annual reports containing all final, edited quarterly reports must be submitted to the Department by the following April 1. The Department shall make final, edited quarterly reports and final, edited annual reports available on its public website (www.idph.state.il.us) and *in accordance with provisions for inspection and copying of public records required by the Freedom of Information Act provided that such information satisfies the provisions of subsection 25(c) of the Hospital Report Card Act.* (Section 20 of the Act) Each hospital shall provide copies of final, edited quarterly reports and final, edited annual reports specific to its facility within seven days after the receipt of a written request.
- b) *If the hospital is a division or subsidiary of another entity that owns or operates*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

other hospitals or related organizations, the annual public disclosure report shall be for the specific division or subsidiary and not for the other entity. (Section 25(e) of the Act)

- c) *The Department shall disclose information under this Section in accordance with provisions for inspection and copying of public records required by the Freedom of Information Act provided that such information satisfies the provisions of Section 25(c) of the Act. (Section 25(f) of the Act)*
- d) *Notwithstanding any other provision of law, under no circumstances shall the Department disclose information obtained from a hospital that is confidential under Part 21 of Article 8 of the Code of Civil Procedure. (Section 25(g) of the Act)*
- e) *No hospital report or Department disclosure may contain information identifying a patient, employee, or licensed professional. (Section 25(h) of the Act)*

Section 255.280 Enforcement

Any hospital that fails to comply with the provisions and responsibilities detailed in the Act or this Part shall be subject to the compliance provisions in the Hospital Licensing Act. In particular, Section 7 of the Hospital Licensing Act states, in part, that *the Director, after notice and opportunity for hearing to the applicant or licensee, may deny, suspend, or revoke a permit to establish a hospital or deny, suspend, or revoke a license to open, conduct, operate, and maintain a hospital in any case in which the Director finds that there has been a substantial failure to comply with the provision of the Hospital Licensing Act, the Hospital Report Card Act, the Illinois Adverse Health Care Events Reporting Law of 2005 or the standards, rules, and regulations established by virtue of any of those Acts. (Section 7(a) of the Hospital Licensing Act)*

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Number: 1030.65 Adopted Action:
Amendment
- 4) Statutory Authority: 625 ILCS 5/2-104, 625 ILCS 5/6-507, and 625 ILCS 5/6-521
- 5) Effective Date of Amendment: March 29, 2007
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 30 Ill. Reg. 18077; November 17, 2006
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: In Section 1030.65(a), changed "Certificate of Completion" to "certificate of completion, formerly known as 'blue slip'". In Section 1030.65(g)(2)(i), after "completion" deleted "(blue slip)".
- 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 rulemakings 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>
1030.83	Amendment	30 Ill. Reg. 18863; December 15, 2006
1030.96	Amendment	30 Ill. Reg. 16895; October 27, 2006
1030.98	Amendment	30 Ill. Reg. 16895; October 27, 2006

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- 15) Summary and Purpose of Amendment: The rulemaking amends definitions and requirements for instruction permits in order to come into compliance with the Federal Motor Carrier Safety Regulations.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Arlene J. Pulley
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield, Illinois 62723

217/557-4462

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1030
ISSUANCE OF LICENSES

Section	
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License
1030.12	Driver's License Medical Advisory Board
1030.13	Denial of License or Permit
1030.15	Cite for Re-examination
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers
1030.65	Instruction Permits
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lenses
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements
1030.82	Charter Bus Driver Endorsement Requirements
1030.83	Hazardous Material Endorsement
1030.84	Vehicle Inspection
1030.85	Driver's License Testing/Road Test
1030.86	Multiple Attempts – Written and/or Road Tests
1030.88	Exemption of Facility Administered Road Test
1030.89	Temporary Licenses
1030.90	Requirement for Photograph and Signature of Licensee on Driver's License
1030.91	Disabled Person/Handicapped Identification Card
1030.92	Restrictions
1030.93	Restricted Local Licenses

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- 1030.94 Duplicate or Corrected Driver's License or Instruction Permit
- 1030.95 Consular Licenses (Repealed)
- 1030.96 Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Commercial Driver's License
- 1030.100 Anatomical Gift Donor
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.140 Use of Captured Images
- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
- 1030.APPENDIX B Acceptable Identification Documents

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4, 2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; emergency expired June 29, 2005; amended at 29 Ill. Reg. 9488, effective June 17, 2005; amended at 29 Ill. Reg. 12519, effective July 28, 2005; amended at 29 Ill. Reg. 13237, effective August 11, 2005; amended at 29 Ill. Reg. 13580, effective August 16, 2005; amended at 30 Ill. Reg. 910, effective January 6, 2006; amended at 30 Ill. Reg. 5621, effective March 7, 2006; amended at 30 Ill. Reg. 11365, effective June 15, 2006; emergency amendment at 30 Ill. Reg. 11409, effective June 19, 2006, for a maximum of 150 days; emergency expired November 15, 2006; amended at 31 Ill. Reg. 4782, effective March 12, 2007; amended at 31 Ill. Reg. 5096, effective March 15, 2007; amended at 31 Ill. Reg. 5864, effective March 29, 2007.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

Section 1030.65 Instruction Permits

a) For purposes of this Section, the following definitions shall apply:

1) "Applicant" – person applying for an instruction permit.

"Approved Driver Education Course" –

any course of driver education approved by the State Board of Education, offered by public or private schools maintaining grades 9 through 12, and meeting at least the minimum requirements of the Driver Education Act [105 ILCS 5/27-24 through 27-24.8], or

any course of driver education offered by a school licensed to give driver education instructions under the Vehicle Code that meets at least the minimum educational requirements of the Driver Education Act and is approved by the State Board of Education, or

any course of driver education given in another state to an Illinois resident attending school in that state and approved by the state administrator of the driver education program of the other state. [625 ILCS 5/1-103]

2) "Certificate of Completion (~~Blue Slip~~)" – a certificate of completion, formerly known as "blue slip," a document issued by the Illinois State Board of Education or the office which regulates education in another state to students who have successfully completed their driver education course. The blue slip in Illinois is issued by the Illinois Secretary of State's Office if the student has successfully completed his/her driver education course behind the wheel instruction at an approved commercial driving school as provided in Art. IV of the Illinois Driver License Law (Commercial Driver Training Schools) [625 ILCS 5/Ch. 6, Art. IV] and 92 Ill. Adm. Code 1060 and Section 6-411(g) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-114(g)].

3) "Class D Instruction Permit" – permit to operate any single vehicle with a GVWR of 16,000 pounds or less that is not designed to transport 16 or more people or not used in the transportation of hazardous materials that would require placarding or when towing any vehicle providing the gross

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

combination weight rating is less than 26,001 pounds.

- 4) "Class L Instruction Permit" – permit to operate a motor driven cycle with less than 150 cc displacement.
- 5) "Class M Instruction Permit" – permit to operate any motorcycle or any motor driven cycle.
- 6) "Commercial Driver Instruction Permit" – a driving permit that authorizes an individual to operate a commercial motor vehicle, as defined in 625 ILCS 5/6-500, issued pursuant to Sections 6-103, 6-105, 6-107.1, [6-507\(a\)](#) and 6-508 of the Illinois Vehicle Code [625 ILCS 5/6-103, 6-105, 6-107.1, [6-507\(a\)](#) and 6-508].
- 7) "Competent Medical Specialist" – a person licensed under Section 3 of the Medical Practice Act [225 ILCS 60/3] or similar law of another jurisdiction to practice medicine in all of its branches.
- 8) "Department" – Department of Driver Services within the Office of the Secretary of State.
- 9) "Driver Education Course" – a course of instruction in the use and operation of cars, including instruction in the safe operation of cars, rules of the road and the law of the State relating to motor vehicles, which meets the minimum requirements of the Driver Education Act [105 ILCS 5/27-24] and Section 1-103 of the Illinois Vehicle Code [625 ILCS 5/1-103].
- 10) "Driver Rehabilitation Specialist" – a person who possesses an undergraduate degree in rehabilitation, education, health, safety, therapy or a related profession (or equivalent of 8 years of experience in driver rehabilitation); possesses a current Association of Driver Educators for the Disabled (ADED) Certification as a Driver Rehabilitation Specialist (consisting of successful completion of 100 clock hours of educational experience, in combination with safety and medical aspects of disabilities; a minimum of 30 clock hours must be gained from attending ADED approved courses or workshops).
- 11) "Driving Evaluation" – Assessment of an applicant's ability to safely

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

operate a motor vehicle performed by a driver education specialist at a rehabilitation institution.

- 12) "Favorable Medical Report" – a current medical report which has been completed in its entirety which does not require additional information and/or clarification or is not medically questionable. A favorable medical report specifies a professional opinion from the competent medical specialist that the driver is medically fit to safely operate a motor vehicle.
- 13) "Foreign National" – a non-citizen of the United States of America who has been granted temporary, legal entry into this country by the U.S. Citizenship and Immigration Services (USCIS), who is temporarily residing in this State and is ineligible to obtain a social security number through the Social Security Administration, and who is not required to obtain a driver's license issued by the U.S. Department of State, Office of Foreign Missions.
- 14) "Illinois Medical Restriction Card" – a card which specifies special limitations to a person's driving privileges as provided in Section 6-113 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-113].
- 15) "In Loco Parentis" – person who is acting in place of a minor's parent with a parent's rights, duties, and authority.
- 16) "Instruction Permit" – a driving permit issued pursuant to Sections 6-103, 6-105 and 6-107.1 of the Illinois Vehicle Code [615 ILCS 5/6-103, 6-105 and 6-107.1].
- 17) "Medical Report" – a confidential medical questionnaire designed by the Department and approved by the Illinois Medical Advisory Board or a statement on letterhead made by a competent medical specialist containing the same information as the form designed by the Department. The medical report shall be directed to the Department and contain the date the competent medical specialist completed the report and the name, address, signature and professional license number of the competent medical specialist. The report must also contain the name, address, date of birth and driver's license number, if known, of the driver. A medical agreement as defined in Section 1030.16 of this Part, upon execution by the driver,

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

shall be incorporated into and maintained on file with the driver's medical report.

- ~~18)~~ "Minor" – a person under 18 years of age.
 - ~~19)~~ "Rehabilitation Institution" – any hospital, center, institute or facility engaged in a program to provide driver training for the disabled.
 - ~~20)~~ "Temporary Visitor's Instruction Permit" – a driving permit issued to a foreign national pursuant to this Section and Sections 6-103, 6-105 and 6-107.1 of the Illinois Vehicle Code [625 ILCS 5/6-103, 6-105 and 6-107.1].
- b) A person who wishes to practice driving before obtaining his/her driver's license shall obtain an instruction permit from a Secretary of State's Driver Services facility. Upon receipt of an instruction permit, the holder may operate a motor vehicle upon the highways of this State when accompanied by an adult instructor of a driver education program or when practicing with a parent, legal guardian, family member or a person in loco parentis, who is 21 years of age or more and has a license classification to operate such vehicle and at least one year of driving experience, and who is occupying a seat beside the driver.
- c) Any foreign national wishing to practice driving before obtaining his/her driver's license shall obtain a temporary visitor's instruction permit, class D, L or M only, from one of the selected Secretary of State Driver Services facilities located throughout the State. Upon receipt of a temporary visitor's instruction permit, the holder may operate a motor vehicle upon the highways of this State when accompanied by an adult instructor of a driver education program or when practicing with a parent, legal guardian, family member, or a person in loco parentis who is 21 years of age or more, has a license classification to operate such vehicle, has at least one year of driving experience, and who is occupying a seat beside the driver.
- d) An instruction permit issued to any foreign national shall only be in a class D, L or M as established in Section 1030.30 of this Part.
- e) The fees collected for the issuance of an original, renewal, duplicate or corrected temporary visitor's driver's license shall be in accordance with Section 6-118 of the Illinois Vehicle Code [625 ILCS 5/6-118].

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- f) A minor who wishes to receive an instruction permit shall be at least 15 years old and enrolled in a driver education course. Any minor who has been enrolled in [an approved](#) driver education program out-of-state shall provide proof of such enrollment before he/she shall be issued an Illinois instruction permit. Proof shall consist of a letter from the minor's school on the school's letterhead or other proof deemed acceptable by the Secretary of State. The minor shall complete a driver education course if he/she wants to apply for a driver's license before he/she is 18 years of age. If the minor is 16 years of age or older and has in his/her possession a certificate of completion or the equivalent, from another state's driver education program, he/she shall be eligible to receive an Illinois driver's license upon successful completion of the vision, written and/or road tests. The equivalent for Illinois of a certificate of completion from an out-of-state driver education course shall include but is not limited to, transcripts from the out-of-state attendance center indicating successful completion of the course of instruction or a letter from the state's driver's licensing authority on agency letterhead, attesting to the minor's successful completion of a driver education course approved by the office [that in the state which](#) regulates education.
- g) [Permit Prior to Enrollment](#)
- [1\)](#) A minor who is at least 15 years and 6 months of age may obtain an Illinois instruction permit prior to being enrolled in a driver education course provided he/she:
- [A1\)](#) Submits written documentation on a form prepared or approved by the Secretary of State stating that the minor is enrolled in school and proof that the student has received a passing grade in at least 8 courses during the previous 2 semesters as required by the Driver Education Act, or submits a written waiver, pursuant to Section 6-103(1) of the Vehicle Code, from a superintendent or chief school administrator;
- [B2\)](#) Submits a written waiver on a form prepared or approved by the Secretary of State from a superintendent or chief administrator stating that, through no fault of the minor, he/she will be unable to be enrolled in a driver education course until after his/her 16th birthday and the school would have no objection to the issuance of the instruction permit; and

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- C3) Successfully completes the written and vision examinations administered either by an approved driver education instructor or the Secretary of State.
- 2) An Illinois instruction permit issued to a minor under this subsection (g) may be canceled upon receipt of a report from the minor's school on the school's letterhead or other proof deemed acceptable by the Secretary of State stating that the minor has failed to enroll in a driver education course.
- h) The minor who is not legally emancipated by marriage or court order shall have his/her application signed by a parent, guardian, or person in loco parentis and the driver education instructor. The minor shall then be allowed to take the vision and written exams.
- i) The instruction permit shall be issued to a minor for a period of 2 years upon successful completion of the written and vision exams. If an instruction permit has expired prior to the applicant completing the road test, a second fee as established for driver's instruction permits in Section 6-118(a) of the Illinois Vehicle Code [625 ILCS 5/6-118(a)] must be submitted and the written and vision exams must be successfully completed. The applicant shall present another application to the Secretary of State signed by the parent, guardian, or person in loco parentis. The driver's education instructor shall also sign the application unless the applicant presents a certificate of completion ~~(blue slip)~~.
- j) Applicants who are not minors shall also be issued instruction permits by the Secretary of State. The permit shall be issued for 1 year upon successful completion of the written and vision exams.
- k) Applicants whose driving privileges have been canceled based upon receipt by the Department of a medical report indicating the applicant has a medical condition which impairs his/her ability to safely operate a motor vehicle may apply for an instruction permit. The Department shall receive a favorable medical report from a competent medical specialist describing the applicant's needs to undergo a driving evaluation with a driver rehabilitation specialist. The Department shall issue to the applicant an authorization for examination to appear at a Driver Services facility to take the written examination, vision test and submit the required fee as provided in Section 6-118 of the Illinois Vehicle Code [625 ILCS 5/6-118]. Upon successful completion of the written and vision tests, he/she shall

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

be issued, if not otherwise disqualified, an instruction permit, but shall be canceled upon receipt of a written statement from a competent medical specialist that the instruction permit holder has failed to successfully complete the driving evaluation or is otherwise unable to safely operate a motor vehicle. A medical restriction card shall be issued by the Department and must be carried with the instruction permit. Upon successful completion of the driving evaluation, the rehabilitation institution and a competent medical specialist shall notify the Department. The Department shall send the applicant an authorization form instructing him/her to appear at a Driver Services facility to take the drive portion of the examination. Upon the applicant's successful completion of the drive examination, a driver license shall be issued.

- l) An applicant must be at least 16 years old to obtain a class L instruction permit. He/she shall have obtained his/her blue slip at the time he/she applies for the L instruction permit. If he/she is at least 18 years old, a blue slip is not necessary.
- m) The class M instruction permit is issued by the Secretary of State to a person 18 years old or older for a period of 1 year. Class M instruction permits shall be issued for period of 2 years to persons 16 or 17 years old who has obtained his/her blue slip at the time he/she applies for the class M instruction permit and if they have completed a motorcycle training course approved by the Illinois Department of Transportation as provided by 92 Ill. Adm. Code 455. A certificate of completion card issued by the Illinois Department of Transportation must be furnished to the Secretary of State's Office before an instruction permit shall be issued.
- n) An applicant who is 17 years and 9 months of age or older may obtain an Illinois instruction permit without being enrolled in a driver education course, provided he/she has successfully completed the vision and written exams.
- o) Prior to renewing a commercial driver instruction permit, an applicant is required to successfully complete the appropriate CDL knowledge tests specific to that classification of permit being renewed.

(Source: Amended at 31 Ill. Reg. 5864, effective March 29, 2007)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Specialized Health Care Delivery Systems
- 2) Code Citation: 89 Ill. Adm. Code 146
- 3) Section Number: 146.225 Emergency Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date: April 1, 2007
- 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: No prior expiration date.
- 7) Date Filed with the Index Department: March 27, 2007
- 8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The emergency amendment will allow for an adjustment of Medicaid rates paid to supportive living facilities (SLFs) on a semi-annual basis in April and October. The current rule allows for an adjustment to occur annually in October of each year. SLFs are paid 60 percent of the weighted average nursing facility geographic group rate, based upon the geographic area in which the SLF is located. With nursing facility rates changing on a quarterly basis, beginning January 1, 2007 under the MDS-based methodology, this emergency amendment allows for SLF rates to be more closely aligned with nursing facility rates.
- 10) Complete Description of the Subjects and Issues Involved: The emergency proposed amendment will allow for an adjustment of Medicaid rates paid to supportive living facilities (SLFs) on a semi-annual basis in April and October. The current rule allows for an adjustment to occur annually in October of each year. SLFs are paid 60 percent of the weighted average nursing facility geographic group rate, based upon the geographic area in which the SLF is located. With nursing facility rates changing on a quarterly basis, beginning January 1, 2007 under the MDS-based methodology, this amendment allows for SLF rates to be more closely aligned with nursing facility rates. Further, provides clarification on when a temporary absence begins and ends, and states that an admission to a nursing facility is not considered a temporary absence.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
146.110	Amendment	30 Ill. Reg. 13261; August 11, 2006
146.125	Amendment	30 Ill. Reg. 13261; August 11, 2006
146.130	Amendment	30 Ill. Reg. 13261; August 11, 2006
146.225	Amendment	31 Ill. Reg. 3250; March 2, 2007

- 12) Statement of Statewide Policy Objectives: This emergency amendment neither creates nor expands any State mandate affecting units of local government.

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

Tamara Tanzillo Hoffman
Chief of Staff
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 Emergency Amendment begins on the next page:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 146

SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

Section

146.100	General Description
146.105	Definitions
146.110	Participation Requirements
146.115	Records and Data Reporting Requirements
146.125	Covered Ambulatory Surgical Treatment Center Services
146.130	Reimbursement for Services

SUBPART B: SUPPORTIVE LIVING FACILITIES

Section

146.200	General Description
146.205	Definitions
146.210	Structural Requirements
146.215	SLF Participation Requirements
146.220	Resident Participation Requirements
146.225	Reimbursement for Medicaid Residents
EMERGENCY	
146.230	Services
146.235	Staffing
146.240	Resident Contract
146.245	Assessment and Service Plan and Quarterly Evaluation
146.250	Resident Rights
146.255	Discharge
146.260	Grievance Procedure
146.265	Records and Reporting Requirements
146.270	Quality Assurance Plan
146.275	Monitoring
146.280	Termination or Suspension of SLF Provider Agreement
146.285	Voluntary Surrender of Certification

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

- 146.290 Geographic Groups
- 146.295 Emergency Contingency Plan
- 146.300 Waivers

SUBPART C: STATE HEMOPHILIA PROGRAM

- Section
- 146.400 Definitions
- 146.410 Patient Eligibility
- 146.420 Hemophilia Treatment Centers
- 146.430 Comprehensive Care Evaluation
- 146.440 Home Transfusion Arrangements
- 146.450 Obligations of the Department

SUBPART D: CHILDREN'S COMMUNITY-BASED HEALTH CARE CENTERS

- Section
- 146.500 General Description
- 146.510 Definitions
- 146.520 Participation Requirements
- 146.530 Records and Data Reporting Requirements
- 146.540 Covered Children's Community-Based Health Care Center Services
- 146.550 Reimbursement for Services
- 146.560 Individuals Eligible for Services Provided in a Children's Community-Based Health Care Center
- 146.570 Prior and Post Approval of 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].

SOURCE: Old Part repealed at 14 Ill. Reg. 13800, effective August 15, 1990; new Part adopted at 20 Ill. Reg. 4419, effective February 29, 1996; emergency amendment at 21 Ill. Reg. 13875, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4430, effective February 27, 1998; emergency amendment at 22 Ill. Reg. 13146, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19914, effective October 30, 1998; amended at 23 Ill. Reg. 5819, effective April 30, 1999; emergency amendment at 23 Ill. Reg. 8256, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13663, effective November 1, 1999; amended at 24 Ill. Reg. 8353, effective June 1, 2000; emergency amendment at 26 Ill. Reg. 14882, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 2176,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

effective February 1, 2003; emergency amendment at 27 Ill. Reg. 10854, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18671, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 12218, effective August 11, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 14214, effective October 18, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 852, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 4360, effective March 7, 2005; expedited correction at 29 Ill. Reg. 14127, effective March 7, 2005; amended at 29 Ill. Reg. 6967, effective May 1, 2005; amended at 29 Ill. Reg. 14987, effective September 30, 2005; amended at 30 Ill. Reg. 8845, effective May 1, 2006; amended at 31 Ill. Reg. 5589, effective April 1, 2007; emergency amendment at 31 Ill. Reg. 5876, effective April 1, 2007, for a maximum of 150 days.

SUBPART B: SUPPORTIVE LIVING FACILITIES

Section 146.225 Reimbursement for Medicaid Residents**EMERGENCY**

SLFs shall accept the reimbursement provided in this Section as payment in full for all services provided to Medicaid residents.

- a) The Department shall establish its portion of the reimbursement for Medicaid residents by calculating 60 percent of the weighted average (weighted by Medicaid patient days) nursing facility rates for the geographic grouping as defined in Section 146.290. Each SLF shall be paid 60 percent of the weighted average nursing facility geographic group rate, based upon the nursing facility geographic group in which it is located. The rates paid to SLFs shall be updated semi-annually on April 1 and reviewed annually, and adjusted, if necessary, on October 1 to assure that the rates coincide with 60 percent of weighted average nursing facility geographic group rates. Effective October 1, 2002, SLF rates shall remain at a minimum of the rate in effect as of September 30, 2002.
- b) The payment rate received by the SLF from the Department for services, with the exception of meals, provided in accordance with Section 146.230 shall constitute the full and complete charge for services rendered. Additional payment, other than patient credits authorized by the Department, may not be accepted. Meals are included in the room and board amount paid by the resident.
- c) Single Occupancy: Each Medicaid resident of an SLF shall be allotted a minimum of \$90 per month as a deduction from his or her income as a protected

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

amount for personal use. The SLF may charge each Medicaid resident no more than the current SSI rate for a single individual less a minimum of \$90 for room and board charges. Any income remaining after deduction of the protected minimum of \$90 and room and board charges shall be applied first towards medical expenses not covered under the Department's Medical Assistance Program. Any income remaining after that shall be applied to the charges for SLF services paid by the Department.

- d) **Double Occupancy:** In the event a Medicaid eligible resident chooses to share an apartment, the Medicaid resident of an SLF shall be allotted a minimum of \$90 per month as a deduction from his or her income as a protected amount for personal use. The SLF may charge each Medicaid resident no more than the resident's share of the current SSI rate for a couple less a minimum of \$90 for room and board charges. The room and board rate for two Medicaid eligible individuals sharing an apartment cannot exceed the SSI rate for a married couple even if the two individuals sharing an apartment are unrelated. Any income of an individual remaining after deduction of the protected minimum of \$90 and room and board charges shall be applied first towards that individual's medical expenses not covered under the Department's Medical Assistance Program. Any income of an individual remaining after that shall be applied to that individual's charges for SLF services paid by the Department. If one, or both, of the individuals sharing an apartment is not Medicaid eligible, the SLF may negotiate its own rate with the non-Medicaid individual or individuals.
- e) The room and board charge for Medicaid residents shall only be increased when the SSI amount is increased. Any room and board charge increase shall not exceed the amount of the SSI increase.
- f) Payment shall be made by the Department for up to 30 days per State fiscal year during a Medicaid resident's temporary absence from the SLF when the absence is due to situations such as hospitalizations or vacations. The resident shall continue to be responsible for room and board charges during any absence. Involuntary discharge criteria relating to temporary absence are found at Section 146.255(b) and (d)(7). Nursing facilities that have a distinct part certified as an SLF shall consider converted beds in the nursing facility's licensed capacity when calculating the 93 percent occupancy level for bed reserve payments pursuant to 89 Ill. Adm. Code 140.523.
- 1) The day a resident is transferred to the hospital is the first day of the temporary

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

absence.

- 2) For all other temporary absences, except a long-term care admission, the day after resident leaves the SLF is the first day of the temporary absence.
- 3) The day before resident returns to the SLF is the last day of the temporary absence.
- 4) The Department does not pay for temporary absence due to admission to a long-term care facility. In this instance, an SLF shall discharge the resident from the Department's database. An SLF may choose to hold an apartment while a resident is in a long-term care facility.
- 5) By agreement between the SLF and a resident, an SLF may continue to hold an apartment when a resident has exceeded the 30 days payable by the Department.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 5876, effective April 1, 2007, for a maximum of 150 days)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Homeowner Mortgage Revenue Bond Program
- 2) Code Citation: 47 Ill. Adm. Code 260
- 3) Section Number: 260.103 Emergency Action: Amendment
- 4) Statutory Authority: Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.23]
- 5) Effective Date of Amendment: March 30, 2007
- 6) This emergency amendment is not expected to expire prior to the 150-day period.
- 7) Date Filed with the Index Department: March 30, 2007
- 8) A copy of the emergency amendment, is on file at the Illinois Housing Development Authority, 401 N. Michigan Ave., Ste. 700, Chicago, IL 60611.
- 9) Reason for Emergency: The reason for the emergency is that the definition for Eligible Borrower was too narrow in scope and should include anyone who qualifies as an eligible borrower under the Internal Revenue Code of 1986, as amended and supplemented, and the regulations promulgated thereunder by the Treasury Department.
- 10) A Complete Description of the Subjects and Issues Involved: The amendment involves the administration of the Homeowner Mortgage Revenue Bond Program.
- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objectives: The emergency amendments do not create, expand or modify a State mandate.
- 13) Information and questions regarding amendment shall be directed to:

Richard B. Muller, Esq.
401 N. Michigan Ave., Ste. 700,
Chicago IL 60611

312/836-5327

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENT

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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENT

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITYPART 260
HOMEOWNER MORTGAGE REVENUE BOND PROGRAM

SUBPART A: GENERAL RULES

Section

260.101	Authority
260.102	Purposes and Objectives
260.103	Definitions
<u>EMERGENCY</u>	
260.104	Borrowing by the Authority
260.105	Compliance with Federal Law
260.106	Standards
260.107	Forms for the Program
260.108	Fees and Charges of the Authority
260.109	Waiver (Repealed)
260.110	Amendment
260.111	Severability
260.112	Gender and Number
260.113	Titles and Captions
260.114	Calendar Days

SUBPART B: LENDER APPLICATION PROCESS

Section

260.201	Invitations to Sell Mortgage Loans
260.202	Security for Allocation of Net Proceeds
260.203	Allocation of Net Proceeds for Purchase of Mortgage Loans
260.204	Notice of Acceptance
260.205	Commitments for Mortgage Loans

SUBPART C: HOMEBUILDER APPLICATION PROCESS

Section

260.301	HomeBuilder Invitations
260.302	Reservation of Funds for Construction of Qualified Dwellings

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENT

- 260.303 Notice of Reservation of Funds
- 260.304 Real Estate Purchase Contracts
- 260.305 Transfer of Reserved Funds

SUBPART D: PURCHASE OF MORTGAGE LOANS

Section

- 260.401 Mortgage Loans
- 260.402 Yield on Mortgage Loans
- 260.403 Terms and Conditions of the Purchase of Mortgage Loans
- 260.404 Prepayment
- 260.405 Targeted Area Residences
- 260.406 Supplemental Mortgage Coverage
- 260.407 Special Hazard Insurance

SUBPART E: ADMINISTRATIVE RULES

Section

- 260.501 Restrictions on Return Realized by Lenders
- 260.502 Servicing of Mortgage Loans
- 260.503 Purchase of Authority Bonds
- 260.504 Equal Opportunity Lending
- 260.505 Inspection of Books and Records
- 260.506 Termination

AUTHORITY: Authorized by Sections 7.19 and 7.23 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.23].

SOURCE: Adopted at 18 Ill. Reg. 17229, effective November 16, 1994; amended at 22 Ill. Reg. 3851, effective February 4, 1998; emergency amendment at 31 Ill. Reg. 5883, effective March 30, 2007, for a maximum of 150 days.

EDITOR'S NOTE: The federal agency referred to in this Part as the "VA" and "The United States Veterans' Administration" changed its name in 1989 to the United States Department of Veterans Affairs.

SUBPART A: GENERAL RULES

Section 260.103 Definitions

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENT

EMERGENCY

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

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

"Allocation": The amount of funds reserved to a Lender in a Series Program pursuant to a Lender Application and a Notice of Acceptance.

"Assistant Director": The Assistant Director of the Authority.

"Authority": The Illinois Housing Development Authority.

"Bonds": The Homeowner Mortgage Revenue Bonds issued by the Authority pursuant to the Act from time to time to finance the Program.

"Code": The Internal Revenue Code of 1986, as amended and supplemented, and the regulations promulgated by the Treasury Department thereunder.

"Commitment Fee": The fee that the Authority may require a prospective HomeBuilder to pay to the Authority at the time it files its HomeBuilder Application.

"Deputy Director": The Deputy Director of the Authority.

"Director": The Director of the Authority.

"Eligible Borrower": A person:

who is or will be a resident of the State within sixty days after the closing of his purchase of a Qualified Dwelling;

whose Household Income does not exceed the Maximum Income;

who intends to use the Qualified Dwelling being financed by a Mortgage Loan as his permanent residence within sixty (60) days after the closing of the Mortgage Loan;

who occupies or intends to occupy as a single household the Qualified

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENT

Dwelling purchased or being purchased as a permanent residence; and

who at no time during the 3-year period ending on the date of closing of the Mortgage Loan had a present ownership interest in his principal residence.

An Eligible Borrower who purchases a Targeted Area Residence or a Qualified Rehabilitation Residence, or who qualifies under any other provision of the Code, is exempt from the 3-year requirement of this definition subsection. For purposes of this definition subsection, the Eligible Borrower's interest in the Qualified Dwelling financed under this Program shall not be taken into account.

A residence that is used as an investment property or a recreational home, or that is primarily intended to be used in a trade or business (including, without limitation, any residence of which more than fifteen percent (15%) of the total area is reasonably expected to be used primarily in a trade or business), does not satisfy the requirements of this subparagraph.

"FHA": The Federal Housing Administration.

"FHLMC": The Federal Home Loan Mortgage Corporation.

"FMHA": The Farmer's Home Administration.

"FNMA": The Federal National Mortgage Association.

"HomeBuilder": An individual or entity approved by the Authority that:

for the 12-month period preceding the date of its HomeBuilder Application for participation in a Series Program had insurance coverage for product liability, worker's compensation and builder's risk;

and had constructed at least two buildings in that same 12-month period or, in the alternative, had constructed at least four buildings in the 24-month period preceding the date of its HomeBuilder Application for participation in a Series Program.

"HomeBuilder Application": A prospective HomeBuilder's application to

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENT

construct Qualified Dwellings for sale to Eligible Borrowers pursuant to the terms of a HomeBuilder Participation Agreement and other Program documents.

"HomeBuilder Participation Agreement": The agreement between the Authority and a HomeBuilder pursuant to which the HomeBuilder agrees to construct new Qualified Dwellings for purchase by Eligible Borrowers, and the Authority agrees to purchase Mortgage Loans financing such newly constructed Qualified Dwellings, under the terms and conditions set forth therein.

"Household Income": The total annualized gross income of the Eligible Borrower(s), and any other person who is expected to live in the Qualified Dwelling and be secondarily liable on the Note, all persons residing or intending to reside as a single household in a Qualified Dwelling, from whatever source derived and before taxes or withholdings; provided that if a married person takes title to the Qualified Dwelling individually the income of the spouse shall also be included.

"Lender": A State-chartered bank, national banking association, mortgage banking association or institution, credit union, or State or federal savings and loan association:

that is located and qualified to do business in the State;

that is qualified to sell mortgages to FNMA and/or FHLMC (this requirement may be waived by the Director after determination that the assets of the Lender exceed \$500,000, that the percentage of mortgage delinquencies in the Lender's single family portfolio do not exceed 2.15 times the Statewide average as determined by the last quarterly pronouncement by the United States Federal Home Loan Bank Board and that the Lender has an asset-to-liability ratio of at least 1.01/1);

the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, or which deposits its funds in Illinois financial institutions whose deposits are insured by the Federal Deposit Insurance Corporation; and whose Lender Application has been accepted by the Director, Deputy Director or Assistant Director based upon the satisfaction of the requirements of the Series Program under which the Lender has submitted such Lender Application and a determination of financial suitability after

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENT

consideration of the net assets, lending capacity, and experience of the potential Lender over the past twelve (12) months in residential mortgage lending. The Authority may also be a Lender.

"Lender Application": A prospective Lender's application to sell Mortgage Loans to the Authority pursuant to the terms of a Mortgage Purchase Agreement and other Series Program documents.

"Maximum Income": Unless otherwise permitted by the Code, 115% of the median family income of either the metropolitan statistical area or primary metropolitan statistical area in which the Qualified Dwelling is located or the State, whichever is greater, as determined by the Internal Revenue Service.

"Members": The Members of the Authority.

"Mortgage": The mortgage, or other instrument in the nature of a mortgage, creating a first mortgage lien on a fee interest in real estate, together with all supplements, modifications or amendments to it.

"Mortgage Loan": A loan made by a Lender to an Eligible Borrower for the purchase of a Qualified Dwelling and secured by a Mortgage on such Qualified Dwelling. No Mortgage Loan shall be a replacement or refinancing of an existing mortgage loan except in the case of a Qualified Rehabilitation Loan or other temporary loans, as permitted by Section 143 of the Code.

"Mortgage Purchase Agreement": The agreement between the Authority and a Lender pursuant to which the Authority agrees to purchase Mortgage Loans from the Lender on the terms and conditions set forth therein and which establishes the requirements for Mortgage Loans to be purchased by the Authority.

"Net Proceeds": With respect to the proceeds of each series of Bonds, all moneys made available by the Authority for the purchase of Mortgage Loans.

"Notice of Acceptance": The Authority's notice to a Lender accepting its Lender Application.

"Notice of Reservation of Funds": The Authority's notice to a HomeBuilder accepting its Homebuilder Application and setting forth the amount of the HomeBuilder's Reservation.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENT

"Part": This Part 260.

"Prepayment": Any moneys, however derived, that are received or recovered by the Authority from any payment of, or with respect to, principal on any Mortgage Loan prior to scheduled payments of principal required under such Mortgage Loan.

"Private Mortgage Insurance": Insurance coverage paid for by the Eligible Borrower that insures the Authority against losses with respect to defaults on a Mortgage Loan according to the terms of the insurance policy. The Authority may provide Private Mortgage Insurance or its equivalent.

"Program": The Authority's single family mortgage purchase program that is funded with proceeds of Bonds issued after the date of the adoption of the Resolution.

"Property Value": The lesser of the purchase price or the appraised value of the Qualified Dwelling at the time of the origination of the Mortgage Loan secured by such Qualified Dwelling.

"Qualified Dwelling": A fee simple interest in real property:

that is located in the State;

upon which there is located a structure or structures designed for residential use;

that is a single family residence; a condominium unit meeting the requirements of the Mortgage Purchase Agreement; a one-, two-, three- or four-unit structure meeting the requirements of the Code; or factory-made housing that is permanently fixed to real property;

of which not more than fifteen percent (15%) of the total area is reasonably expected to be used primarily in a trade or business; and

that can reasonably be expected to become the principal residence of the Eligible Borrower within a reasonable time after financing is provided. For purposes of this subparagraph, a "reasonable time after financing is

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENT

provided" shall be deemed to be a period within sixty (60) days after closing of the Mortgage Loan. This period may be extended if the Authority determines that undue hardship to the Eligible Borrower or Lender or an unreasonable result will otherwise occur.

"Qualified Rehabilitation Loan": A Mortgage Loan for the purchase of a Qualified Rehabilitation Residence. An Eligible Borrower for a Qualified Rehabilitation Loan must be the first resident of the Qualified Rehabilitation Residence after the completion of the rehabilitation.

"Qualified Rehabilitation Residence": A qualified Dwelling for which there has been a qualified rehabilitation, as defined in Section 143 of the Code.

"Reservation": The amount of funds reserved to a Homebuilder in a Series Program pursuant to a HomeBuilder Application and a Notice of Reservation of Funds.

"Resolution": The Authority's Homeowner Mortgage Revenue Bonds General Resolution setting forth the general terms and conditions under which the Authority may issue, deliver and sell Bonds.

"Rules": The rules of the Authority, as amended and supplemented from time to time.

"Series Program": A mortgage purchase program authorized by a Series Resolution to become a part of the Program.

"Series Resolution": A resolution issued pursuant to the Resolution authorizing the Authority to conduct a Series Program and to issue Bonds to provide financing for the purchase of Mortgage Loans under such Series Program.

"Servicer": A Lender, or its designated servicer, that has been approved by the Director, Deputy Director or Assistant Director as a Servicer and that has executed a Servicing Agreement with the Authority. The Authority may also be a Servicer. A designated servicer other than the Authority must be:

a State-chartered bank, national banking association, mortgage banking association or institution, credit union or State or federal savings and loan association;

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENT

that is qualified to do business in the State;

that is qualified to sell mortgages to FNMA and/or FHLMC, unless such requirement is waived by the Director based upon a determination of financial suitability made by the Director after consideration of the net assets, servicing capacity, and experience of the potential Servicer over the past 12 months in residential mortgage servicing; and

the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, or that deposits its funds in Illinois financial institutions whose deposits are insured by the Federal Deposit Insurance Corporation.

"Servicing Agreement": The agreement between a Servicer and the Authority (except when the Authority is the Servicer) that sets forth the terms and conditions for the servicing of Mortgage Loans purchased by the Authority.

"Special Hazard Insurance": Insurance that provides protection with respect to loss on properties acquired in connection with the foreclosure of a defaulted Mortgage Loan by reason of damage to properties caused by certain hazards (including earthquakes, and to a limited extent, tidal waves and related water damage) not insured against under a standard hazard insurance policy required to be obtained by each Eligible Borrower, or a flood insurance policy if the property is in a federally designated flood area. The Authority may provide Special Hazard Insurance or its equivalent.

"Staff": The Director, Deputy Director, Assistant Director and employees of the Authority.

"State": The State of Illinois.

"Supplemental Mortgage Coverage": The coverage, if required by a Series Resolution, whether in the form of insurance, a letter of credit, a guarantee, pledged funds or other forms of coverage, of losses incurred from Mortgage Loan defaults under that Series Program. Supplemental Mortgage Coverage may supplement other mortgage insurance and may include any insurance or reserve fund funded by the Authority.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENT

"VA": The United States Veterans' Administration.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 5883, effective March 30, 2007, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
APRIL AGENDA

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

STRATTON OFFICE BUILDING
ROOM C-1
SPRINGFIELD, ILLINOIS
9:00 A.M.
APRIL 18, 2007

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706
Email: jcar@ilga.gov
Phone: 217/785-2254*

RULEMAKINGS CURRENTLY BEFORE JCAR

PROPOSED RULEMAKINGS

Central Management Services

1. Electronic Commerce Security Act (14 Ill. Adm. Code 105)
 - First Notice Published: 30 Ill. Reg. 8700 – 5/12/06
 - Expiration of Second Notice: 4/22/07

2. Standard Procurement (44 Ill. Adm. Code 1)
 - First Notice Published: 30 Ill. Reg. 19577 – 12/29/06
 - Expiration of Second Notice: 5/5/07

JOINT COMMITTEE ON ADMINISTRATIVE RULES
APRIL AGENDA

Children and Family Services

3. Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible (89 Ill. Adm. Code 309)
 - First Notice Published: 30 Ill. Reg. 16701 – 10/27/06
 - Expiration of Second Notice: 4/21/07
4. Purchase of Service (89 Ill. Adm. Code 357)
 - First Notice Published: 30 Ill. Reg. 17700 – 11/13/06
 - Expiration of Second Notice: 5/10/07
5. Audits, Reviews and Investigations (89 Ill. Adm. Code 434)
 - First Notice Published: 30 Ill. Reg. 17709 – 11/13/06
 - Expiration of Second Notice: 5/10/07

Commerce Commission

6. Voluntary Binding Arbitration Practice (83 Ill. Adm. Code 202)
 - First Notice Published: 30 Ill. Reg. 15844 – 10/6/06
 - Expiration of Second Notice: 4/21/07

Education

7. Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)
 - First Notice Published: 30 Ill. Reg. 74 – 1/5/07
 - Expiration of Second Notice: 5/6/07

Elections

8. Campaign Financing (26 Ill. Adm. Code 100)
 - First Notice Published: 30 Ill. Reg. 18908 – 12/15/06
 - Expiration of Second Notice: 5/10/07
9. Miscellaneous (26 Ill. Adm. Code 207)
 - First Notice Published: 31 Ill. Reg. 1828 – 1/19/07
 - Expiration of Second Notice: 5/10/07

Employment Security

10. Determination of Unemployment Contributions (56 Ill. Adm. Code 2770)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
APRIL AGENDA

- First Notice Published: 31 Ill. Reg. 1 – 1/5/07
- Expiration of Second Notice: 4/27/07

Financial and Professional Regulation

11. Department Rules of Practice in Administrative Hearings (68 Ill. Adm. Code 1100)
 - First Notice Published: 30 Ill. Reg. 14436 – 9/8/06
 - Expiration of Second Notice: 5/11/07

Healthcare and Family Services

12. Medical Payment (89 Ill. Adm. Code 140)
 - First Notice Published: 30 Ill. Reg. 18860 – 12/15/06
 - Expiration of Second Notice: 5/5/07
13. Hospital Services (89 Ill. Adm. Code 148)
 - First Notice Published: 30 Ill. Reg. 13636 – 8/18/07
 - Expiration of Second Notice: 5/2/07
14. Long Term Care Reimbursement Changes (89 Ill. Adm. Code 153)
 - First Notice Published: 30 Ill. Reg. 18349 – 12/1/06
 - Expiration of Second Notice: 5/2/07

Human Services

15. Medicaid Community Mental Health Services Program (59 Ill. Adm. Code 132)
 - First Notice Published: 30 Ill. Reg. 18357 – 12/1/06
 - Expiration of Second Notice: 4/19/07

Pollution Control Board

16. Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code 218)
 - First Notice Published: 30 Ill. Reg. 15867 – 10/6/06
 - Expiration of Second Notice: 4/26/07
17. Organic Material Emission Standards and Limitations for the Metro East Area (35 Ill. Adm. Code 219)
 - First Notice Published: 30 Ill. Reg. 15892 – 10/6/06
 - Expiration of Second Notice: 4/26/07

JOINT COMMITTEE ON ADMINISTRATIVE RULES
APRIL AGENDA

Public Health

18. Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)
 - First Notice Published: 30 Ill. Reg. 14780 – 9/15/06
 - Expiration of Second Notice: 5/4/07
19. Sheltered Care Facilities Code (77 Ill. Adm. Code 330)
 - First Notice Published: 30 Ill. Reg. 14795 – 9/15/06
 - Expiration of Second Notice: 5/4/07
20. Illinois Veterans' Homes Code (77 Ill. Adm. Code 340)
 - First Notice Published: 30 Ill. Reg. 14808 – 9/15/06
 - Expiration of Second Notice: 5/4/07
21. Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)
 - First Notice Published: 30 Ill. Reg. 14817 – 9/15/06
 - Expiration of Second Notice: 5/4/07
22. Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)
 - First Notice Published: 30 Ill. Reg. 14831 – 9/15/06
 - Expiration of Second Notice: 5/4/07
23. Health Care Worker Background Check Code (77 Ill. Adm. Code 955)
 - First Notice Published: 30 Ill. Reg. 16206 – 10/13/06
 - Expiration of Second Notice: 5/12/07

Secretary of State

24. Illinois Electronic Commerce Security Act (14 Ill. Adm. Code 100)
 - First Notice Published: 30 Ill. Reg. 8798 – 5/12/06
 - Expiration of Second Notice: 4/22/07
25. Issuance of Licenses (92 Ill. Adm. Code 1030)
 - First Notice Published: 30 Ill. Reg. 18863 – 12/15/06
 - Expiration of Second Notice: 5/2/07
26. Issuance of Licenses (92 Ill. Adm. Code 1030)
 - First Notice Published: 31 Ill. Reg. 1821 – 1/19/07

JOINT COMMITTEE ON ADMINISTRATIVE RULES
APRIL AGENDA

-Expiration of Second Notice: 5/10/07

27. Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill. Adm. Code 1040)
-First Notice Published: 30 Ill. Reg. 18874 – 12/15/06
-Expiration of Second Notice: 5/2/07

State Police

28. Testing of Breath, Blood and Urine For Alcohol, Other Drugs, and Intoxicating Compounds (20 Ill. Adm. Code 1286)
-First Notice Published: 30 Ill. Reg. 19597 – 12/29/06
-Expiration of Second Notice: 4/18//07

State Records Commission

29. State Records Commission (44 Ill. Adm. Code 4400)
-First Notice Published: 30 Ill. Reg. 17732 – 11/13/06
-Expiration of Second Notice: 4/21/07

EMERGENCY RULEMAKING

Corrections

30. Health Care (20 Ill. Adm. Code 415) (Emergency)
-Notice Published: 31 Ill. Reg. 5143 – 3/30/07

PEREMPTORY RULEMAKINGS

Agriculture

31. Meat and Poultry Inspection Act (8 Ill. Adm. Code 125) (Peremptory)
-Notice Published: 31 Ill. Reg. 5149 – 3/30/07

Central Management Services

32. Pay Plan (80 Ill. Adm. Code 310) (Peremptory)
-Notice Published: 31 Ill. Reg. 4445 – 3/16/07

AGENCY RESPONSES

JOINT COMMITTEE ON ADMINISTRATIVE RULES
APRIL AGENDA

Agriculture

33. Animal Welfare Act (8 Ill. Adm. Code 25; 30 Ill. Reg. 14664)

Education

34. Special Education (23 Ill. Adm. Code 226; 30 Ill. Reg. 4421)

Elevator & Safety Review Board

35. Illinois Elevator Safety Rules (41 Ill. Adm. Code 1000; 30 Ill. Reg. 16522)

Environmental Protection Agency

36. Procedures for Operation of the Non-Hazardous Solid Waste Fee System (35 Ill. Adm. Code 858; 30 Ill. Reg. 14700)

Healthcare and Family Services

37. Long Term Care Reimbursement Changes (89 Ill. Adm. Code 153; 30 Ill. Reg. 18779)
(Emergency)

Public Health

38. Hospital Report Card Code (77 Ill. Adm. Code 255; 30 Ill. Reg. 6089)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF MODIFICATION IN RESPONSE TO RECOMMENDATION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Hospital Report Card Code
- 2) Code Citation: 77 Ill. Adm. Code 255
- 3)

<u>Section Numbers:</u>	<u>Action:</u>
255.100	Modification
255.150	Modification
255.200	Modification
255.250	Modification
255.260	Modification
255.270	Modification
- 4) Date Notice of Proposed Rules Published in the Register: April 7, 2006; 30 Ill. Reg. 6089
- 5) Date JCAR Statement of Recommendation Published in the Register: March 30, 2007; 31 Ill. Reg. 5165
- 6) Summary of Action Taken by the Agency: The Joint Committee recommended that the Department continue to work with public commentators to ensure, to the extent possible, that their concerns are met in this rulemaking or, if necessary, in further rulemaking.

The Department has communicated with the entity submitting comments and agrees to make the following changes:

1. In Section 255.100, in the definition of "Pediatrics" after "areas", add "in acute care hospitals".
2. In Section 255.100, add a definition of "acute care" as follows: "Acute care means the treatment of a condition or disease for a short period of time in which a patient is treated for a brief but severe episode of illness with the goal of discharging the patient.".
3. In the definition of "Pediatrics", change "14" to "17" in the 1st sentence and after the 2nd sentence, add the following: "Pediatric hospitals, however, may incorporate any or all of these clinical service areas in fulfilling their role of specialty treatment facilities for the medical care of infants, children, and adolescents. Pediatric hospitals shall consider all care provided as pediatric

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF MODIFICATION IN RESPONSE TO RECOMMENDATION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

without regard for where in the facility the service was rendered. For patients in specialty pediatric hospitals, age requirements are extended to include those patients who, due to condition, care and treatment requirements, continue to be considered pediatric.... In the event of an adult or specialty hospital operating a pediatric hospital within the larger hospital, the embedded pediatric hospital shall report using its National Provider Identifier and taxonomy codes to allow differentiation of nursing hours and more meaningful comparisons."

4. In the definition of "Productive hours", after "absences", add "with the following inclusions and exclusions: agency, per diem and registry RNs with direct patient care responsibility shall be included in the number of productive hours for the mandated reports. The number of productive hours for reports under this Section shall not include nurse managers, charge nurses who are not assigned direct patient care responsibilities, or any other licensed nursing personnel who do not have a direct care patient assignment. The mandated report shall not include licensed nurses who are participating in orientation in the number of productive hours."
5. In the definition of "Surgical Care Improvement Project", after "Alliance", add "(HQA)".
6. In Section 255.150(c), after "information" in the second line, add "and provide instruction for obtaining nurse staffing information".
7. In Section 255.150(c), after "information" in the last line, add "on obtaining nurse staffing information".
8. In Section 255.150(h)(1)(B), after "request", add "during normal business hours during the week and within 4 hours on weekends and evening hours".
9. In Section 255.250(a)(1)(E), italicize "Nursing hours per patient day".
10. In Section 255.250(a)(1)(E), after the period, add "(Section 25(a)(1) of the Act)".
11. In Section 255.250(a)(1)(G), italicize "Average daily hours worked".
12. In Section 255.250(a)(1)(G), before the comma, add "(Section 25(a)(1) of the Act)".

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF MODIFICATION IN RESPONSE TO RECOMMENDATION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

13. In Section 255.250(a)(1)(H), change "Average daily census" to "Average daily census per clinical service area".
14. In Section 255.250(a)(1)(H), after the period, add "(Section 25(a)(1) of the Act)".
15. Delete Section 255.250(a)(2), including subsections (A)-(D).
16. In Section 255.250(a), change subsection "3" to "2".
17. In Section 255.250(a)(2), after "schedule", add "for patients ages 18 and over in hospitals providing services where these treatments are clinically appropriate".
18. In Section 255.250(a)(2)(A), change "June" to "July" and after "2007", add "for Medicare PPS (prospective payment system) inpatient hospitals and October 1, 2007 for inpatient hospitals that are not Medicare PPS".
19. In Section 255.250(a)(2)(A), after "SCIP", add "according to the following implementation dates and schedules or as modified by SCIP for CMMS/HQA".
20. In Section 255.250(a)(2)(A)(i), after "antibiotic", add "received within one hour".
21. In Section 255.250(a)(2)(A)(iii), after "surgery", add "end time".
22. After Section 255.250(a)(2)(A) (iii), add "B) Commencing on October 1, 2007, surgical process measures as set forth in SCIP according to the following implementation dates and schedules or as modified by SCIP for CMMS/HQA:".
23. In Section 255.250(a)(2)(B), change "iv)" to "i)" and change "For cardiac" to "Cardiac".
24. In Section 255.250(a)(2)(B), change "v)" to "ii)", change "For cardiac" to "Cardiac", change the comma to "with", and after "controlled", add "6 a.m.". .
25. In Section 255.250(a)(2), change "B)" to "C)".
26. In Section 255.250(a)(2), change "C)" to "D)".

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF MODIFICATION IN RESPONSE TO RECOMMENDATION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

27. In Section 255.250(a)(2), change "D)" to "E)".
28. In Section 255.250(a)(2)(C), (D), and (E), change "June 1" to "July 1".
29. In Section 255.250(a)(2)(C), delete "as set forth in SCIP".
30. In Section 255.260(a), change "June" to "July".
31. In Section 255.270(a), after "1st quarter", add "(January through March)" and after "2nd quarter", add "(April through June)".
32. In Section 255.270(a), after "3rd quarter", add "(July through September)" and after "4th quarter", add "(October through December)".

For the text of the adopted rulemaking as modified by the changes above, please refer to this issue of the *Illinois Register*.

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 March 26, 2007 through April 2, 2007 and have been scheduled for review by the Committee at its April 18, 2007 or May 15, 2007 meetings in Springfield. 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>
5/10/07	<u>State Board of Elections</u> , Campaign Financing (26 Ill. Adm. Code 100)	12/15/06 30 Ill. Reg. 18908	4/18/07
5/10/07	<u>State Board of Elections</u> , Miscellaneous (26 Ill. Adm. Code 207)	1/19/07 31 Ill. Reg. 1828	4/18/07
5/10/07	<u>Secretary of State</u> , Issuance of Licenses (92 Ill. Adm. Code 1030)	1/19/07 31 Ill. Reg. 1821	4/18/07
5/10/07	<u>Department of Children and Family Services</u> , Purchase of Service (89 Ill. Adm. Code 357)	11/13/06 30 Ill. Reg. 17700	4/18/07
5/10/07	<u>Department of Children and Family Services</u> , Audits, Reviews and Investigations (89 Ill. Adm. Code 434)	11/13/06 30 Ill. Reg. 17709	4/18/07
5/11/07	<u>Department of Financial and Professional Regulation-Division of Professional Regulation</u> , Department Rules of Practice in Administrative Hearings (68 Ill. Adm. Code 1100)	9/8/06 30 Ill. Reg. 14436	4/18/07
5/12/07	<u>Department of Public Health</u> , Health Care	10/13/06	4/18/07

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

	Worker Background Check Code (77 Ill. Adm. Code 955)	30 Ill. Reg. 16206	
5/16/07	<u>Illinois Student Assistance Commission</u> , General Provisions (23 Ill. Adm. Code 2700)	2/9/07 31 Ill. Reg. 2561	5/15/07
5/16/07	<u>Illinois Student Assistance Commission</u> , Federal Family Education Loan Program (FFELP) (23 Ill. Adm. Code 2720)	2/9/07 31 Ill. Reg. 2579	5/15/07
5/16/07	<u>Illinois Student Assistance Commission</u> , Grant Program For a Child Raised by Grandparents (23 Ill. Adm. Code 2738)	2/9/07 31 Ill. Reg. 2587	5/15/07
5/16/07	<u>Illinois Student Assistance Commission</u> , Nurse Educator Loan Repayment Program (23 Ill. Adm. Code 2758)	2/9/07 31 Ill. Reg. 2593	5/15/07
5/16/07	<u>Illinois Student Assistance Commission</u> , State Scholar Program (23 Ill. Adm. Code 2760)	2/9/07 31 Ill. Reg. 2599	5/15/07
5/16/07	<u>Illinois Student Assistance Commission</u> , Christa McAuliffe Fellowship Program (Repealer) (23 Ill. Adm. Code 2766)	2/9/07 31 Ill. Reg. 2606	5/15/07
5/16/07	<u>Illinois Student Assistance Commission</u> , Illinois Teachers and Child Care Providers Loan Repayment Program (23 Ill. Adm. Code 2767)	2/9/07 31 Ill. Reg. 2614	5/15/07

PROCLAMATIONS

2007-113**KNIGHTS OF COLUMBUS DAY**

- WHEREAS, the Knights of Columbus is an active volunteer organization that raises awareness for needy causes and generates much needed funds to support a variety of charitable activities; and
- WHEREAS, on March 29, 1882, in New Haven, Connecticut, Father Michael J. McGivney founded the largest Catholic service organization with over 14,000 councils and with over 1.7 million members; and
- WHEREAS, councils are located in the United States of America, Canada, Mexico, Central America, Philippines, and Poland, based on the four principles of charity, unity, fraternity and patriotism; and
- WHEREAS, the State of Illinois recognizes the Knights of Columbus for its role in assisting our communities, and caring for others throughout the communities of this state and nation; and
- WHEREAS, a special Mass will celebrate the 125th anniversary of the Knights of Columbus at St. Frances of Rome Church on March 29, 2007 at 7 p.m. with Bishop Hughes and the Cardinal Councils from Cicero:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim March 29, 2007 as **KNIGHTS OF COLUMBUS DAY** in Illinois in recognition of their 125th anniversary.

Issued by the Governor on March 23, 2007.

Filed by the Secretary of State March 28, 2007.

2007-114**PUBLIC HEALTH WEEK**

- WHEREAS, across the country, the modern built environment – our buildings, roads, sidewalks and neighborhood design – adversely affects the health and safety of our children; and
- WHEREAS, April 2 – 8, 2007 has been designated as National Public Health Week by the American Public Health Association and other distinguished state and national organizations; and

PROCLAMATIONS

WHEREAS, this year's theme for Public Health Week is Take the First Step! Preparedness and Public Health Threats: Addressing the Unique Needs of the Nation's Vulnerable Populations; and

WHEREAS, all observances during National Public Health Week will be used to promote a healthy built environment and balanced solutions to create healthier communities and healthier kids; and

WHEREAS, the observance is a cooperative effort of state and local health departments, academic institutions, allied organizations, community groups, and professional and trade associations which have joined together to promote a common interest in public health; and

WHEREAS, communities are encouraged to assess the status of the built environment and children's health, identify areas for improvement and implement model programs; and

WHEREAS, other public health initiatives in Illinois include the FamilyCare and All Kids programs, which provide health care coverage and insurance for working families and children. These programs are helping to make sure all children are able to receive medical care when they need it; and

WHEREAS, the Illinois Public Health Association is a voluntary professional society whose members strive to improve the health of Illinois residents through leadership in and advancement of the practice of public health:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 2 – 8, 2007 as **PUBLIC HEALTH WEEK** in Illinois, and encourage all citizens to take part in the events planned for this observance.

Issued by the Governor on March 23, 2007.

Filed by the Secretary of State March 28, 2007.

2007-115**ZENGELER CLEANERS**

WHEREAS, in 1857, John Zengeler established "The New York Steam Dye Works," a clothing cleaning business, at 208 South Clark St. in Chicago; and

WHEREAS, in 1866, Zengeler moved his store to S. Prairie St., which was destroyed in the Great Chicago Fire in 1871, then rebuilt at 2323 S. Cottage Grove

PROCLAMATIONS

Ave. in Chicago. In 1896, John's eldest son Arthur W. ("A.W.") Zengeler joined his father in the business and opened a new location at A.W. Zengeler Cleaners in 1906. Then, in 1930, A.W.'s sons, Ralph, Art and Al, became active in the business, with Ralph becoming the third generation of leadership in 1948. In 1962, Ralph's son Robert became the fourth generation to lead the family business; and

- WHEREAS, three of Robert's six children – Robert, Jr., Michael, and Thomas – became the fifth generation of the Zengeler family to join the business; and
- WHEREAS, in 2001, Thomas Zengeler became President and fifth generation leader of the family owned company; and
- WHEREAS, Zengeler Cleaners has grown to seven stores in Lake and Cook Counties, with an eighth store planned for later in 2007; and
- WHEREAS, Zengeler Cleaners employs 145 hard working and talented men and women, 27 of whom have been with the company for 20 years or more; and
- WHEREAS, the Deerfield-Bannockburn-Riverwoods Chamber of Commerce recognized Zengeler Cleaners as the 2005 "Business of the Year"; and
- WHEREAS, Zengeler Cleaners has grown to become the primary contributor to the Glass Slipper Project, an organization assisting thousands of high school women; and
- WHEREAS, Zengeler Cleaners is now the Midwest's oldest and largest dry cleaner; and
- WHEREAS, in 2007, Zengeler Cleaners celebrates its 150th Anniversary and a proud history in which it overcame the Great Chicago Fire, the Civil War, two World Wars and the Great Depression, emerging as one of the premier fabric care specialists in the United States:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby congratulate and commend **ZENGELER CLEANERS** on the occasion of their milestone 150th Anniversary.

Issued by the Governor on March 23, 2007.

Filed by the Secretary of State March 28, 2007.

PROCLAMATIONS

2007-116**BRAIN INJURY AWARENESS DAY**

- WHEREAS, traumatic brain injury is largely preventable, yet it is among the nation's most significant public health concerns, currently affecting at least 5.3 million Americans; and
- WHEREAS, 1,400,000 traumatic brain injuries occur each year in the United States, over 400,000 of which occur in children 14 years of age and younger, and 1.1 million of those injuries are serious enough to require treatment in hospital emergency rooms; and
- WHEREAS, an estimated 80,000 to 90,000 Americans with traumatic brain injury experience permanent disability from their injury; and
- WHEREAS, traumatic brain injury often results in significant impairment of an individual's physical, cognitive and psychosocial functioning, impacting their ability to return to school and/or work; and
- WHEREAS, a substantial portion of individuals with traumatic brain injury and their families do not have access to appropriate support and services, and remain unserved or underserved. The lack of public awareness is so vast that traumatic brain injury is known in the disability community as the "silent epidemic;" and
- WHEREAS, in Illinois, there are more than a quarter of a million people living with disabilities resulting from brain injury; and
- WHEREAS, the Brain Injury Association of Illinois is an organization dedicated to creating a better future through brain injury prevention, research, education and advocacy; and
- WHEREAS, in partnership with the Centers for Disease Control and Prevention, the Health Resources and Services Administration, and the Defense and Veterans Brain Injury Center, the Brain Injury Association of America and the Brain Association of Illinois strive to increase brain injury awareness, thus helping to decrease the number of brain injuries each year; and
- WHEREAS, the Brain Injury Association of America has recognized March as Brain Injury Awareness Month, and here in Illinois, we are pleased to join in this important campaign:

PROCLAMATIONS

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim March 30, 2007 as **BRAIN INJURY AWARENESS DAY** in Illinois, and encourage all citizens to join in the efforts to spread knowledge of this critical health issue.

Issued by the Governor on March 23, 2007.

Filed by the Secretary of State March 28, 2007.

2007-117**SEXUAL ASSAULT AWARENESS MONTH**

WHEREAS, sexual assault is one of the most horrendous crimes in our society today, with victims often suffering lifelong pain from physical injury and serious emotional trauma; and

WHEREAS, nationwide, one in three girls and one in six boys will become a victim of some form of sexual abuse before the age of 18; and

WHEREAS, in Illinois, 5,853 sexual assaults were reported to law enforcement in 2003. However, in reality the number of assaults is higher because it is estimated that less than half are reported; and

WHEREAS, it is important to recognize the dedication and contributions of the individuals who provide services to victims of sexual abuse and work to increase the public understanding of this problem; and

WHEREAS, education about the crimes of sexual assault, sexual abuse, sexual harassment and their impact is essential to end sexual violence and advance equality, safety, and respect among all individuals:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 2007 as **SEXUAL ASSAULT AWARENESS MONTH** in Illinois, and encourage all citizens to join together to prevent sexual assault and ensure a life free from harm for the residents of our state.

Issued by the Governor on March 23, 2007.

Filed by the Secretary of State March 28, 2007.

2007-118**SARCOIDOSIS AWARENESS MONTH**

PROCLAMATIONS

- WHEREAS, sarcoidosis is a disease that causes inflammation of the body's tissues. It can occur in any organ of the body and upsets cells until they eventually form granulomas, which are small lumps that stay within the organ; and
- WHEREAS, sarcoidosis can affect people all across the globe. Although it was once viewed as a rare disease, over the last 35 years the affected population has increased. Sarcoidosis is now the most common fibrotic lung disorder and one of the most common chronic diseases in the world; and
- WHEREAS, symptoms of sarcoidosis are far ranging. Since the disease can affect any organ in the body, the symptoms are different for each organ. The most common symptoms include: fatigue, loss of appetite, fever, night sweats, enlarged lymph nodes, a skin rash, and shortness of breath and/or chest pain; and
- WHEREAS, sarcoidosis is not easily diagnosed and can often go undetected or misdiagnosed for a long period of time. Because of this, it is difficult to estimate the number of people living with the disease today; and
- WHEREAS, many patients with sarcoidosis do not require treatment and are able to function normally, particularly those without disabling symptoms. Although corticosteroids remain the primary treatment for sarcoidosis, a critical aspect of treatment is to keep the affected organs working and relieve the symptoms. Many times, symptoms will disappear spontaneously or without treatment; and
- WHEREAS, there are many dedicated organizations in this country working to raise awareness about this disease. The National Sarcoidosis Society, Incorporated, provides educational awareness and support to the patients and their families as well as developing an ongoing campaign to promote awareness and medical research into the debilitating disease:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 2007 as **SARCOIDOSIS AWARENESS MONTH** in Illinois, and encourage all citizens to educate themselves on this unfortunate chronic illness, and do what they can to support those who are affected by it.

Issued by the Governor on March 23, 2007.

Filed by the Secretary of State March 28, 2007.

PROCLAMATIONS

**2007-119
RIDE FOR KIDS DAY**

WHEREAS, each July, participants in the Annual Chicagoland Ride for Kids meet in the Village of Northbrook to raise money and awareness for the Pediatric Brain Tumor Foundation; and

WHEREAS, Ride for Kids is the motorcycling community's way of showing their support and compassion for individuals afflicted with brain tumors and their families; and

WHEREAS, last year, more than 2,700 motorcycles and more than 3,000 riders participated in the 18th Annual Chicagoland Ride for Kids; and

WHEREAS, over \$366,000 were raised by last year's event to help benefit the Pediatric Brain Tumor Foundation of the United States, a non-profit organization working diligently to find the cause and cure of childhood brain tumors; and

WHEREAS, during the 18 years that the Chicagoland area has participated in this event, over \$2 million have been raised in total for the Pediatric Brain Tumor Foundation:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 15, 2007 as **RIDE FOR KIDS DAY** in Illinois, and encourage all citizens to support this worthy cause.

Issued by the Governor on March 23, 2007.

Filed by the Secretary of State March 28, 2007.

**2007-120
AMERICAN EX-PRISONERS OF WAR RECOGNITION DAY**

WHEREAS, many loyal and brave Americans who served in the wars of this nation were captured by the enemy or listed as missing in action while performing their duties; and

WHEREAS, despite strict rules and regulations set forth by international codes, American Prisoners of War have often suffered unconscionable treatment and many have died as a result of cruel and inhumane acts by their enemy captors; and

PROCLAMATIONS

WHEREAS, it is exceedingly fitting that we recognize the sacrifices of American Prisoners of War and those missing in action; and

WHEREAS, these heroic soldiers have demonstrated their love and convictions in the people and freedoms of this country by enduring these tragedies and in many unfortunate cases by giving the ultimate sacrifice:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 9, 2007 as **AMERICAN EX-PRISONERS OF WAR RECOGNITION DAY** in Illinois, and encourage all citizens to take a moment to honor and remember the men and women who suffered while fighting to make America a better place for all to live.

Issued by the Governor on March 23, 2007.

Filed by the Secretary of State March 28, 2007.

2007-121
BATAAN DAY

WHEREAS, since the birth of this great nation, America has been blessed with a population of brave men and women who have courageously answered the call to defend their country's ideals of freedom and democracy. Many of the brave Americans who have answered their country's call to service were captured by hostile forces or listed as missing while performing their duties; and

WHEREAS, the harsh conditions of enemy captivity are an unfortunate reality that many of our brave soldiers and their allies have experienced first hand. During World War II, American and Filipino prisoners of war who fought in the Philippines experienced some of the cruelest treatment. They were forced by Japanese captors to participate in what has come to be known as the Bataan Death March and the survivors were put into forced labor camps; and

WHEREAS, American and Filipino former prisoners of war are national heroes whose service to our country will never be forgotten. These brave men and women fought for America and endured cruelties and deprivation as prisoners of war that no man or woman should ever have to experience; and

PROCLAMATIONS

WHEREAS, during World War II, the Korean War, Vietnam, the 1991 Gulf War, Operation Iraqi Freedom, and other conflicts, our service men and women have sacrificed much to secure freedom, defend the ideals of our nation, and free the oppressed. Each of these individuals should be honored for their strength of character and for the difficulties they and their families endured. By answering the call of duty and risking their lives to protect others, these proud patriots continue to inspire us today as we work with our allies to extend peace, liberty, and opportunity to people around the world; and

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 9, 2007 as **BATAAN DAY** in Illinois, and encourage all citizens to take a moment to honor and remember the men and women who suffered the hardships of enemy captivity while courageously serving their country.

Issued by the Governor on March 23, 2007.

Filed by the Secretary of State March 28, 2007.

ILLINOIS ADMINISTRATIVE CODE

Issue Index - With Effective Dates

Rules acted upon in Volume 31, Issue 15 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

23 - 1060	5700
77 - 1100	5704
56 - 2520	5721
17 - 830	5737

ADOPTED RULES

74 - 900	03/29/2007.....	5751
35 - 1500	03/27/2007.....	5756
35 - 885	03/30/2007.....	5774
47 - 355	03/30/2007.....	5797
89 - 515	03/28/2007.....	5819
89 - 750	03/28/2007.....	5829
74 - 330	03/29/2007.....	5836
77 - 255	03/28/2007.....	5839
92 - 1030	03/29/2007.....	5864

EMERGENCY RULES

89 - 146	04/01/2007.....	5876
47 - 260	03/30/2007.....	5883

EXECUTIVE ORDERS AND PROCLAMATIONS

07 - 114	03/23/2007.....	5907
07 - 113	03/23/2007.....	5907
07 - 115	03/23/2007.....	5908
07 - 116	03/23/2007.....	5910
07 - 118	03/23/2007.....	5911
07 - 117	03/23/2007.....	5911
07 - 120	03/23/2007.....	5913
07 - 119	03/23/2007.....	5913
07 - 121	03/23/2007.....	5914

OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER

77 - 255	5901
----------	-------	------

ORDER FORM

<input type="checkbox"/> Subscription to the Illinois Register (52 Issues) <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Electronic Version of the Illinois Register (E-mail Address Required) <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Back Issues of the Illinois Register (Current Year Only) Volume # _____ Issue# _____ Date _____	\$ 10.00 (each)
<input type="checkbox"/> Microfiche sets of the Illinois Register 1977 – 2003 Specify Year(s) _____	\$ 200.00 (per set)
<input type="checkbox"/> Cumulative/Sections Affected Indices 1990 - 2005 Specify Year(s) _____	\$ 5.00 (per set)
(Processing fee for credit cards purchases, if applicable.) \$ 2.00 TOTAL AMOUNT OF ORDER \$ _____	

--	--

Check Make Checks Payable To: **Secretary of State**

<input type="checkbox"/> VISA <input type="checkbox"/> Master Card <input type="checkbox"/> Discover (There is a \$2.00 processing fee for credit card purchases.)
Card #: _____ Expiration Date: _____
Signature: _____

Send Payment To: Secretary of State
 Department of Index
 Administrative Code Division
 111 E. Monroe
 Springfield, IL 62756

Fax Order To: (217) 524-0308

Name:	Attention:	ID #:
Address:		
City:	State:	Zip Code:
Phone:	Fax:	E-Mail:

Published by **JESSE WHITE** · Secretary of State
www.cyberdriveillinois.com