

# 2009

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# ILLINOIS

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# REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES



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August 28, 2009  
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**TABLE OF CONTENTS**

**August 28, 2009 Volume 33, Issue 35**

**PROPOSED RULES**

HUMAN SERVICES, DEPARTMENT OF  
Recovery of Misspent Funds  
89 Ill. Adm. Code 527.....12056

ILLINOIS EMERGENCY MANAGEMENT AGENCY  
Licensing of Radioactive Material  
32 Ill. Adm. Code 330.....12061

PUBLIC HEALTH, DEPARTMENT OF  
Heartsaver AED Grant Code  
77 Ill. Adm. Code 530.....12076

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS  
The Administration and Operation of the State Employees'  
Retirement System of Illinois  
80 Ill. Adm. Code 1540.....12084

TRANSPORTATION, DEPARTMENT OF  
Airport Hazard Zoning  
92 Ill. Adm. Code 16.....12100  
Greater Rockford Airport Hazard Zoning Regulations (Repealer)  
92 Ill. Adm. Code 47.....12108  
Greenville Airport Zoning Regulations (Repealer)  
92 Ill. Adm. Code 48.....12131  
Metropolis Municipal Airport Hazard Zoning Regulations  
(Repealer)  
92 Ill. Adm. Code 66.....12145  
Pittsfield-Penstone Municipal Airport Hazard Zoning Regulations  
(Repealer)  
92 Ill. Adm. Code 74.....12164  
Sparta Community Airport Hazard Zoning Regulations (Repealer)  
92 Ill. Adm. Code 82.....12183  
Vermilion County Airport Hazard Zoning Regulations (Repealer)  
92 Ill. Adm. Code 90.....12202

VETERANS' AFFAIRS, DEPARTMENT OF  
Rules Governing Payment of War on Terrorism Compensation Act  
95 Ill. Adm. Code 123.....12222

**ADOPTED RULES**

COMMERCE COMMISSION, ILLINOIS  
Minimum Safety Standards for Transportation of Gas and for Gas  
Pipeline Facilities  
83 Ill. Adm. Code 590.....12224

HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF  
Medical Payment

89 Ill. Adm. Code 140.....	12227
<b>POLLUTION CONTROL BOARD</b>	
Water Use Designations and Site Specific Water Quality Standards	
35 Ill. Adm. Code 303.....	12258
<b>PUBLIC HEALTH, DEPARTMENT OF</b>	
Loan Repayment Assistance for Physicians	
77 Ill. Adm. Code 581.....	12263
<b>EMERGENCY RULES</b>	
<b>VETERANS' AFFAIRS, DEPARTMENT OF</b>	
Rules Governing Payment of War on Terrorism Compensation Act	
95 Ill. Adm. Code 123.....	12273
<b>NOTICE OF CORRECTION TO NOTICE ONLY</b>	
<b>REVENUE, DEPARTMENT OF</b>	
Retailers' Occupation Tax	
86 Ill. Adm. Code 130.....	12279
<b>SECOND NOTICES RECEIVED</b>	
<b>JOINT COMMITTEE ON ADMINISTRATIVE RULES</b>	
Second Notices Received.....	12280
<b>EXECUTIVE ORDERS AND PROCLAMATIONS</b>	
<b>PROCLAMATIONS</b>	
Women's Business Development Day	
2009-241.....	12281
Career and Technical Organizations Week	
2009-242.....	12282
Chamber of Commerce Week	
2009-243.....	12282
Dyslexia Awareness Month	
2009-244.....	12283
National Prosthodontics Awareness Week	
2009-245.....	12284
Illinois Association for Home and Community Education Week	
2009-246.....	12285
Tom Sapp Day	
2009-247.....	12286
Denene Wilmeth Day	
2009-248.....	12287
Bill Vandergraph Day	
2009-249.....	12288
Charles Klinefelter Day	
2009-250.....	12289
Thomas Shinn Day	
2009-251.....	12290
Mike Black Day	
2009-252.....	12291
Arthur Kane Day	

2009-253.....	12292
John Slayton Day	
2009-254.....	12293
Christine Brooks Day	
2009-255.....	12294
Dr. Ted Flickinger Day	
2009-256.....	12295
Dr. Karl Luthin Day	
2009-257.....	12296
Veterans' Day at the State Fair	
2009-258.....	12297

## 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 preemptory 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.].

### ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2009

<b><u>Issue #</u></b>	<b><u>Rules Due Date</u></b>	<b><u>Date of Issue</u></b>
1	December 22, 2008	January 2, 2009
2	December 29, 2008	January 9, 2009
3	January 5, 2009	January 16, 2009
4	January 12, 2009	January 23, 2009
5	January 20, 2009	January 30, 2009
6	January 26, 2009	February 6, 2009
7	February 2, 2009	February 13, 2009
8	February 9, 2009	February 20, 2009
9	February 17, 2009	February 27, 2009
10	February 23, 2009	March 6, 2009
11	March 2, 2009	March 13, 2009
12	March 9, 2009	March 20, 2009
13	March 16, 2009	March 27, 2009
14	March 23, 2009	April 3, 2009
15	March 30, 2009	April 10, 2009
16	April 6, 2009	April 17, 2009
17	April 13, 2009	April 24, 2009
18	April 20, 2009	May 1, 2009
19	April 27, 2009	May 8, 2009
20	May 4, 2009	May 15, 2009
21	May 11, 2009	May 22, 2009
22	May 18, 2009	May 29, 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
23	May 26, 2009	June 5, 2009
24	June 1, 2009	June 12, 2009
25	June 8, 2009	June 19, 2009
26	June 15, 2009	June 26, 2009
27	June 22, 2009	July 6, 2009
28	June 29, 2009	July 10, 2009
29	July 6, 2009	July 17, 2009
30	July 13, 2009	July 24, 2009
31	July 20, 2009	July 31, 2009
32	July 27, 2009	August 7, 2009
33	August 3, 2009	August 14, 2009
34	August 10, 2009	August 21, 2009
35	August 17, 2009	August 28, 2009
36	August 24, 2009	September 4, 2009
37	August 31, 2009	September 11, 2009
38	September 8, 2009	September 18, 2009
39	September 14, 2009	September 25, 2009
40	September 21, 2009	October 2, 2009
41	September 28, 2009	October 9, 2009
42	October 5, 2009	October 16, 2009
43	October 13, 2009	October 23, 2009
44	October 19, 2009	October 30, 2009
45	October 26, 2009	November 6, 2009
46	November 2, 2009	November 13, 2009
47	November 9, 2009	November 20, 2009
48	November 16, 2009	November 30, 2009
49	November 23, 2009	December 4, 2009
50	November 30, 2009	December 11, 2009
51	December 7, 2009	December 18, 2009
52	December 14, 2009	December 28, 2009

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Recovery of Misspent Funds
- 2) Code Citation: 89 Ill. Adm. Code 527
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
527.10	Amendment
527.100	Amendment
- 4) Statutory Authority: Implementing Section 3(k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being submitted to update the language to be current.
- 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 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: Interested persons may present their comments concerning these rules within 45 days of the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

217/785-9772

- 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: State of Illinois procedures for recoupment of funds
  - C) Types of professional skills necessary for compliance: VR counselors must have a Master's Degree.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2007

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER a: GENERAL PROGRAM PROVISIONSPART 527  
RECOVERY OF MISSPENT FUNDS

## Section

527.10	General Statement of Purpose and Applicability
527.100	Initial Collection Activity
527.200	Informal Hearing (Repealed)
527.300	Formal Hearing (Repealed)

AUTHORITY: Authorized by Section 3(k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 10 Ill. Reg. 3840, effective February 7, 1986; amended at 14 Ill. Reg. 18844, effective November 7, 1990; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; emergency amendment at 23 Ill. Reg. 4531, effective April 2, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10830, effective August 23, 1999; amended at 26 Ill. Reg. 919, effective January 15, 2002; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 527.10 General Statement of Purpose and Applicability**

Funds ~~that~~<sup>which</sup> are granted or authorized by the Department of Human Services ~~Division~~<sup>Office</sup> of Rehabilitation Services (DHS-~~DRSORS~~) to individuals or organizations for specific purposes and later found to have been spent for other purposes require DHS to collect those funds.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 527.100 Initial Collection Activity**

- a) The DHS-~~DRSORS~~ employee who is responsible for authorizing payments to the recipient of funds must monitor all such payments for proper expenditure. Upon discovering that ~~thesuch~~ funds are being used for purposes other than those specified by the grant or contract entered into by the recipient, this employee must notify the DHS/~~DRSORS~~ Central Office. The investigator in Central Office shall make a determination as to whether funds have been misspent or fraud has

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

occurred based on the data provided by the employee.

- 1) If it is determined that funds were not misspent, the employee shall be instructed ~~not~~ to take ~~no~~ further actions.
  - 2) If it is determined fraud may have occurred, depending on the monetary amount involved, the matter shall be referred to the Illinois Department of State Police for disposition. The matter may also be referred to the Illinois State Treasurer's Office to assist in recouping funds, if forgery is involved.
  - 3) If it is determined that funds were misspent, the recipient of the funds shall be requested to sign an Agreement for Repayment of Funds ([IL 488-2043 N-8-04 Agreement](#)).
- b) If the recipient of the funds agrees to pay back the misspent monies, DHS-[DRSORS](#) will agree to allow the ~~recipient~~ recipient to pay back the funds in allotments, over a reasonable period of time. The time period shall be based on the amount of money to be paid back and the ability of the recipient to repay. The Agreement to repay shall include the amount of money to be paid back, the schedule of payments and the date payments shall begin and end. [The investigator in the Comptroller's office completes the agreements](#) ~~A copy of this Agreement shall be sent to the investigator in Springfield.~~ The investigator shall work with the Bureau of Collections, Revenue Management to assure an account is established and that the Agreement is followed. Monthly statements shall show each payment received and the remaining balance due. If payments are not received in a timely manner as outlined in the Agreement, the account shall be considered in default and the matter shall be referred to the [Office of the Comptroller and a collection agency](#) ~~Bureau of Collections for all collection activity~~. As an alternative to direct repayment of funds, DHS-[DRSORS](#) will agree to allow the amount of repayment to be offset against existing or future grants, upon [agreement between the recipient and the investigator in the Comptroller's office](#) ~~the request of the recipient~~.
- c) If no agreement is reached between the employee and the recipient to pay back the misspent funds, the employee must prepare a memorandum to his/her supervisor (or other DHS-[DRSORS](#) staff with supervisory responsibility for a particular grant or contract) providing information on what attempts have been made to date to collect the funds.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- d) The employee's supervisor shall prepare a letter to the recipient to notify him/her that actions to collect the funds will proceed and contain information regarding the recipient's right to appeal under 89 Ill. Adm. Code 508.
- e) The letter from the employee's supervisor to the recipient shall be sent by certified mail with return receipt requested and will include a copy of DHS [hearings](#) rules, [\(89 Ill. Adm. Code 508\)](#), as well as:
- 1) a summary of the information contained in the original report provided per subsection (a) of this Section (including the identification of the allegedly misspent money, the amount of money ~~which was~~ allegedly misspent, the basis on which this amount was determined, and the basis on which it was determined that the money was allegedly misspent);
  - 2) a statement that the supervisor has reviewed the facts in question and Central Office has determined that the collection of these funds is appropriate;
  - 3) notice that DHS will initiate collection procedures for the allegedly misspent money after 35 days unless the recipient requests a hearing in writing under 89 Ill. Adm. Code 508, or signs an Agreement;
  - 4) [recipients that are not customers must call the investigator to arrange other methods of repayment;](#)
  - 54) a statement that this request for a hearing must be made to the individual's supervisor (including that person's name and address).
- f) If the recipient does not request the hearing within 35 days, the supervisor will notify the investigator in [the](#) Central Office who shall attempt to contact the recipient and after two attempts shall set up a receivable account with the Bureau of Collections for all collection activity.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENT

1035 Outer Park Drive  
Springfield, Illinois 62704

217/524-0770 (voice)

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities or not for profit corporations affected: Small municipalities may be affected if they produce or possess residuals or sludge resulting from the treatment of water and sewage which contain naturally occurring radium from groundwater.
  - B) Reporting, bookkeeping or other procedures required for compliance: Persons producing or possessing residuals or sludge resulting from the treatment of water and sewage which contain naturally occurring radium from groundwater will be required to register with the Agency pursuant to Section 330.40(d)(2).
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENT

## TITLE 32: ENERGY

CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY  
SUBCHAPTER b: RADIATION PROTECTION

## PART 330

## LICENSING OF RADIOACTIVE MATERIAL

## SUBPART A: GENERAL PROVISIONS

Section	
330.10	Purpose and Scope
330.15	Incorporations by Reference
330.20	Definitions
330.30	License Exemption – Source Material
330.40	License Exemption – Radioactive Materials Other Than Source Material

## SUBPART B: TYPES OF LICENSES

Section	
330.200	Types of Licenses
330.210	General Licenses – Source Material
330.220	General Licenses – Radioactive Material Other Than Source Material

## SUBPART C: SPECIFIC AND GENERAL LICENSES

Section	
330.240	Filing Applications for Specific Licenses
330.250	General Requirements for the Issuance of Specific Licenses
330.260	Special Requirements for Issuance of Certain Specific Licenses for Radioactive Materials
330.270	Special Requirements for Specific Licenses of Broad Scope
330.280	Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material
330.290	Requirements for Emergency Plans
330.300	Issuance of Specific Licenses
330.310	Terms and Conditions of Specific and General Licenses
330.320	Renewal Requirements for Specific Licenses
330.325	Termination Requirements for Specific Licenses and Locations of Use

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENT

330.330	Renewal of Licenses
330.340	Amendment of Licenses at Request of Licensee
330.350	Agency Action on Application to Renew or Amend
330.360	Persons Possessing a License for Source, Byproduct, or Special Nuclear Material in Quantities Not Sufficient to Form a Critical Mass on Effective Date of This Part (Repealed)
330.370	Persons Possessing Accelerator-Produced or Naturally-Occurring Radioactive Material on Effective Date of This Part (Repealed)
330.400	Transfer of Material
330.500	Modification and Revocation of Licenses
330.900	Reciprocal Recognition of Licenses
330.950	Nationally Tracked Sources

## SUBPART D: TRANSPORTATION

## Section

330.1000	Transportation of Radioactive Materials (Repealed)
330.APPENDIX A	Exempt Concentrations
330.APPENDIX B	Exempt Quantities
330.APPENDIX C	Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release
330.TABLE A	Group I (Repealed)
330.TABLE B	Group II (Repealed)
330.TABLE C	Group III (Repealed)
330.TABLE D	Group IV (Repealed)
330.TABLE E	Group V (Repealed)
330.TABLE F	Group VI (Repealed)
330.APPENDIX D	Limits for Broad Licenses (Section 330.270)
330.APPENDIX E	List of Specialty Board Certifications Recognized by the Agency Until October 24, 2007 (Repealed)
330.APPENDIX F	Nationally Tracked Source Thresholds
330.APPENDIX G	Financial Surety Arrangements (Section 330.250(c)(1)(D)) (Repealed)
330.APPENDIX H	Wording of Financial Surety Arrangements (Section 330.250(c)(1)(E)) (Repealed)

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENT

SOURCE: Filed April 20, 1974, by the Department of Public Health; transferred to the Department of Nuclear Safety by P.A. 81-1516, effective December 3, 1980; amended at 5 Ill. Reg. 9586, effective September 10, 1981; codified at 7 Ill. Reg. 17492; recodified at 10 Ill. Reg. 11268; amended at 10 Ill. Reg. 17315, effective September 25, 1986; amended at 15 Ill. Reg. 10632, effective July 15, 1991; amended at 18 Ill. Reg. 5553, effective March 29, 1994; emergency amendment at 22 Ill. Reg. 6242, effective March 18, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14459, effective July 27, 1998; amended at 24 Ill. Reg. 8042, effective June 1, 2000; amended at 27 Ill. Reg. 5426, effective March 17, 2003; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; amended at 30 Ill. Reg. 8928, effective April 28, 2006; amended at 32 Ill. Reg. 6462, effective April 7, 2008; amended at 32 Ill. Reg. 9199, effective June 13, 2008; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 330.40 License Exemption – Radioactive Materials Other Than Source Material**

## a) Exempt Concentrations

- 1) Any person is exempt from this Part to the extent that such person receives, possesses, uses, transfers, owns or acquires products containing radioactive material introduced in concentrations not in excess of those listed in Appendix A ~~of this Part~~ provided they have been distributed pursuant to a license as described in subsection (a)(2) of this Section. This Section shall not be deemed to authorize the import of radioactive materials or products containing radioactive materials.
- 2) No person may introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under subsection (a)(1) of this Section or equivalent regulations of the U.S. Nuclear Regulatory Commission (10 CFR 30.14), an Agreement State or a Licensing State, except in accordance with a specific license issued pursuant to Section 330.280(a) ~~of this Part~~ or the general license provided in Section 330.900 ~~of this Part~~.

## b) Exempt Quantities

- 1) Any person is exempt from this Part to the extent that such person receives, possesses, uses, transfers, owns or acquires radioactive material

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENT

in individual quantities each of which does not exceed the applicable quantity set forth in Appendix B ~~of this Part~~ provided they have been distributed pursuant to a license as described in subsection (b)(3) of this Section.

AGENCY NOTE: Capsules distributed pursuant to 10 CFR 32.21 that contain carbon-14 urea are only authorized for "in-vivo" diagnostic use for humans. Any person who desires to use the capsules for research involving human subjects shall apply for and receive a specific license from the Agency. Nothing in this Section relieves persons from complying with applicable Federal and State requirements governing receipt, administration and use of drugs.

- 2) This subsection (b) does not authorize the production, packaging or repackaging of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.
- 3) No person may, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in Appendix B ~~of this Part~~, knowing or having reason to believe that such quantities of radioactive material will be transferred to persons exempt under this subsection (b) or equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR 32.18 or 32.21, or by the Agency pursuant to Section 330.280(b) ~~of this Part~~, which states that the radioactive material may be transferred by the licensee to persons exempt under this subsection (b) or the equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State.

AGENCY NOTE: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

- c) Exempt Items

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENT

- 1) Certain Items Containing Radioactive Material. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products or persons who initially transfer for sale or distribution the following products, any person is exempt from this Part to the extent that he receives, possesses, uses, transfers, owns or acquires the following products:

AGENCY NOTE: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

- A) Timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified radiation dose rate:
  - i) 925 MBq (25 mCi) of tritium per timepiece;
  - ii) 185 MBq (5 mCi) of tritium per hand;
  - iii) 555 MBq (15 mCi) of tritium per dial (bezels when used shall be considered as part of the dial);
  - iv) 3.7 MBq (100 microCi) of promethium-147 per watch or 7.4 MBq (200 microCi) of promethium-147 per any other timepiece;
  - v) 740 kBq (20 microCi) of promethium-147 per watch hand or 1.48 MBq (40 microCi) of promethium-147 per other timepiece hand;
  - vi) 2.22 MBq (60 microCi) of promethium-147 per watch dial or 4.44 MBq (120 microCi) of promethium-147 per other timepiece dial (bezels when used shall be considered as part of the dial);

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENT

- vii) The radiation dose rate from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber: for wrist watches, 1 microGy (100 microrad) per hour at 10 centimeters from any surface; for pocket watches, 1 microGy (100 microrad) per hour at 1 centimeter from any surface; for any other timepiece, 2 microGy (200 microrad) per hour at 10 centimeters from any surface; or
  - viii) 37 kBq (1 microCi) of radium-226 per timepiece in timepieces acquired prior to May 1, 1974.
- B) Lock illuminators containing not more than 555 MBq (15 mCi) of tritium or not more than 74 MBq (2 mCi) of promethium-147 installed in automobile locks. The radiation dose rate from each lock illuminator containing promethium-147 will not exceed 10 microGy (1 mrad) per hour at 1 centimeter from any surface when measured through 50 milligrams per square centimeter of absorber.
  - C) Precision balances containing not more than 37 MBq (1 mCi) of tritium per balance or not more than 18.5 MBq (500 microCi) of tritium per balance part.
  - D) Automobile shift quadrants containing not more than 925 MBq (25 mCi) of tritium.
  - E) Marine compasses containing not more than 27.8 GBq (750 mCi) of tritium gas and other marine navigational instruments containing not more than 9.25 GBq (250 mCi) of tritium gas.
  - F) Thermostat dials and pointers containing not more than 925 MBq (25 mCi) of tritium per thermostat.
  - G) Electron tubes; provided that each tube does not contain more than one of the following specified quantities of radioactive material:
    - i) 5.55 GBq (150 mCi) of tritium per microwave receiver protector tube or 370 MBq (10 mCi) of tritium per any other electron tube;

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENT

- ii) 37 kBq (1 microCi) of cobalt-60;
- iii) 185 kBq (5 microCi) of nickel-63;
- iv) 1.11 MBq (30 microCi) of krypton-85;
- v) 185 kBq (5 microCi) of cesium-137; or
- vi) 1.11 MBq (30 microCi) of promethium-147;

and provided further, that the radiation dose rate from each electron tube containing radioactive material will not exceed 10 microGy (1 mrad) per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber.

AGENCY NOTE: For purposes of subsection (c)(1)(G) of this Section, "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes and any other completely sealed tube that is designed to conduct or control electrical currents.

- H) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material, provided that:
  - i) Each source contains no more than one exempt quantity set forth in Appendix B ~~of this Part~~, and
  - ii) Each instrument contains no more than ten exempt quantities. For purposes of this requirement, an instrument's sources may contain one or more radionuclides and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in Appendix B ~~of this Part~~, provided that the sum of such fractions shall not exceed unity.

AGENCY NOTE: For purposes of subsection (c)(1)(H) of

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENT

this Section, 1.85 kBq (50 nCi) of americium-241 is considered an exempt quantity.

- I) Spark gap irradiators containing not more than 37 kBq (1 microCi) of cobalt-60 per spark gap irradiator for use in electrically-ignited fuel oil burners having a firing rate of at least 11.4 liters (3 gallons) per hour.
- 2) Self-Luminous Products Containing Radioactive Material
    - A) Tritium, Krypton-85 or Promethium-147. Except for persons who manufacture, process or produce self-luminous products containing tritium, krypton-85 or promethium-147, any person is exempt from this Part to the extent that such person receives, possesses, uses, transfers, owns or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported or transferred in accordance with a specific license, issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR 32.22, which authorizes the transfer of the product to persons who are exempt from regulatory requirements. The exemption in this subsection (c)(2)(A) does not apply to tritium, krypton-85 or promethium-147 used in products for frivolous purposes or in toys or adornments. The U. S. Nuclear Regulatory Commission shall make this determination of exemption.
    - B) Radium-226. Any person is exempt from this Part to the extent that such person receives, possesses, uses, transfers or owns articles containing less than 3.7 kBq (100 nCi) of radium-226 which were acquired prior to May 1, 1974.
- 3) Gas and Aerosol Detectors Containing Radioactive Material
    - A) Except for persons who manufacture, process, produce or initially transfer for sale and distribution gas and aerosol detectors containing radioactive material, any person is exempt from 32 Ill. Adm. Code: Chapter II, Subchapters b and d to the extent that such person receives, possesses, uses, transfers, owns or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards provided

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENT

that detectors containing radioactive material shall have been manufactured, imported or initially transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR 32.26 or a Licensing State pursuant to Section 330.280(c) ~~of this Part~~, which authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.

AGENCY NOTE: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

- B) Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State shall be considered exempt under subsection (c)(3)(A) of this Section, provided that the device is labeled in accordance with the specific license authorizing distribution of the generally licensed device and provided further that they meet the requirements of Section 330.280(c) ~~of this Part~~.
- C) Gas and aerosol detectors containing naturally-occurring or accelerator-produced radioactive material (NARM) previously manufactured and distributed in accordance with a specific license issued by a Licensing State shall be considered exempt under subsection (c)(3)(A) of this Section, provided that the device is labeled in accordance with the specific license authorizing distribution and provided further that they meet the requirements of Section 330.280(c) ~~of this Part~~.
- 4) Resins Containing Scandium-46 and Designed for Sand Consolidation in Oil Wells. Any person is exempt from this Part to the extent that such person receives, possesses, uses, transfers, owns or acquires synthetic plastic resins containing scandium-46 which are designed for sand consolidation in oil wells. Such resins shall have been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENT

Regulatory Commission, or shall have been manufactured in accordance with the specifications contained in a specific license issued by the Department or an Agreement State to the manufacturer of such resins pursuant to licensing requirements equivalent to those in 10 CFR 32.17 published January 1, 1997, exclusive of subsequent amendments or editions. This exemption does not authorize the manufacture of any resins containing scandium-46.

d) Exempt Material

- 1) Persons producing or in possession of residuals or sludge resulting from the treatment of water and sewage and containing naturally occurring radium from groundwater with concentrations of total radium less than or equal to 200 pCi per gram are exempt from the licensing requirements provided they comply with this subsection (d). Persons producing or in possession of residuals or sludge resulting from the treatment of water and sewage and containing naturally occurring radium from groundwater with concentrations of total radium greater than 200 pCi per gram are not exempt and shall comply with requirements in 32 Ill. Adm. Code 330.
- 2) The following individuals or entities producing or in possession of residuals or sludge resulting from the treatment of water and sewage and containing naturally occurring radium from groundwater with concentrations of total radium less than or equal to 200 pCi per gram must register directly with the Agency:
  - A) Owners and operators of facilities or plants that produce residuals or sludge resulting from the treatment of water or sewage and containing radium occurring naturally from groundwater; and
  - B) Owners and operators of Illinois Environmental Protection Agency (IEPA) permitted landfills if the residuals or sludge is disposed of in those landfills; and
  - C) Any other person or entity that the Agency determines is required to register under the provisions of the Radiation Protection Act.
- 3) Owners and operators of facilities or plants that produce residuals or sludge resulting from the treatment of water and sewage and containing

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENT

radium in concentration less than or equal to 200 pCi per gram occurring naturally from groundwater will be exempt from the licensure and fee requirements of the Radiation Protection Act.

- 4) Residuals or sludge resulting from the treatment of water and sewage and containing naturally occurring radium from groundwater may be disposed of in accordance with the following provisions and the requirements of IEPA and the regulations of the Illinois Pollution Control Board, as implemented by IEPA:
- A) If the level of radium in the residual or sludge is 5 pCi per gram or less (dry weight):
- i) the residuals or sludge may be disposed of in a landfill permitted by IEPA to accept the residuals or sludge;
- ii) the residuals or sludge may be used for soil conditioning purposes on agricultural crop land (e.g., corn, soybeans) but only if:
- that use is in accordance with IEPA procedures; and
  - the level of radium in the residuals or sludge and the application rate is such that, after the residuals or sludge is mixed with soil (for agricultural use), the incremental increase of the total Radium-226 and Radium-228 combined concentration in the soil does not exceed 0.4 pCi per gram (dry weight). This increased limit applies to the sum of all land applications of residuals or sludge on a specific parcel of land. The concentration of the radium in the residuals or sludge (dry weight) shall be determined by laboratory analysis. The incremental increase of the radium concentration in the soil may be determined by calculation using the previously determined concentration of radium in the residuals or sludge and the estimated amount of mixture with soil during application. For purposes of calculating the increase in radium concentration, a soil density

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENT

value of 90 pounds per cubic foot and a mixing depth of 1 foot should be used.

- B) If the level of radium in the residuals or sludge is greater than 5 pCi per gram (dry weight) but less than or equal to 50 pCi per gram (dry weight):
- i) the residuals or sludge may be disposed of in an IEPA permitted landfill provided that there is at least 10 feet of non-contaminated overburden between the residuals or sludge and grade level (at time of landfill closure) in order to provide:
    - reasonable assurance that the exhalation rate of radon to the atmosphere, or into a dwelling, will not exceed an average rate of 5 pCi per square meter per second; and
    - reasonable assurance against accidental intrusion into the residuals or sludge in the future.
  - ii) the residuals or sludge may be used for soil conditioning, subject to the restriction provided in subsection (d)(4)(A)(ii);
- C) If the level of radium in the residuals or sludge is greater than 50 pCi per gram (dry weight) and less than or equal to 200 pCi per gram (dry weight):
- i) in accordance with 32 Ill. Adm. Code 340.1020, the method of disposal must be reviewed and approved by IEMA-DNS in advance;
  - ii) the residuals or sludge may be disposed of in a landfill located out of State provided the landfill is properly permitted to accept that material; and
  - iii) the residuals or sludge may be disposed of in a licensed low-level radioactive waste disposal facility.

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED AMENDMENT

- 5) All analysis of residuals or sludge must be conducted by a laboratory certified by the U.S. Environmental Protection Agency or the National Environmental Laboratory Accreditation Conference (NELAC) to perform radiological analysis, and concentration of radium will be determined by a method approved by the Agency.
- 6) Owners and operators of facilities that produce residuals or sludge that is land applied or disposed of in a landfill are not subject to the registration requirements specified in Section 4 and the fees specified in Section 13 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/4 and 13] and are not subject to the reporting requirements of Access to Facilities for Treatment, Storage, or Disposal of Low-Level Radioactive Waste (32 Ill. Adm. Code 609) and Registration of Low-Level Radioactive Waste Generators (32 Ill. Adm. Code 620).
- 7) Owners and operators of facilities that produce residuals or sludge that is disposed of in a licensed low-level radioactive waste disposal facility are subject to the registration requirements specified in Section 4 and the fees specified in Section 13 of the Illinois Low-Level Radioactive Waste Management Act and are subject to the reporting requirements of 32 Ill. Adm. Code 609 and 620.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Heartsaver AED Grant Code
- 2) Code Citation: 77 Ill. Adm. Code 530
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
530.100	Amend
530.200	Amend
530.300	Amend
530.400	Amend
530.500	Amend
530.600	Amend
530.700	Amend
- 4) Statutory Authority: Section 2310-371.5 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-371.5]
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 95-0721 renumbered and amended Section 371 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code regarding the Heartsaver AED Fund Grant Program expanding the eligibility for the grant program to include private schools, colleges and universities; forest preserve districts; conservation districts; and municipal recreation departments. The also eliminated the requirement that eligible applicants be required to have an automated external defibrillator pursuant to the Physical Fitness Facility Medical Emergency Preparedness Act. The economic effect of this proposed rulemaking is unknown; the Department requests any information that would assist in calculating this effect. The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.
- 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 PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objectives: This rulemaking does not impose a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:  
  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> floor  
Springfield, Illinois 62761  
  
217/782-2043  
e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)
- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: Private schools, colleges and universities; forest preserve districts; conservation districts; and municipal recreation departments are potentially affected.
  - B) Reporting, bookkeeping or other procedures required for compliance: Grant recipients shall return a signed contract to the Department in the specified time period and shall comply with the provisions of the contract.
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETYPART 530  
HEARTSAVER AED GRANT CODE

Section	
530.100	Definitions
530.200	Referenced Materials
530.300	Eligibility for Grants
530.400	Grant Requirements
530.500	Application Requirements
530.600	Review of Applications
530.700	Use of Grant Funds
530.800	Termination
530.900	Denial, Suspension or Revocation
530.1000	Grant Funds Recovery
530.1100	Hearings

AUTHORITY: Implementing and authorized by Section 2310-371.5 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-371.5].

SOURCE: Adopted at 30 Ill. Reg. 12288, effective June 28, 2006; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 530.100 Definitions**

Act – the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois.

[Applicant – an Illinois school, public park district, forest preserve district, conservation district, municipal recreation district, college, or university that is applying for a grant under this Part. \(Section 2310-371.5 of the Act\)](#)

*Automated External Defibrillator (AED) – a medical device heart monitor and defibrillator that:*

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

*has received approval of its pre-market notification, filed pursuant to 21 USC 360(k), from the United States Food and Drug Administration;*

*is capable of recognizing the presence or absence of ventricular fibrillation and rapid ventricular tachycardia, and is capable of determining, without intervention by an operator, whether defibrillation should be performed;*

*upon determining that defibrillation should be performed, either automatically charges and delivers an electrical impulse to an individual or charges and delivers an electrical impulse at the command of the operator; and*

*in the case of a defibrillator that may be operated in either an automatic or manual mode, is set to operate in the automatic mode. (Section 10 of the Automated External Defibrillator Act)*

Department – the [Illinois](#) Department of Public Health.

[Director – the Director of the Illinois Department of Public Health.](#)

~~Division – the Division of Emergency Medical Systems and Highway Safety, Department of Public Health.~~

Fund – the Heartsaver AED Fund [in the State Treasury.](#)

[Grant Recipient – an Illinois school, public park district, forest preserve district, conservation district, municipal recreation department, college, or university that receives a grant under this Part. \(Section 2310-371.5 of the Act\)](#)

~~Physical fitness facility or facility – includes any indoor establishment that meets all of the following requirements:~~

~~In whole or in part, is owned or operated by a park district or by a public elementary or secondary school, college, or university.~~

~~Is supervised by one or more persons, other than maintenance or security personnel, employed by the park district or public school, college, or university for the purpose of directly supervising the physical fitness~~

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

~~activities taking place at any indoor facilities listed in this definition.  
(Section 5.25 of the Physical Fitness Facility Medical Emergency Preparedness Act)~~

~~Serves a total of 100 or more individuals. In calculating the number of individuals served by a facility, the greater of the seating capacity, the capacity of the facility under applicable fire code, pool, or similar standards, or the number of members of the facility shall be included in the final determination. The number of members of the facility includes the complete facility membership, whether or not these members are present at the facility at the same time.~~

~~Is a swimming pool; stadium; athletic field; track and field facility; tennis court; basketball court; volleyball court; aerobics studio; dance studio; boxing gym; martial arts or self-defense studio; wrestling gym; weight-lifting facility; treadmill or stationary bicycle facility; velodrome; racquetball court; gymnastics facility; or any other indoor establishment focusing primarily on cardiovascular exertion where participants engage in relatively continuous active physical exercise that uses large muscle groups and that substantially increases the heart rate.~~

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 530.200 Referenced Materials**

The following materials are referenced in this Part:

- a) Illinois Statutes
  - ~~1)~~ [Physical Fitness Facility Medical Emergency Preparedness Act \[210 ILCS 74\]](#)
  - ~~12)~~ [Automated External Defibrillator Act \[410 ILCS 4\]](#)
  - ~~23)~~ [Illinois Grant Funds Recovery Act \[30 ILCS 705\]](#)
- b) Illinois Administrative Rules
  - ~~1)~~ [Physical Fitness Facility Medical Emergency Preparedness Code \(77 Ill. Adm. Code 527\)](#)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 12) Automated External Defibrillator Code (77 Ill. Adm. Code 525)
- 23) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 530.300 Eligibility for Grants**

~~To~~In order to be eligible to receive a grant from the Fund, the applicant ~~shall~~must meet all of the following criteria:

- a) ~~Must~~Be an Illinois school, public park district, forest preserve district, conservation district, municipal recreation department, college, or university~~a public school, public park district, public college or public university; (Section 2310-371.5 of the Act); and~~
- b) ~~Must meet the definition of physical fitness facility in Section 530.100 of this Part; and~~
- be) Demonstrate that they have the funds to pay 50% of the cost of the AEDs for which matching grant moneys are sought ~~Must be willing and able to pay 50 percent of the total cost of an AED as that cost is~~ determined by the State Master Contract or ~~in the absence of a State Master Contract as determined~~ by the Department. (Section 2310-371.5 of the Act).

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 530.400 Grant Requirements**

- a) Grant recipients ~~shall~~must comply with all applicable provisions of ~~the Physical Fitness Facility Medical Emergency Preparedness Act, the Physical Fitness Facility Medical Emergency Preparedness Code,~~ the Automated External Defibrillator Act and the Automated External Defibrillator Code.
- b) Grant recipients shall match the grant award received and shall spend the grant award on the purchase of an AED to be ~~used by~~housed at the grant recipient~~facility~~.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- c) Grant recipients shall return a signed contract to the Department in the specified time period and shall comply with the provisions of the contract.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 530.500 Application Requirements**

- a) Applications ~~shall~~ may be submitted to the Department through the website established for this purpose or at the following address:

Heartsaver AED Grants  
Illinois Department of Public Health  
Division of Emergency Medical Systems & Highway Safety  
500 East Monroe Street, 8<sup>th</sup> Floor  
Springfield IL 62701

- b) Faxed and e-mailed applications will not be accepted.

- ~~cb)~~ Applications shall be submitted on the form prescribed by the Department and shall include, at a minimum, the following:

- 1) The name, address, e-mail address and phone number of the primary contact and the secondary contact designated by the ~~applicant~~ facility to be responsible for administering the grant funds;:-
- 2) The Federal Employer Identification Number (FEIN) for the applicant;  
~~and 2) An agreement that the organization submitting the application is required to have an AED pursuant to the Physical Fitness Facility Medical Emergency Preparedness Act.~~
- 3) An agreement by the applicant that, if awarded a grant, the grant will be matched by the grant recipient ~~facility~~.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 530.600 Review of Applications**

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- a) The grant cycle runs from July 1-June 30. ~~Applications for grants from the Fund may be submitted to the Department beginning on July 1~~ of each year.
- b) ~~The Department will review applications~~ Applications will be reviewed by the Department for compliance with the requirements of this Part. During the course of its review, the Department may contact the applicant for additional information if the information provided is incomplete, inconsistent or unclear.
- c) Applicants whom the Department determines not to be eligible for grant funds will be notified in writing of this decision.
- d) Distribution of grants is dependent on available funding. Available grant funds will be distributed on a "first come, first served" basis, based on when the ~~Department received the completed~~ application was received by the Department. If ~~the Department receives~~ several completed applications ~~are received by the Department~~ on the same date and funds are not available to award each of these applicants, a random ~~selection drawing~~ of applications will be used to determine grant recipientsawardees.
- e) Applicants ~~shall~~must submit a new application each State fiscal year ~~in order~~ to be considered for funding. Applications are only applicable to the State fiscal year in which the applications were received.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 530.700 Use of Grant Funds**

- a) The entire amount of the grant award, plus matching funds from the facility, shall be used to purchase an AED ~~to be kept in that facility~~. AEDs shall be used at facilities owned or controlled by the grant recipient or at events authorized by the grant recipient that are held at facilities owned or controlled by the grant recipient.
- b) ~~Grants are limited to one AED per eligible physical fitness facility. Any school, public park district, forest preserve district, conservation district, municipal recreation department, college or university applying for the grant shall not receive more than one grant from the Heartsaver AED Fund each fiscal year.~~ (Section 2310-317.5 of the Act).

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Administration and Operation of the State Employees' Retirement System of Illinois
- 2) Code Citation: 80 Ill. Adm. Code 1540
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1540.90	Amended
1540.330	Amended
1540.360	Amended
- 4) Statutory Authority: 40 ILCS 5/14-129, 40 ILCS 5/14-135.03, 40 ILCS 5/14-119
- 5) A Complete Description of the Subjects and Issues Involved:

Section 1540. 90 is being amended to reflect recent legislation allowing retirees to elect to remove the Social Security offset from their survivors benefit.

Section 1540.300 is being amended to reflect the special Board of Trustees election mandated by Public Act 96-6.

Section 1540.360 is being added to specify conditions for certain General Assembly appointees to become SERS members and the duration of their membership.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The rulemaking will not affect units of local government.
- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking:

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

Tim Blair  
Acting Executive Secretary  
2101 South Veterans Parkway  
P. O. Box 19255  
Springfield, Illinois

217-785-7016

- 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: This rulemaking was not included on either of the two most recent regulatory agendas because these amendments are the result of recent legislation signed by the Governor (PA 95-1043 and PA 96-6).

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

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

## SUBTITLE D: RETIREMENT SYSTEMS

## CHAPTER I: STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

## PART 1540

THE ADMINISTRATION AND OPERATION OF THE  
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

Section	
1540.5	Introduction
1540.10	Appointment of Retirement System Coordinator
1540.20	Member's Contribution and Service Credit
1540.30	Determination of Rate of Compensation
1540.40	Prior Service Credit
1540.50	Credit for Service for Which Contributions are Permitted
1540.60	Severance of Employment – A Condition to the Payment of a Refund or Retirement Annuity
1540.70	Death Benefits
1540.80	Disability Claims
1540.90	Benefit Offset
1540.100	Birth Date Verification
1540.110	Marriage Verification
1540.120	Level Income Option
1540.130	Pension Credit for Unused Sick Leave
1540.140	Removal of Children from Care of Surviving Spouse
1540.150	Proof of Dependency
1540.160	Investigations of Benefit Recipients
1540.170	Interest on Member Contributions
1540.180	Date of Application – Retirement Annuity, Occupational and Nonoccupational and Temporary Disability Benefits, and Resignation Refund Payments
1540.190	Lump Sum Salary Payments
1540.200	Removal from the Payroll
1540.210	Latest Date of Membership
1540.220	Period for Payment and Amount of Payment of Contributions
1540.230	Contributions by the State (Repealed)
1540.240	Actuarially Funded Basis (Repealed)
1540.250	Payments to Establish Credit for Service for Which Contributions are Permitted
1540.255	Pick-up Option for Optional Service Contributions
1540.260	Contributions and Service Credit During Nonwork Periods

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

1540.270	Written Appeals and Hearings
1540.280	Availability for Public Inspection (Recodified)
1540.290	Procedure for Submission, Consideration and Disposition of Petitions Seeking the Promulgation, Amendment or Repeal of these Rules and Regulations (Recodified)
1540.300	Organization of the State Employees' Retirement System (Recodified)
1540.310	Amendments
1540.320	Optional Forms of Benefits – Basis of Computation
1540.330	Board Elections
1540.340	Excess Benefit Arrangement
1540.350	Qualified Illinois Domestic Relations Orders (QILDRO)
<a href="#">1540.360</a>	<a href="#">Election to be an Employee under Section 14-103.05(b)(3) of the Illinois Pension Code</a>
1540.TABLE A	Optional Forms of Benefits – Basis of Computation

AUTHORITY: Implementing and authorized by Article 14 of the Illinois Pension Code [40 ILCS 5/Art. 14].

SOURCE: Filed December 20, 1977, effective December 31, 1977; filed and effective February 28, 1978; emergency rule at 4 Ill. Reg. 2, page 246, effective January 1, 1980; amended at 4 Ill. Reg. 12, pages 530, 532, 534, effective March 11, 1980; emergency rule at 4 Ill. Reg. 46, page 1300, effective November 1, 1980; amended at 5 Ill. Reg. 3454, effective March 19, 1981; amended at 5 Ill. Reg. 7225, effective July 1, 1981; amended at 5 Ill. Reg. 12846, effective October 30, 1981; amended at 6 Ill. Reg. 2114, effective January 29, 1982; amended at 6 Ill. Reg. 5505, effective April 16, 1982; codified at 6 Ill. Reg. 10935; emergency amendment at 6 Ill. Reg. 11084, effective August 31, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 677, effective December 30, 1982; amended at 7 Ill. Reg. 8831, effective July 15, 1983; emergency amendment at 8 Ill. Reg. 359, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4144, effective March 26, 1984; Sections 1540.280, 1540.290 and 1540.300 recodified to 2 Ill. Adm. Code 2375 at 8 Ill. Reg. 15902; amended at 9 Ill. Reg. 12375, effective July 30, 1985; emergency amendment at 9 Ill. Reg. 19752, effective December 5, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 8889, effective May 14, 1986; amended at 11 Ill. Reg. 11155, effective June 15, 1987; amended at 14 Ill. Reg. 10498, effective June 19, 1990; amended at 15 Ill. Reg. 7379, effective April 26, 1991; amended at 16 Ill. Reg. 14407, effective September 4, 1992; amended at 20 Ill. Reg. 8033, effective June 15, 1996; emergency amendment at 21 Ill. Reg. 476, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4992, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 13187, effective September 15, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 967, effective December 22, 1997; amended at 22 Ill. Reg. 15363, effective August 10, 1998; amended at 23 Ill. Reg. 3824, effective March 9, 1999; amended at 23 Ill. Reg. 11313, effective September 1,

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

1999; amended at 24 Ill. Reg. 6975, effective April 20, 2000; amended at 24 Ill. Reg. 18090, effective December 1, 2000; amended at 25 Ill. Reg. 5632, effective April 4, 2001; emergency amendment at 26 Ill. Reg. 11133, effective June 28, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16575, effective October 22, 2002; emergency amendment at 28 Ill. Reg. 8775, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15628, effective November 18, 2004; amended at 29 Ill. Reg. 15554, effective October 1, 2005; amended at 30 Ill. Reg. 12303, effective July 1, 2006; amended at 31 Ill. Reg. 211, effective December 21, 2006; amended at 32 Ill. Reg. 17779, effective October 29, 2008; emergency amendment at 33 Ill. Reg. 9449, effective June 19, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1540.90 Benefit Offset**

- a) Occupational Disability and Occupational Death  
Benefits received under Workers' Compensation Act [820 ILCS 305] or Workers' Occupational Diseases Act [820 ILCS 310] with respect to disability or death of a member shall be applied as an offset against any occupational disability or death benefit provided under the Retirement System with respect to the same disability or death. The Workers' Compensation average weekly wage will be converted to a monthly rate for use as an offset to the Retirement System monthly benefit.
  - 1) If the amount of compensation received is less than the monthly benefit provided under the Pension Code, only the amount of the excess of such monthly benefit over the amount of such compensation shall be payable by the Retirement System, subject, in the case of occupational death, to any minimum benefit provided by Section 14-103.18 and Section 14-121(h) of the Pension Code. If the amount of compensation received equals or exceeds the monthly benefit provided under the Pension Code, no benefit shall be payable by the Retirement System during the period compensation is paid under the Workers' Compensation Act or Workers' Occupational Diseases Act.
  - 2) If the compensation for disability or death is received in a commuted lump sum or partly in a commuted lump sum and partly in monthly or weekly sums, the Retirement System shall, for offset purposes, consider the compensation as if it had been paid using the average weekly wage as prescribed under the Workers' Compensation Act or Workers' Occupational Diseases Act. Salary or wages paid beyond date of disability shall not be considered part of the Workers' Compensation

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

offset.

- 3) In the event the whole or any part of the benefits received under the Workers' Compensation Act or Workers' Occupational Diseases Act is commuted into one sum, the aggregate sum of the benefits so commuted and not the commuted value thereof shall be used for purposes of ascertaining the amount of offset.
- 4) No such offset or compensation shall be made after retirement of a member of a retirement annuity.
- 5) The amount considered for offset purposes shall be reduced by any legal expenses granted in the award.
- 6) No offset shall be made with respect to amounts received or paid under the Workers' Compensation Act or Workers' Occupational Diseases Act for medical, hospital, or burial expenses.
- 7) That portion of the occupational death benefit consisting of accumulated contributions of a member shall not be subject to any offset mentioned in this section.
- 8) The termination of death benefits under the Workers' Compensation Act or Workers' Occupational Diseases Act due to remarriage of the benefit recipient shall cause the offset to the Occupational Death Benefit applicable to the remarried benefit recipient to terminate effective with the last month of eligibility represented in the final benefit payment under the Workers' Compensation Act or Workers' Occupational Diseases Act.
- 9) In those cases where the injury or death, for which an occupational disability or death benefit is payable, creates a legal liability for damages on the part of some person other than the employer to pay damages, the Workers' Compensation offset shall be applied as follows:
  - A) Any amounts paid under the Workers' Compensation Act or Workers' Occupational Diseases Act are subject to the offset provisions of Article 14 of the Pension Code [40 ILCS 5/Art. 14] and this Part, even though such amounts are recoverable under the subrogation Section 5(b) of the Workers' Compensation Act.

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

- B) In the event that benefits due under the Workers' Compensation Act or Workers' Occupational Diseases Act are commuted into one sum or waived in lieu of the member seeking recovery against a third party, the System shall use the amount of any judgment, settlement or payment for such injury by the third party as a credit against any benefits paid or payable by the System.
- 10) Any periods of disability for which payment under the Workers' Compensation Act is denied due to the failure of the individual to comply with that Act which result in a period of noncompensability under the Workers' Compensation Act will not be considered for Occupational Disability until the entire Workers' Compensation case has been finalized through the Illinois Workers' Compensation Commission.
- b) Nonoccupational Disability and Temporary Disability
- 1) The nonoccupational and temporary disability benefit payable to a covered member shall be offset before age 65 by the amount of Social Security disability benefit payable prior to the member attaining age 65 and after age 65 by the amount of the Social Security retirement benefit for which the individual is first eligible on or after attaining age 65 less legal expenses paid by the member to obtain the award up to the maximum allowed by the Social Security Administration.
  - 2) The Social Security retirement benefit offset will be applied as follows at age 65:
    - A) For a disability benefit recipient who received Social Security disability benefits before age 65, the Social Security disability benefit payment applied as the offset prior to age 65 will remain in effect as the Social Security retirement benefit offset on or after age 65.
    - B) For a disability benefit recipient who did not receive Social Security disability benefits before age 65, the Social Security disability benefit amount that would have been payable by the Social Security Administration had the disability benefit recipient been disabled for the purpose of Social Security will be used as the

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

Social Security retirement benefit offset at age 65 regardless of acceptance of a Social Security retirement benefit before age 65.

- C) When a Social Security disability benefit amount is not provided by the Social Security Administration because the individual is not eligible for a disability benefit for a reason other than not being disabled, the Social Security retirement benefit determined at the date of disability for which the individual is eligible at age 65 will be used for offset purposes at age 65.

- 3) Disability benefits commencing after age 65 will be offset by Social Security retirement benefits for which the individual is eligible on the commencement of disability.

c) Social Security Benefit Offset to Widow's and Survivor's Annuities

- 1) Beginning July 1, 2009, the Social Security survivor benefit offset (offset) shall not apply to any widow's or survivor's annuity of any person who began receiving a retirement annuity or a survivor's or widow's annuity prior to January 1, 1998.
- 2) Beginning July 1, 2009, the offset shall not apply to the widow's or survivor's annuity of any person who began receiving a widow's or survivor's annuity on or after January 1, 1998 and prior to July 1, 2009.
- 3) If the widow's or survivor's annuity is payable based on a coordinated employee's death in service, the offset shall not be applied to the widow's or survivor's annuity.
- 4) Any person who began receiving a retirement annuity after January 1, 1998 and before July 1, 2009 may make a one-time election before July 1, 2009 to reduce the monthly retirement annuity payable by 3.825% in exchange for not having the offset applied to any survivor's annuity payable.
- 5) Any employee with a retirement annuity effective date on or later than July 1, 2009 may, at the time of retirement, elect to reduce the monthly retirement annuity payable by 3.825% in exchange for not having the offset applied to any survivor's annuity payable.

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

- 6) For a person on the level income option under Section 14-112 of the Illinois Pension Code who makes an election under subsection (c)(4) or (c)(5) of this Section, the reduction shall be computed based on the reduced amount of the retirement annuity to be paid after the person has become eligible for old age payments under the federal Social Security Act plus any automatic annual increases received as of the date of the election.
- 7) For a member whose accrued benefits are payable, in whole or in part to an alternate payee pursuant to a QILDRO, as established by Section 1-119 of the Illinois Pension Code, any reduction due to an election made by the member under subsection (c)(4) or (c)(5) of this Section shall be computed based on the total amount of the member's retirement annuity prior to and without giving effect to any QILDRO reduction for amounts payable to an alternate payee. However, the actual reduction under subsection (c)(4) or (c)(5) shall be applied exclusively to the member's retirement annuity and not to any payment to an alternate payee.
- 8) If a coordinated employee does not elect to reduce the retirement annuity in exchange for not applying the offset to the SERS survivor's annuity, the survivor's annuity shall be reduced by one-half of any Social Security survivor's benefits for which all beneficiaries included in the widow's or survivor's annuity are eligible. The offset shall not reduce any survivor's or widow's benefit by more than 50%. If a coordinated employee does not elect to reduce the retirement annuity in exchange for not applying the offset to the SERS survivor's annuity, the offset will commence on the date the beneficiaries first become eligible to receive any portion of the Social Security benefit, regardless of whether the beneficiaries elect to accept the Social Security benefit on that date or if the beneficiaries' own earnings preclude payment of Social Security survivor's benefits.
- 9) If an annuitant who elected to have the retirement annuity reduced 3.825% to prevent an offset from taking place to any survivor benefits payable has a change in marital status due to death or divorce, that annuitant may make an irrevocable election to prospectively discontinue the reduction. However, no reimbursement of prior reductions will be made.
- 1) When a monthly widow's or survivor's annuity is approved on account of a

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

~~covered employee, the annuity shall be reduced by one half of any Social Security survivor's benefits for which all beneficiaries included in the widow's or survivor's annuity are eligible. The offset shall not reduce any survivor's or widow's benefit by more than 50 percent.~~

- 2) ~~The reduction will commence on the date the beneficiaries first become eligible to receive any portion of the Social Security benefit, regardless of whether the beneficiaries elect to accept the Social Security benefit on that date, or if the beneficiaries' own earnings preclude payment of Social Security survivor's benefits.~~

- 10)3) If, at the time the offset is to be commenced, ~~;~~ ~~A)~~ the survivor is eligible to receive a monthly benefit amount from the Social Security Administration based on his/her own Primary Insurance Amount, that amount shall be deducted from the amount of survivor's benefit payable by Social Security and the offset computed on the difference. If; ~~B)~~ the survivor is eligible to receive a monthly benefit amount based on his/her own Primary Insurance Amount and a governmental pension offset would have been applied to the Social Security survivor's benefit, that amount shall be deducted from the amount of the survivor's benefit payable by Social Security and the offset computed on the difference.

- 11)4) The Social Security reduction amount once established shall remain constant except for the following conditions:
- A) If a survivor under age 50 previously receiving the survivor's benefit because of minor children becomes a deferred annuitant, ~~then~~ the offset amount will be recomputed when he or she first becomes eligible for Social Security survivor's benefits. The offset amount will be based on the original widow's Social Security survivor's amount, ignoring subsequent increases to the deceased's Primary Insurance Amount. The recomputed offset amount shall be the balance of the Social Security survivor's benefit minus the governmental pension offset, if any.
  - B) The offset amount will be adjusted when a child is removed from consideration for the System's annuity.
  - C) The offset amount will be adjusted when any benefit recipients

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

become ineligible for Social Security benefits.

- D) ~~Beginning July 1, 2009~~~~For deaths on or after July 1, 1990~~, if a survivor under age 62 ~~previously~~ receiving ~~at~~ the survivor's benefit subject to the Social Security offset becomes eligible to receive a monthly benefit amount based on a Primary Insurance Amount on his or her own record, ~~then~~ the offset will be recomputed when he or she first becomes eligible to receive his or her own Primary Insurance Amount. The offset amount will be based on the estimated widow's or widower's Social Security survivor's amount determined at the date of death of the member less the estimated monthly benefit amount based on the Primary Insurance Amount of the survivor determined at the date of death of member, and the government pension offset, if any, ignoring any subsequent increases to the deceased Primary Insurance Amount or the survivor's Primary Insurance Amount. The monthly benefit amount based on the primary insurance amount of the survivor shall be determined from the Social Security ~~Administration's~~~~Administrations'~~ Personal Earnings and Benefit Estimate Statement, including any adjustment due to the application of the Windfall Elimination Provision.

- d) Retirement Annuity  
Pursuant to Section 14-108(f) of the Pension Code, for members under age 65, the primary insurance benefit payable to the member upon attainment of age 65 shall, at the date of acceptance of a retirement annuity, be determined from the Social Security ~~Administration's~~~~Administrations'~~ Personal Earnings and Benefit Estimate Statement, including any adjustments due to the application of the Windfall Elimination Provision. For members over age 65, the primary insurance benefit shall be the amount of Social Security benefits payable at the date of retirement with the State Employees' Retirement System.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1540.330 Board Elections**

In accordance with the Illinois Pension Code, an election for 2 trustees, one contributing member with at least 8 years of creditable service and one annuitant who has been an annuitant for at least one full year, will be held every 5 years beginning in 1986 and an election for 4 trustees, three

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

contributing members with at least 8 years of creditable service and one annuitant who has been an annuitant for at least one full year, will be held every 5 years beginning in 2009.

## a) Definitions of Terms

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

"Annuitant" – Any annuitant, as defined in Section 14-103.07 of the Illinois Pension Code [40 ILCS 5/14-103.07].

"Contributing Member" – Any member of the System, as defined in Section 14-103.06 of the Illinois Pension Code [40 ILCS 5/14-103.06] who is currently contributing to the System.

## b) Nominations

Qualified persons for the position of Contributing Member Trustee or Annuitant Trustee shall file a Statement of Candidacy and ~~a trustee petition~~ Trustee petitions on a form prescribed by the Board, in accordance with the Illinois Pension Code. Petitions shall be signed by not ~~fewer~~ less than 400 contributing members for a Contributing Member Trustee candidate and by not ~~fewer~~ less than 100 annuitants for an Annuitant Trustee candidate and indicate the addresses of the signators opposite their names. Nominating petitions shall be circulated and certified only by contributing members or annuitants for each respective trustee candidate. Forms shall be secured from the Executive Secretary and filed in accordance with the Calendar (see subsections (f) and (i)). ~~Trustee petitions and the~~ with a Statement of Candidacy must be filed at the System's Springfield office, 2101 South Veterans Parkway, Springfield, Illinois, in person or by mail during the office hours ~~of~~ 8:00 a.m. to 4:30 p.m.

## c) Lottery for Ballot Position

All petitions filed on or before the first day for filing shall be deemed filed as of ~~8:00~~ 8 a.m. on the first day. All petitions received thereafter shall be deemed as filed in the order of actual receipt. Where 2 or more petitions are received simultaneously for the same office, the State Employees' Retirement Board, with whom ~~such~~ petitions are filed, shall break ties and determine the order of filing, by means of a lottery.

## d) Procedures on Objections

The Board of Trustees of the System shall review and rule on all written petitions filed objecting to any ~~candidate's~~ candidate's qualifications as outlined in 40 ILCS

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

5/14-134~~(e) and (f)~~. Petitions objecting shall be made in accordance with 80 Ill. Adm. Code 1540.270(d)(3). Nomination papers shall be deemed valid unless objections are received by the System in writing within 5 days after the last day for filing nomination papers. Not later than ~~12:00~~ noon on the next business day, after receipt of the objector's petition, the Executive Secretary shall deliver or transmit the nomination papers and original objector's petition to the Chairman of the Board and a copy of the objector's petition to the candidate whose nomination papers are ~~the subject of the objection~~~~objected to~~. Not later than 12:00 noon on the second business day after receipt of the objector's petition, the Chairman of the Board shall call for a meeting to consider the petition by giving notice to each of the members of the Board, the objector and candidate. The meeting of the Board shall not be less than 3 nor more than 5 days after receipt of objector's petition by the Chairman of the Board.

## e) Elections

After the Executive Secretary has certified the candidates, separate ballots shall be prepared for the Contributing Member Trustee and for the Annuitant Trustee. Candidate position shall be in the order that the petitions are filed, or as determined by the lottery. Ballots will be mailed on election day to all qualified Contributing Members and Annuitants. All ballots must be returned, sealed in the envelope provided, so as to be received by May 30 of the election year, ~~to be counted~~. In order to be eligible to vote, a contributing member must make contributions during the first payroll period in March of the election year. In order to be eligible to vote, an annuitant must receive a retirement annuity for March of each election year.

## f) Calendar of Events

1) Beginning in 1986 and every 5 years thereafter, and in 2014 and every 5 years thereafter, the following timelines shall apply:

A1) JANUARY 2 ~~;~~ Forms available from the Executive Secretary for Statement of Candidacy and petitions.

B2) JANUARY 15 ~~;~~ Last day Executive Secretary shall publish in a newsletter the dates and times when candidates may receive petitions. The pre-filing notice must also include the time and location of the filing period for nominating petitions.

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

- ~~C3~~) FEBRUARY 11 ~~—~~; First day for candidates to file nomination papers for trustee offices in the office of the Executive Secretary ~~for trustee offices~~.
- ~~D4~~) FEBRUARY 19 ~~—~~; Last day for candidates to file nomination papers for trustee offices in the office of the Executive Secretary ~~for trustees offices~~.
- ~~E5~~) FEBRUARY 24 ~~—~~;
- ~~iA~~) Last day for filing objections to the nomination papers of candidates for the office of trustees in the office of the Executive Secretary.
- ~~iiB~~) Notice shall be given by telephone, facsimile or electronically of the time and place for conducting a lottery when 2 or more petitions are received simultaneously for the same office. Notice shall be given by the Executive Secretary to all candidates involved in the lottery.
- ~~F6~~) FEBRUARY 28 ~~—~~; Lottery shall be conducted by the Executive Secretary when 2 or more petitions are received simultaneously for the same office.
- ~~G7~~) MARCH 1 ~~—~~; Last day for candidates to withdraw their candidacy in the office of the Executive Secretary.
- ~~H8~~) MAY 1 ~~—~~ or, if Sunday, then May 2 ~~—~~ Election
- ~~I9~~) MAY 30 ~~—~~; Last day all voted ballots shall be received by the Board or its designate.
- ~~J10~~) JUNE 6 ~~—~~; Last day for canvassing of election results by the Board or its designated agent.
- ~~K11~~) JUNE 18 ~~—~~; Last day for the Board to proclaim the results of the election and to issue the certificates of election to the winners.
- 2) If any of these dates falls on a Saturday, Sunday or holiday, the next

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

succeeding business day for the System shall be the effective date.

- g) **Ballot Security**  
Upon receiving the official voted ballots, they shall be secured ~~unopened~~, in a locked location, until ~~such time as~~ the canvassing begins.
- h) **Board Notification**
- 1) The Board or its designated agent shall canvass the ballots and certify the results. Each candidate may have two observers present during the ballot canvassing.
  - 2) The candidate or candidates receiving the most votes for the office of Contributing Member Trustee will be declared the winner. The candidate receiving the most votes for the office of the Annuitant Trustee will be declared the winner.
  - 3) If a candidate should become ineligible for office after the submission of the Statement of Candidacy and ~~petitions~~Petitions, but before the election, the Board shall notify the candidate of the ineligibility and remove his or her name from the ballot. If a candidate should become ineligible for office after the mailing of ballots, his or her votes will not be counted and the eligible candidate receiving the most votes shall be declared the winner.
  - 4) Ballots will be retained for 60 days following the certification. The ballots can and then be destroyed, ~~unless pending any~~ litigation is pending.
  - 5) In case of a tie vote between 2 or more candidates, the Board shall determine the winner by means of a lottery to break the tie.
  - 6) The Board will proclaim the results of the election and issue Certificates of Election to the winners.
- i) Special Election Calendar of Events  
The special election to be held in 2009 to fill the 4 new elected trustee positions shall be subject to the same procedures outlined in this Section, except as may need to be modified to comply with the following calendar for the special election:

## STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

- 1) APRIL 16 – First day for candidates to file nomination papers for trustees offices in the office of the Executive Secretary.
- 2) MAY 11 – Last day for candidates to file nomination papers for trustees offices in the office of the Executive Secretary.
- 3) MAY 15 – Lottery shall be conducted by the Executive Secretary when 2 or more petitions are received simultaneously for the same office.
- 4) JUNE 1 – Election
- 5) JUNE 26 – Last day all voted ballots shall be received by the Board or its designate.
- 6) JULY 2 – Last day for canvassing of election results by the Board or its designated agent and for the Board to proclaim the results of the election and to issue the certificates of election to the winners.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1540.360 Election to be an Employee under Section 14-103.05(b)(3) of the Illinois Pension Code**

An election to be considered an "employee" under Section 14-103.05(b)(3) of the Illinois Pension Code is an irrevocable election for all periods during which the person is serving at the appointment of the Governor with the advice and consent of the Senate. The election is valid and irrevocable for the entire period spent in a position, even upon reappointment to the same position. Appointment to a different position under Section 14-103.05(b)(3) requires the employee to complete a new election form.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Airport Hazard Zoning
- 2) Code Citation: 92 Ill. Adm. Code 16
- 3) Section Number: 16.APPENDIX A                      Proposed Action:  
Amendment
- 4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to amend Section 16.APPENDIX A to add numerous publicly-owned airports to the Part. This Part prescribes requirements for administration and enforcement that restrict the height of structures, equipment, and vegetation, and that regulate the use of property, on or in the vicinity of publicly-owned airports. The following airports will be covered under this Part upon adoption of this proposed rulemaking: Chicago/Rockford International Airport (RFD), Greenville Airport (GRE), Metropolis Municipal Airport (M30), Pittsfield Penstone Municipal Airport (PPQ), Sparta Community Airport (SAR), Vermilion Regional Airport (DNU), and Bolingbrook Clow International Airport (1C5).
- 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 Objectives: This rulemaking will not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed amendment. Written submissions shall be filed with:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

Mr. Robert Hahn, Airspace Specialist  
Illinois Department of Transportation  
Division of Aeronautics  
1 Langhorne Bond Drive  
Abraham Lincoln Capital Airport  
Springfield, Illinois 62707-8415

217/524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
Office of Chief Counsel  
2300 South Dirksen Parkway, Room 317  
Springfield, Illinois 62764

217/524-3838

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Any future development, business, or small municipality located in the vicinity of those airports being added to this Part may be affected by this rulemaking. Additionally, other proposed objects situated under the surfaces described in Sections 16.40-16.110 such as farm ground, grain elevators, power companies, cell towers, radio towers, TV towers, etc., may also be impacted by this rulemaking. However, this proposed rulemaking has no impact on pre-existing businesses per Section 16.140.
- B) Reporting, bookkeeping or other procedures required for compliance: The Division must be notified concerning objects on airport property. (See Section 16.160.) For objects off airport property, the person or sponsor will be directed by the Division to notify the FAA. No bookkeeping requirements are anticipated.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

- C) Types of professional skills necessary for compliance: If supplemental information (certified engineering/survey data) from a professional engineer, architect or surveyor concerning the proposed site location and height is requested under Section 16.160(c)(2)(C), compliance with this request will be necessary.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER b: AERONAUTICSPART 16  
AIRPORT HAZARD ZONING

## Section

16.10	Purpose and Scope
16.20	Applicability
16.30	Definitions
16.35	Public Hearings
16.40	Surfaces and Height Limitations
16.50	Horizontal Surface
16.60	Conical Surface
16.70	Primary Surface
16.80	Approach Surface
16.90	Transitional Surfaces
16.100	Circling Approach Surface
16.110	Instrument Approach Obstruction Clearance Surface
16.120	Heliport/Vertiport Surfaces
16.130	Use Restrictions
16.140	Pre-Existing, Non-Conforming Uses (Grandfather Clause)
16.150	Pre-Existing, Non-Conforming Structures, Uses, or Vegetation Abandoned or Destroyed
16.160	Notice of Construction or Alteration of Any Structure
16.170	Permits
16.180	Variances
16.190	Administrative and Judicial Review
16.200	Penalties
16.210	Conflicting Regulations
16.220	Severability
16.APPENDIX A	Applicable Airports
16.ILLUSTRATION A	Airports Imaginary Surfaces
16.ILLUSTRATION B	Airports (Public- or Private-Use) Minimum Dimensional Standards
16.ILLUSTRATION C	Obstruction Standards ( $\leq$ 6 Nautical Miles)
16.ILLUSTRATION D	Obstruction Standards ( $>$ 6 Nautical Miles)
16.ILLUSTRATION E	Public- or Private-Use Heliport/Vertiport Minimum Dimensional Standards

AUTHORITY: Implementing and authorized by the Airport Zoning Act [620 ILCS 25].

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

SOURCE: Adopted at 28 Ill. Reg. 2421, effective January 26, 2004; amended at 29 Ill. Reg. 12529, effective July 27, 2005; amended at 30 Ill. Reg. 14117, effective August 10, 2006; amended at 31 Ill. Reg. 3191, effective February 9, 2007; amended at 32 Ill. Reg. 7806, effective May 1, 2008; amended at 33 Ill. Reg. 5474, effective March 30, 2009; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

**Section 16.APPENDIX A Applicable Airports**

Airport	City	County	ARP Latitude	ARP Longitude	Fed Std.	State Std.	Applicable Date
SPI	Springfield	Sangamon	39-50.64	89-40.66	X		Jan. 26, 2004
MLI	Moline	Rock Island	41-26.91	90-30.45	X		July 29, 2005
SQI	Sterling-Rock Falls	Whiteside	41-44.57	89-40.58	X		July 29, 2005
SLO	Salem	Marion	38-38.57	88-57.85	X		July 29, 2005
H96	Benton	Franklin	38-00.41	88-56.07	X		Sept. 15, 2006
CIR	Cairo	Alexander	37-03.87	89-13.18	X		Sept. 15, 2006
CTK	Canton	Fulton	40-34.15	90-04.49	X		Sept. 15, 2006
DEC	Decatur	Macon	39-50.08	88-51.94	X		Sept. 15, 2006
DKB	DeKalb	DeKalb	41-56.02	88-42.34	X		Sept. 15, 2006
GBG	Galesburg	Knox	40-56.28	90-25.87	X		Sept. 15, 2006
HSB	Harrisburg	Saline	37-48.69	88-32.95	X		Sept. 15, 2006
IJX	Jacksonville	Morgan	39-46.48	90-14.30	X		Sept. 15, 2006
JOT	Joliet	Will	41-31.08	88-10.52	X		Sept. 15, 2006
EZI	Kewanee	Henry	41-12.31	89-57.83	X		Sept. 15, 2006
IGQ	Lansing	Cook	41-32.09	87-31.77	X		Sept. 15, 2006
MWA	Marion	Williamson	37-45.30	89-00.67	X		Sept. 15, 2006
MTO	Mattoon	Coles	39-28.68	88-16.75	X		Sept. 15, 2006
PRG	Paris	Edgar	39-42.01	87-40.17	X		Sept. 15, 2006
3MY	Peoria	Peoria	40-47.72	89-36.80	X		Sept. 15, 2006
PIA	Peoria	Peoria	40-39.86	89-41.60	X		Sept. 15, 2006
VYS	Peru	LaSalle	41-21.11	89-09.19	X		Sept. 15, 2006
LOT	Romeoville	Will	41-36.44	88-05.77	X		Sept. 15, 2006
DPA	West Chicago	DuPage	41-54.47	88-14.92	X		Sept. 15, 2006
K06	Beardstown	Cass	39-58.40	90-24.22	X		Feb. 28, 2007
OLY	Olney	Richland	38-43.31	88-10.59	X		Feb. 28, 2007
LWV	Lawrenceville	Lawrence	38-45.86	87-36.33	X		Feb. 28, 2007
CUL	Carmi	White	38-05.38	88-07.38	X		Feb. 28, 2007
C73	Dixon	Lee	41-50.02	89-26.77	X		Feb. 28, 2007
ORD	Chicago	Cook	41-58.72	87-54.29	X		Feb. 28, 2007
TAZ	Taylorville	Christian	39-31.95	89-19.84	X		May 1, 2008

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

Airport	City	County	ARP Latitude	ARP Longitude	Fed Std.	State Std.	Applicable Date
BLV	Belleville/Mascoutah	St. Clair	38-32.71	89-50.11	X		May 1, 2008
AAA	Lincoln	Logan	40-09.52	89-20.10	X		May 1, 2008
VLA	Vandalia	Fayette	38-59.49	89-09.97	X		May 1, 2008
UGN	Waukegan	Lake	42-25.33	87-52.07	X		May 1, 2008
MDH	Carbondale	Jackson	37-46.69	89-15.12	X		May 1, 2008
CPS	Cahokia/Sauget	St. Clair	38-34.24	90-09.37	X		May 1, 2008
MQB	Macomb	McDonough	40-31.21	90-39.14	X		May 1, 2008
PWK	Wheeling/Prospect Heights	Cook	42-06.85	87-54.09	X		May 1, 2008
9I0	Havana	Mason	40-13.32	90-01.37	X		May 1, 2008
C09	Morris	Grundy	41-25.53	88-25.12	X		May 1, 2008
1H2	Effingham	Effingham	39-04.23	88-32.01	X		May 1, 2008
CMI	Champaign/Savoy	Champaign	40-02.36	88-16.68	X		May 1, 2008
I63	Mt. Sterling	Brown	39-59.25	90-48.25	X		May 1, 2008
RSV	Robinson	Crawford	39-00.96	87-38.99	X		May 1, 2008
ALN	East Alton/Bethalto	Madison	38-53.42	90-02.76	X		May 1, 2009
PNT	Pontiac	Livingston	40-55.47	88-37.44	X		May 1, 2009
AJG	Mt. Carmel/St. Francisville	Lawrence	38-36.39	87-43.60	X		May 1, 2009
RPJ	Rochelle	Ogle	41-53.58	89-04.70	X		May 1, 2009
1H8	Casey	Clark	39-18.15	88-00.24	X		May 1, 2009
MVN	Mt. Vernon	Jefferson	38-19.40	88-51.51	X		May 1, 2009
ARR	Aurora/Sugar Grove	Kane	41-46.32	88-28.54	X		May 1, 2009
2H0	Shelbyville	Shelby	39-24.63	88-50.73	X		May 1, 2009
IKK	Kankakee	Kankakee	41-04.28	87-50.78	X		May 1, 2009
FOA	Flora	Clay	38-39.90	88-27.18	X		May 1, 2009
UIN	Quincy	Adams	39-56.58	91-11.67	X		May 1, 2009
<a href="#">GRE</a>	<a href="#">Greenville</a>	<a href="#">Bond</a>	<a href="#">38-50.17</a>	<a href="#">89-22.70</a>	<a href="#">X</a>		<a href="#">Jan. 1, 2010</a>
<a href="#">M30</a>	<a href="#">Metropolis</a>	<a href="#">Massac</a>	<a href="#">37-11.15</a>	<a href="#">88-45.04</a>	<a href="#">X</a>		<a href="#">Jan. 1, 2010</a>
<a href="#">DNV</a>	<a href="#">Danville</a>	<a href="#">Vermilion</a>	<a href="#">40-11.98</a>	<a href="#">87-35.73</a>	<a href="#">X</a>		<a href="#">Jan. 1, 2010</a>

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

<u>Airport</u>	<u>City</u>	<u>County</u>	<u>ARP Latitude</u>	<u>ARP Longitude</u>	<u>Fed Std.</u>	<u>State Std.</u>	<u>Applicable Date</u>
<a href="#">RFD</a>	<a href="#">Rockford</a>	<a href="#">Winnebago</a>	<a href="#">42-11.72</a>	<a href="#">89-05.83</a>	<a href="#">X</a>		<a href="#">Jan. 1, 2010</a>
<a href="#">1C5</a>	<a href="#">Bolingbrook</a>	<a href="#">Will</a>	<a href="#">41-41.76</a>	<a href="#">88-07.75</a>	<a href="#">X</a>		<a href="#">Jan. 1, 2010</a>
<a href="#">PPQ</a>	<a href="#">Pittsfield</a>	<a href="#">Pike</a>	<a href="#">39-38.33</a>	<a href="#">90-46.71</a>	<a href="#">X</a>		<a href="#">Jan. 1, 2010</a>
<a href="#">SAR</a>	<a href="#">Sparta</a>	<a href="#">Randolph</a>	<a href="#">38-08.94</a>	<a href="#">89-41.92</a>	<a href="#">X</a>		<a href="#">Jan. 1, 2010</a>

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Greater Rockford Airport Hazard Zoning Regulations
- 2) Code Citation: 92 Ill. Adm. Code 47
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
47.10	Repeal
47.20	Repeal
47.30	Repeal
47.40	Repeal
47.50	Repeal
47.60	Repeal
47.70	Repeal
47.80	Repeal
47.90	Repeal
47.100	Repeal
47.110	Repeal
47.120	Repeal
47.130	Repeal
47.140	Repeal
47.EXHIBIT A	Repeal
- 4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and to include the Greater Rockford Airport under 92 Ill. Adm. Code 16, the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports. It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.
- 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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 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 amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist  
Illinois Department of Transportation  
Division of Aeronautics  
1 Langhorne Bond Drive  
Abraham Lincoln Capital Airport  
Springfield, Illinois 62707-8415

217/524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
Office of Chief Counsel  
2300 South Dirksen Parkway, Room 317  
Springfield, Illinois 62764

217/524-3838

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER b: AERONAUTICSPART 47  
GREATER ROCKFORD AIRPORT  
HAZARDOUS ZONING REGULATIONS ([REPEALED](#))

## Section

47.10	Introduction
47.20	Definitions
47.30	Surfaces and Height Limitations
47.40	Use Restrictions
47.50	Non-Conforming Uses
47.60	Permits
47.70	Non-Conforming Structures or Uses or Trees Abandoned or Destroyed
47.80	Variances
47.90	Notice of Construction or Alteration
47.100	Enforcement
47.110	Appeal and Judicial Review
47.120	Penalties
47.130	Conflicting Regulations
47.140	Severability
47.EXHIBIT A	Proposed Construction Permit Request

AUTHORITY: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1985, ch. 15½, par. 48.17).

SOURCE: Adopted at 11 Ill. Reg. 15925, effective September 21, 1987; repealed at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 47.10 Introduction**

- a) Zoning provisions regulating and restricting the height of structures and trees, and otherwise regulating the use of property in the vicinity of the Greater Rockford Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Greater Rockford Airport zoning map (Note: this zoning map can be viewed at the Department of Transportation,

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18. Exhibits A, B and C); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

- b) These zoning regulations are adopted at the request of Greater Rockford Airport Authority, as owner and operator of Greater Rockford Airport Authority, as owner and operator of Greater Rockford Airport, pursuant to the authority conferred by the Airport Zoning Act (Act) (Ill. Rev. Stat. 1985, ch. 15½, pars. 48.1 et seq.). *It is hereby found that an airport hazardous endangers the lives and property of users of Greater Rockford Airport and of occupants of land or property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of Greater Rockford Airport and the public investment therein.*
- 1) *Accordingly, it is declared:*
- A) *that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Greater Rockford Airport;*
- B) *that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and*
- C) *that the prevention of these hazards should be accomplished to the extent legally possible, by the exercise of the police power, without compensation.*
- 2) *It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests inland. (Section 11 of the Act)*
- c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Greater Rockford

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

Airport be adopted.

**Section 47.20 Definitions**

As used in this Part, unless the context otherwise requires:

"Airport" – The Greater Rockford Airport located near Rockford, in parts of Section 11, 14, 15, 16, 22, 23, 26 and 27, all in Township 43 North, Range 1 East of the Third Principal Meridian, Winnebago County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the usable landing strip; the established airport elevation shall be 735 feet above mean sea level (AMSL).

"Airport Hazard" – *Any structure, tree, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking-off at the airport.* (Section 3 of the Act)

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 42° 11' 54.8" N and Longitude 89° 05' 42.3" W.

"Alteration" – Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Section 47.30 of this Part.

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Flight Safety Coordinator" – An employee of the Department whose duties include, but are not limited to inspection of airports, review of complaints concerning uses of property in the vicinity of airports and inspection of structures, uses and trees in the vicinity of airports to determine if such structures, uses or trees impair the use of the airport by aircraft.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

"Height" – The overall height of the top of a structure including any appurtenances installed thereon, for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking-off or taxiing of aircraft including the unprepared surfaces adjacent to the existing runways.

"Non-Conforming Use" – Any structure, tree, or use of land which is lawfully in existence at the time this Part or an amendment thereto becomes effective and does not then meet the requirements of this Part.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved by the Federal Aviation Administration (FAA), or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics, pursuant to Section 47.60 of this Part.

"Person" – An *individual, firm, partnership, corporation, company association, joint stock association, or body politic*, and includes a *trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State* and the Division of Aeronautics.

"Political Subdivision" – *Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof*, situated in whole or in part within any of the surfaces established by Section 47.30 hereof.

"Precision Instrument Runway" – A precision instrument runway is one which uses an instrument landing system (ILS) or precision approach radar (PAR). A planned precision instrument runway is one for which a precision approach system is indicated on a Department approved Airport Layout Plan, which is on

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of turf or concrete, asphalt, oil and chip or other composite material that forms an all weather surface other than turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance for each one foot vertically.

"State" – *The State of Illinois.*

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Tree" – Any object of natural growth.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of this Part, in accordance with Section 47.80.

"Visibility Minimums" – The lowest forward horizontal distance from the cockpit of an aircraft in flight at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.

"Visual Runway" – A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Department approved airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

**Section 47.30 Surfaces and Height Limitations**

- a) Establishment and Creation
  - 1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.
  - 2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of this Part. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18. Exhibits A, B and C) for Greater Rockford Airport prepared by Crawford, Murphy and Tilly, Inc., Aurora, Illinois. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.
  - 3) Except as otherwise provided in this Part, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by this Part to a height in excess of the height limit herein established for such surfaces.
  - 4) The various surfaces are hereby established, and height limitations are hereby established for each of the surfaces, as follows:
- b) Horizontal Surface
  - 1) A horizontal plane 150 feet above the established airport elevation of 735 feet AMSL, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

runway and connecting the adjacent arcs by lines tangent to those arcs.  
The radius of each arc is:

- A) 5,000 feet for all runways designated as utility or visual;
  - B) 10,000 feet for all other runways,
- 2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.
- c) Conical Surface
- 1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet,
  - 2) The conical surface does not include the approach surfaces to the precision instrument runways and the transitional surfaces.
- d) Primary Surface
- 1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:
    - A) 250 feet for utility runways having only visual approaches;
    - B) 500 feet for utility runways having non-precision instrument approaches;

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- C) For other than utility runways, the width is:
    - i) 500 feet for visual runways having only visual approaches;
    - ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute miles;
    - iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.
  - 2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.
- e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.
- 1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to width of:
    - A) 1,250 feet for that end of a utility runway with only visual approaches;
    - B) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;
    - C) 2,000 feet for that end of a utility runway with a non-precision instrument approach;
    - D) 3,500 feet for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths statute mile;

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- E) 4,000 feet for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and
  - F) 16,000 feet for precision instrument runways.
- 2) The approach surface extends for a horizontal distance of:
- A) 5,000 feet at a slope of 20 feet horizontally for each foot vertically for all utility and visual runways;
  - B) 10,000 feet at a slope of 34 feet horizontally for each foot vertically for all non-precision instrument runways other than utility; and
  - C) 10,000 feet at a slope of 50 feet horizontally for each foot vertically with an additional 40,000 feet at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.
- 3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
- f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150 feet above the airport elevation which is 735 feet AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.
- g) Circling Approach Surface – This is a surface 200 feet above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Greater Rockford Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

feet.

- h) Excepted Height Limitations – Nothing in this Part shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the ground.

**Section 47.40 Use Restrictions**

Notwithstanding any other provisions of this Part, no use may be made of land or water within any surface established by this Part as follows:

- a) Electrical or Electronic Interference
  - 1) In such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport or aircraft.
  - 2) If a complaint of such interference is received by the Department, a Flight Safety Coordinator shall determine if a hazard exists by observing all relevant factors including the type of aircraft using the airport, the traffic patterns at the airport, the time of day and frequency of the interference.
- b) Flashing or Illuminated Structures
  - 1) The installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots.
  - 2) In determining whether such a hazard exists, a Flight Safety Coordinator shall consider factors which include, but are not limited to, assessing the difficulty pilots have in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off or maneuvering of aircraft, the proximity of the illuminated structure to the airport, and the traffic patterns at the airport.
- c) Smoke
  - 1) A use which would emit or discharge smoke that would interfere with the

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

- 2) In determining if such an emission or discharge of smoke would interfere with the health and safety of pilots and the public, a Flight Safety Coordinator shall consider all relevant factors which include, but are not limited to the density of the smoke, frequency of the emission or discharge, source of the smoke, general weather patterns in the vicinity, time of day, and volume and type of aircraft which use the airport.

**Section 47.50 Non-Conforming Uses**

- a) Regulations Not Retroactive – Those surface regulations prescribed by this Part shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part and is diligently prosecuted.
- b) Marking and Lighting
  - 1) Notwithstanding the provisions of Section 47.50(a), the owner of an existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Greater Rockford Airport Authority.
  - 2) In determining the necessity for such markers and lights, the Department shall consider all relevant conditions, including but not limited to, the traffic patterns, volume and type of aircraft at the airport, the general weather patterns in the vicinity, the topography of the airport and the surrounding area, and the height of the structure and its proximity to the approach and transition slopes of the existing runways.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

**Section 47.60 Permits**

- a) Future Uses – Except as specifically provided in subsections (1), (2), and (3) below, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
- 1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not violation of height restrictions of primary, transitional and approach surfaces as set forth in this Part, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such surface.
  - 2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.
  - 3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.
- b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits prescribed by this Part.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

**Section 47.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed**

Whenever the Department following a Flight Safety Coordinator's personal inspection, observation and estimation, *determines that a non-conforming structure or use or tree has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated, or decayed:*

- a) *No permit shall be granted by the Department that would allow such structure or use or tree to exceed the applicable height limit or otherwise deviate from these zoning regulations; and*
- b) *Whether application is made for a permit, or not, the Department may issue an order pursuant to Section 47.70(c), in cases where the remaining structure or use or tree constitutes a violation of this Part, compelling the owner of the non-conforming structure or use or tree, at his own expense, to lower, remove, reconstruct, or equip such structure or use or tree as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or tree shall neglect or refuse to comply with such order within ten (10) days after notice thereof, the Department may proceed to have such structure or use or tree so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suite in equity for the enforcement thereof as in the case of other liens. (Section 23 of the Act)*
- c) The Department shall issue an order if it is determined that the non-conforming structure or use or tree interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport, and whether or not the airport has precision instrument or instrument runways.

**Section 47.80 Variances**

- a) General – *Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these zoning regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the*

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

*spirit of these zoning regulations.* (Section 24 of the Act)

- b) Marking and Lighting – Any Variance granted by the Department may be so conditioned as to require the owner of such structure or tree to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or tree.
- c) In making the determination to allow variance the Department will consider, but is not limited to considering, the proximity of the hazard to the normal flight path or traffic patterns at the airport, the proximity of other non-conforming uses, structures or trees which would impair the use of the airport, the height of the object, the volume of air traffic at the airport, the type of aircraft using the airport, the type of navigational aids used at the airport, the length and width of existing runways, and plans for future expansion of the airport.

**Section 47.90 Notice of Construction or Alteration**

- a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established herein by Section 47.30 with respect to Greater Rockford Airport:
  - 1) Any construction or alteration of more than 200 feet in height above the ground level at its site.
  - 2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:
    - A) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the airport, with at least one runway more than 3200 feet in actual length.
    - B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200 feet in actual length.
  - 3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subsection (1) or (2) of this Section.

- 4) Any construction or alteration that would exceed a standard of the Act or this Part.
- b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Greater Rockford Airport:
- 1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.
  - 2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device less than 50 feet in height.
  - 3) Any object that would be shielded by permanent and substantial existing structures of equal or greater height or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not obstruct or interfere with aircraft using the airport, or cause any additional adverse effect on airport operations by considering the height and location of the existing uses and structures.
- c) Form and Time of Notice
- 1) Each person who is required to notify the Department under subsection (a) of this Section shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 (for an example, see Exhibit A) to the Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.
  - 3) In the case of an emergency involving essential public services, public health, or public safety, that required immediate construction or alteration, the 30-day requirement in subsection (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter. For example an emergency could include breaks in sewer lines, gas mains or power lines.
- d) Acknowledgement of Notice
- 1) The Department will acknowledge in writing the receipt of such notice submitted under subsection (a) above within 30 days of receipt of such notice.
  - 2) The acknowledgment will state that a study of the proposed construction or alteration has resulted in a determination that the construction or alteration:
    - A) Would under federal rules require lighting or marking standards as prescribed in Advisory Circular, Department of Transportation, Federal Aviation Administration (FAA), Subject: Obstruction, Marking and Lighting, AC No: 70/7460-1F, September 27, 1978, as provided in 14 CFR 77.11 (b)(3), January 1, 1983, not including any later amendment or editions, and information on how the structure should be marked and lighted in accordance with such FAA standards; and/or
    - B) Would not exceed any standard of the Act or this Part; or
    - C) Would exceed a standard of the Act, Aviation Safety Rules (92 Ill. Adm. Code 14), or this Part; or
    - D) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

**Section 47.100 Enforcement**

It shall be the duty of the Department to administer and enforce this Part. Applications for permits or variances, required by this Part to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

**Section 47.110 Appeal and Judicial Review**

- a) Appeal – Any person aggrieved by any decision of the Department made in Administration of this Part may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by the Act for proceedings before Board of Appeal shall govern such application to the Department. (Ill. Rev. Stat. 1985, ch. 15½, par. 48.29)
- b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Winnebago County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled The Administrative Review Law (Ill. Rev. Stat. 1985, ch. 110, pars. 3-101 et seq.).

**Section 47.120 Penalties**

Each violation of this Part or of *any regulations, orders, or rulings promulgated* hereunder shall constitute an airport hazard and a *petty offense*, and such hazard shall be removed by proper legal proceedings and *each day a violation continues to exist shall constitute a separate offense*. *In addition, the Department may institute in the Circuit Court of Winnebago County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.* (Section 34 of the Act)

**Section 47.130 Conflicting Regulations**

Where a conflict exists between this Part and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or trees, the use of

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

**Section 47.140 Severability**

If any of the provisions of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or application, and to this end, the provisions of this Part are declared to be severable.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

**Section 47.EXHIBIT A Proposed Construction Permit Request**

ILLINOIS DEPARTMENT OF TRANSPORTATION  
Division of Aeronautics

Name of Individual or Company  
Making Request \_\_\_\_\_

Address \_\_\_\_\_  
Street City Zip Phone

Nature and Description of Proposed Structure:	New Construction					
	Alteration					
	Nearest Town:					
	Location from Nearest Town					
	Direction			Distance		
	Nearest Airport:					
	From Nearest Point to a Runway					
	Direction			Distance		
	Latitude			Longitude		
	°	'	"		'	"

Proposed Heights And Elevations

Site Elevation (Mean Sea Level)	Feet
Highest Point of Structure Above Ground	Feet
Overall Height above Mean Sea Level	Feet
Estimated Construction Starting Date	
Estimated Construction Completion Date	
Type of Structure:	Permanent Temporary
Will Structure be Obstruction Lighted:	Yes No
Will Structure be Obstruction Marked:	Yes No

Remarks:

Date:	Title or Position:	Signature
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## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

The Illinois Department of Transportation is requesting disclosure of information that is necessary to accomplish the statutory purpose as outlined under Section 1 of the Airport Zoning Act (Ill. Rev. Stat. 1989, ch. 15½, par. 48.1). Disclosure of this information is REQUIRED. Failure to provide any information will result in denial of the construction permit. This form has been approved by the Forms Management Center.

DA-39 (Rev. 1-87) IL 494-0765

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Greenville Airport Zoning Regulations
- 2) Code Citation: 92 Ill. Adm. Code 48
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
48.5	Repeal
48.10	Repeal
48.20	Repeal
48.30	Repeal
48.40	Repeal
48.50	Repeal
48.60	Repeal
48.70	Repeal
48.80	Repeal
48.90	Repeal
48.100	Repeal
48.110	Repeal
48.120	Repeal
48.130	Repeal
48.140	Repeal
48.150	Repeal
48.160	Repeal
- 4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and to include the Greenville Airport under 92 Ill. Adm. Code 16, the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports. It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 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 amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist  
Illinois Department of Transportation  
Division of Aeronautics  
1 Langhorne Bond Drive  
Abraham Lincoln Capital Airport  
Springfield, Illinois 62707-8415

217/524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
Office of Chief Counsel  
2300 South Dirksen Parkway, Room 317  
Springfield, Illinois 62764

217/524-3838

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION  
 CHAPTER I: DEPARTMENT OF TRANSPORTATION  
 SUBCHAPTER b: AERONAUTICS

## PART 48

GREENVILLE AIRPORT ZONING REGULATIONS [\(REPEALED\)](#)

## Section

48.5	Introduction
48.10	Short Title
48.20	Definitions
48.30	Zones
48.40	Height Limitations
48.50	Use Restrictions
48.60	Non-Conforming Uses
48.70	Spacing Adjacent Airports, Restricted Landing Areas, Restricted Landing Area – Heliports
48.80	Permits
48.90	Non-Conforming Structures or Uses Abandoned or Destroyed
48.100	Variances
48.110	Enforcement
48.120	Appeal and Judicial Review
48.130	Penalties
48.140	Conflicting Regulations
48.150	Severability
48.160	Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Filed and effective August 21, 1972; codified at 6 Ill. Reg. 15564; repealed at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 48.5 Introduction**

- a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Greenville Airport by creating airport approach zones, transition zones, horizontal zone thereof; and conical zone, and establishing the boundaries providing for

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

changes in the restrictions and boundaries of such zones; defining certain terms used herein; referring to the Greenville Airport zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.); providing for enforcement; imposing penalties in the interest of public safety and welfare.

- b) These zoning regulations are adopted at the request of the Greenville Airport Authority, a municipal corporation of the State of Illinois, as owner and operator of the Greenville Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1). It is hereby found that an airport hazard endangers the lives and property of users of the Greenville Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of the Greenville Airport and the public investment therein. Accordingly, it is declared:
- 1) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Greenville Airport;
  - 2) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards by prevented, and
  - 3) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.
- c) It is hereby determined by the Department of Aeronautics, State of Illinois, that the zoning regulations for the Greenville Airport be adopted as follows:

**Section 48.10 Short Title**

These zoning regulations shall be known and may be cited as "The Greenville Airport Zoning Regulations".

**Section 48.20 Definitions**

As used in these zoning regulations, unless the context otherwise requires:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

"Airport" – The Greenville Airport located in Section 36 and Section 25, of Township 5 North, Range 3 West of the Third Principal Meridian; and Section 1 of Township 4 North, Range 3 West of the Third Principal Meridian, all in Bond County, Illinois. North, Range 3 East of the Third Principal Meridian, Macon County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 540' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 38° 50' 07" N and Longitude 89° 22' 38" W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (12 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Aeronautics of the State of Illinois.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Instrument Runway" – A runway equipped or having the potential of being equipped with electronic or visual air navigation aids adequate to permit the landing of aircraft under restricted visibility conditions.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Instrument Runway" – A runway other than an instrument runway.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 48.30 and 48.60 hereof.

"Runway" – The paved surface of an airport landing strip.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 1 to 100 means one foot of vertically for each one hundred feet of horizontal distance.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Tree" – Any object of natural growth.

"Variance" – A grant of relief by the Department from the requirements of these

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

zoning regulations, in accordance with Section 48.100.

**Section 48.30 Zones**

In order to carry out the provisions of these zoning regulations, there are created and established certain zones which include all of the land lying within the instrument Approach Zones, Non-Instrument Approach Zones, Transition Zones, Horizontal Zone and Conical Zone. Such areas and zones are shown on the Greenville Airport Zoning Map consisting of one (1) sheet, prepared by Casler and Associates, Consulting Engineers, Jacksonville, Illinois and dated September 17, 1969, and referred to hereinafter as the zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). The various zones are hereby established and defined as follows:

- a) Instrument Approach Zone – an instrument approach zone is hereby established at each end of the instrument runway for instrument landings and take-offs. The instrument approach zones shall have a width of 1000 feet at a point 200 feet from the end uniformly to a width of 16,000 feet at a distance of 50,000 feet from the end of the runway, its centerline being the continuation of the centerline of the runway.
- b) Non-Instrument Approach Zone – a non-instrument approach zone is hereby established at each end of the non-instrument runway for non-instrument landings and take-offs. The non-instrument approach zone shall have a width of 500 feet at a point 200 feet from the end of the runway widening thereafter uniformly to a width of 2,500 feet at a distance of 10,200 feet from the end of the runway, its centerline being the continuation of the centerline of the runway.
- c) Transition Zones – transition zones are hereby established adjacent to both the instrument and non-instrument runways and approach zones as indicated on the zoning map. Transition Zones located normal to and at the elevation of the centerline of the instrument and non-instrument runways, have variable widths as shown on the zoning map. Transition zones extend outward from a line 250 feet normal to and at the elevation of the centerline of the non-instrument runway, for the length of such runway plus 200 feet on each end; and 500 feet normal to and at the elevation of the centerline of the instrument runway, for the length of such runway plus 200 feet on each end, and are parallel and level with such runway centerlines. The transition zones along such runways slope upward and outward one (1) foot vertically for each seven (7) feet horizontally to the point where they

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

intersect the surface of the horizontal zone. Further, transition zones are established adjacent to both the instrument and non-instrument approach zones, having variable widths, as shown on the zoning map. Such transition zones flare symmetrically with either side of the runway approach zones from the base of such zones and slope upward and outward at the rate of one (1) foot vertically for each seven (7) feet horizontally to the points where they intersect the surfaces of the horizontal and conical zones. Additionally, transition zones are established adjacent to each instrument approach zone where it projects through and beyond the limits of the conical zone, extending a distance of 5000 feet measured horizontally from the edge of the instrument approach zones at right angles to the continuation of the centerline of the runway.

- d) Horizontal Zone – a horizontal zone is hereby established as the area within a circle with its center at the Airport Reference Point and having a radius of 7,000 feet.
- e) Conical Zone – a conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a distance of 5000 feet.

**Section 48.40 Height Limitations**

Except as otherwise provided in these zoning regulations, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

- a) Instrument Approach Zone – One (1) foot in height for each fifty (50) feet in horizontal distance beginning at a point 200 feet from and at the centerline elevation of the end of the instrument runway and extending to the distance of 10,200 feet from the end of the runway, thence one foot in height for each forty (40) feet in horizontal distance to a point 50,200 feet from the end of the runway.
- b) Non-Instrument Approach Zones – One (1) foot in height for each forty (40) feet horizontal distance beginning at a point 200 feet from and at the centerline elevation of the end of the non-instrument runway and extending to a point 10,200 feet from the end of the runway.
- c) Transition Zones – These surfaces extend outward and upward one (1) foot in

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

height for each seven (7) feet in horizontal distance perpendicular to the runway centerline until they meet the horizontal or conical surfaces and beginning at a point 250 feet on either side and normal to and at the elevation of the centerline of non-instrument runways, extending 200 feet beyond each end thereof, and 500 feet on either side and normal to and at the elevation of the centerline of the instrument runway, extending 200 feet beyond each end thereof, extending upward to a maximum height of 150 feet above the established airport elevation which is +540 feet above mean sea level. In addition to the foregoing, there are established height limits of one (1) foot vertical height for each seven (7) feet horizontal distance measured from the edges of all approach zones for the entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal and conical surfaces. Further, where the instrument approach surface projects through and beyond the conical zone, a height limit of one (1) foot for each seven (7) feet of horizontal distance shall be maintained beginning at the edge of the instrument approach zone and extending a distance of 5000 feet from the edge of the instrument approach zone measured normal to the continuation of the centerline of the runway extended.

- d) Horizontal Zone – The horizontal zone shall have an elevation of 150 feet above the established airport elevation (540 feet MSL) or an elevation of 690 feet above mean sea level.
- e) Conical Zone – The conical zone is one (1) foot in height for each 20 feet of horizontal distance beginning at the periphery of the horizontal zone extending to a height of 400 feet above the established airport elevation which is 540 feet above mean sea level.

**Section 48.50 Use Restrictions**

- a) General – Notwithstanding any other provisions of these zoning regulations, no use may be made of land within any zone in such a manner as to create electrical or electronic interference with radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for flyers because of the difficulty in distinguishing between airport lights and others, or which result in glare in the eyes of flyers using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of flyers and the public in

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

- b) Land Use Restriction Zone – The land use Restriction Zone shall be those areas underneath the approach zones, including the Transitional Zones, at the ends of each runway to a distance of 10,200 feet from the end of the runway. The Greenville Airport Authority shall make every effort to discourage further development of residential buildings and places of public assembly involving educational, institutional, amusement, and recreational uses. Any repeal or application for an amendment, variation, or special use to a zoning ordinance or other ordinance of a political subdivision affecting land use within the land use restriction zone shall require a public hearing and notice to be made to the Greenville Airport Authority, the Department, and the Federal Aviation Administration, at least thirty (30) days prior to the public hearing.

**Section 48.60 Non-Conforming Uses**

- a) Regulations Not Retroactive – These zoning regulations shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to these zoning regulations as of this effective date, or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.
- b) Marking and Lighting – Notwithstanding the provisions of Section 48.60(a), the owner of any non-conforming structure, or tree is hereby required to permit the trimming of trees or the installation, operation and maintenance on such structures of such markers and lights as shall be deemed necessary by the Department to indicate to flyers in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Greenville Airport Authority.

**Section 48.70 Spacing Adjacent Airports, Restricted Landing Areas, Restricted Landing Area-Heliports**

No airport or restricted landing area or restricted landing area-heliport shall be established within the zones hereinbefore described.

**Section 48.80 Permits**

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

After the effective date of these zoning regulations, the plans and specifications submitted by any person in connection with the application for a building permit must be in compliance with the regulations as herein set forth and with the requirements of Part 77 of the Federal Aviation Regulations Objects Affecting Navigable Airspace (14 CFR 77) issued by the Federal Aviation Administration, and with the Airport Zoning Act of the State of Illinois Revised Statutes. Any permit issued in contravention of these zoning regulations shall be void.

**Section 48.90 Non-Conforming Structures or Uses Abandoned or Destroyed**

Whenever the Department determines that a non-conforming structure or use has been abandoned or more than 80 per cent torn down, destroyed, or deteriorated;

- a) No permit shall be granted that will allow such structure or use to exceed the applicable height limit or otherwise deviate from these zoning regulations; and
- b) Whether application is made for a permit, or not, the Department may, by appropriate action, compel the owner of the non-conforming structure or use, at his own expense, to lower, remove, reconstruct, or equip such structure or use as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

**Section 48.100 Variances**

- a) General – Any person desiring to erect or increase the height of any structure, or permit any growth of any tree, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure to permit, at the expense of the Greenville Airport Authority, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to flyers the presence of such structure.

**Section 48.110 Enforcement**

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied by the Department.

**Section 48.120 Appeal and Judicial Review**

Any person aggrieved, or any taxpayer affected, by any decision of the Department may appeal to the Circuit Court of Bond County, Illinois, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981 ch. 110, pars. 3-101 et. seq.)

**Section 48.130 Penalties**

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred Dollars (\$200) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Bond County, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

**Section 48.140 Conflicting Regulations**

Where there exist a conflict between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

**Section 48.150 Severability**

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

**Section 48.160 Effective Date**

- a) Whereas, the immediate application of the provisions of these zoning regulations is necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.
- b) Adopted by the Department of Aeronautics on the 21<sup>st</sup> day of April, 1971.
- c) Concurred in by the Illinois Commerce Commission by Order dated June 21, 1972 in Docket No. 56495.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Metropolis Municipal Airport Hazard Zoning Regulations
- 2) Code Citation: 92 Ill. Adm. Code 66
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
66.5	Repeal
66.10	Repeal
66.20	Repeal
66.30	Repeal
66.40	Repeal
66.50	Repeal
66.60	Repeal
66.70	Repeal
66.80	Repeal
66.90	Repeal
66.100	Repeal
66.110	Repeal
66.120	Repeal
66.130	Repeal
66.140	Repeal
66.150	Repeal
- 4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and to include the Metropolis Municipal Airport under 92 Ill. Adm. Code 16, the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports. It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 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 amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist  
Illinois Department of Transportation  
Division of Aeronautics  
1 Langhorne Bond Drive  
Abraham Lincoln Capital Airport  
Springfield, Illinois 62707-8415

217/524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
Office of Chief Counsel  
2300 South Dirksen Parkway, Room 317  
Springfield, Illinois 62764

217/524-3838

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER b: AERONAUTICSPART 66  
METROPOLIS MUNICIPAL AIRPORT  
HAZARD ZONING REGULATIONS ([REPEALED](#))

## Section

66.5	Introduction
66.10	Short Title
66.20	Definitions
66.30	Surfaces and Height Limitations
66.40	Use Restrictions
66.50	Non-Conforming Uses
66.60	Permits
66.70	Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
66.80	Variances
66.90	Notice of Construction or Alteration
66.100	Enforcement
66.110	Appeal and Judicial Review
66.120	Penalties
66.130	Conflicting Regulations
66.140	Severability
66.150	Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Filed and effective July 7, 1975; codified at 6 Ill. Reg. 15279; repealed at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 66.5 Introduction**

- a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Metropolis Municipal Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Metropolis

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

Municipal Airport zoning plans (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

- b) These zoning regulations are adopted at the request of the City of Metropolis, a municipal corporation of the State of Illinois, as owner and operator of Metropolis Municipal Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act as approved July 17, 1945, (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Metropolis Municipal Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Metropolis Municipal Airport and the public investment therein.
- 1) Accordingly, it is declared:
- A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Metropolis Municipal Airport;
- B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and
- C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.
- 2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expand public funds and acquire land or interests in land.
- c) It is hereby determined by the Department of Transportation, Division of

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

Aeronautics, State of Illinois, that the zoning regulations for Metropolis Municipal Airport be adopted as follows:

**Section 66.10 Short Title**

These zoning regulations shall be known and may be cited as "Metropolis Municipal Airport Hazard Zoning Regulations".

**Section 66.20 Definitions**

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Metropolis Municipal Airport located near Metropolis, in the East ½ of Section 27, Township 15 North, Range 4 East of the Third Principal Meridian, Massac County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 382' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 37° 11' 05" N and Longitude 88° 45' 40" W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs and foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 66.30 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by an FAA Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 66.80.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

**Section 66.30 Surfaces and Height Limitations**

- a) Establishment and Creation
  - 1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to indicate non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Plans for Metropolis Municipal Airport consisting of two (2) sheets, prepared by Frank Q. Leonard, P.E., dated April 22, 1974, and revised as of February 18, 1975 (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.).
- 3) An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.
- 4) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surface.
- 5) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:
  - b) Horizontal Surface
    - 1) A horizontal plane 150' above the established airport elevations of 382 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
      - A) 5,000 feet for all runways designated as utility or visual;
      - B) 10,000 feet for all other runways.
    - 2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

## c) Conical Surface

- 1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.
- 2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

## d) Primary Surface

- 1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:
  - A) 250' for utility runways having only visual approaches;
  - B) 500' for utility runways having non-precision instrument approaches;
  - C) For other than utility runways, the width is:
    - i) 500' for visual runways having only visual approaches;
    - ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;
    - iii) 1,000' for a non-precision instrument runway having a non-

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

- 2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.
- e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.
- 1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
    - A) 1,250' for that end of a utility runway with only visual approaches;
    - B) 1,500' for that end of runway other than a utility runway with only visual approaches;
    - C) 2,000' for that end of a utility runway with a non-precision instrument approach;
    - D) 3,500' for that end of a non-precision instrument runway other than utility visibility minimums greater than three-fourths of a statute mile;
    - E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and
    - F) 16,000' for precision instrument runways.
  - 2) The approach surface extends for a horizontal distance of:
    - A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and
  - C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.
- 3) The outer width of an approach surface to an end of a runway will be that width prescribed in the subsection for the most precise approach existing or planned for that runway end.
- f) **Transitional Surface** – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 589.0' above mean sea level. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.
  - g) **Circling Approach Surface** – This is a surface 200' above ground level and above the established airport elevation, whichever is higher, within three (3) nautical miles of the established reference point of Metropolis Municipal Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.
  - h) **Excepted Height Limitations** – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

**Section 66.40 Use Restrictions**

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

**Section 66.50 Non-Conforming Uses**

- a) Regulations Not Retroactive – Those surface regulations prescribed by this zoning regulation shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of this zoning regulation or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.
- b) Marking and Lighting – Notwithstanding the provisions of Section 66.50 (a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the City of Metropolis.

**Section 66.60 Permits**

- a) Future Uses – Except as specifically provided in Paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
  - 1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary,

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

- 2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.
  - 3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.
- b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

**Section 66.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed**

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

- a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and
- b) Whether application is made for a permit, or not, the Department may, by appropriate action, compel the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

**Section 66.80 Variances**

- a) General – Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.
- b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

**Section 66.90 Notice of Construction or Alteration**

- a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 66.30 hereof with respect to Metropolis Municipal Airport:
  - 1) Any construction or alteration of more than 200' in height above the ground level at its site.
  - 2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport.
  - B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport.
- 3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a)(1) or (a)(2) of this paragraph.
  - 4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.
- b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Metropolis Municipal Airport:
- 1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.
  - 2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.
- c) Form and Time of Notice
- 1) Each person who is required to notify the Department under Paragraph

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

(c)(2) shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, Springfield, Illinois 62705. Copies of this form may be obtained from the Department.

- 2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.
  - 3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in Paragraph (b) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.
- d) Acknowledgment of Notice
- 1) The Department will acknowledge in writing the receipt of such notice submitted under Paragraph (a) above.
  - 2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:
    - A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or
    - B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or
    - C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or
- E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

**Section 66.100 Enforcement**

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied by the Department.

**Section 66.110 Appeal and Judicial Review**

- a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.
- b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Massac County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, pars. 3-101 et seq.).

**Section 66.120 Penalties**

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred Dollars (\$200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Massac County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

**Section 66.130 Conflicting Regulations**

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

**Section 66.140 Severability**

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end the provisions of these zoning regulations are declared to be severable.

**Section 66.150 Effective Date**

- a) Whereas, the immediate application of the provisions of these zoning regulations is necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.
- b) Adopted by the Division of Aeronautics on the 29<sup>th</sup> day of October, 1974, as amended, by Order dated the 28<sup>th</sup> day of May, 1975.
- c) Concurred in by the Illinois Commerce Commission on the 25<sup>th</sup> day of June, 1975.
- d) Certified copy filed with the Secretary of State's Office on the 7 day of July, 1975.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Pittsfield-Penstone Municipal Airport Hazard Zoning Regulations
- 2) Code Citation: 92 Ill. Adm. Code 74
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
74.5	Repeal
74.10	Repeal
74.20	Repeal
74.30	Repeal
74.40	Repeal
74.50	Repeal
74.60	Repeal
74.70	Repeal
74.80	Repeal
74.90	Repeal
74.100	Repeal
74.110	Repeal
74.120	Repeal
74.130	Repeal
74.140	Repeal
74.150	Repeal
- 4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and to include the Pittsfield-Penstone Airport under 92 Ill. Adm. Code 16, the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports. It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 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 amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist  
Illinois Department of Transportation  
Division of Aeronautics  
1 Langhorne Bond Drive  
Abraham Lincoln Capital Airport  
Springfield, Illinois 62707-8415

217/524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
Office of Chief Counsel  
2300 South Dirksen Parkway, Room 317  
Springfield, Illinois 62764

217/524-3838

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER b: AERONAUTICSPART 74  
PITTSFIELD-PENSTONE MUNICIPAL AIRPORT  
HAZARD ZONING REGULATIONS ([REPEALED](#))

## Section

74.5	Introduction
74.10	Short Title
74.20	Definitions
74.30	Surfaces and Height Limitations
74.40	Use Restrictions
74.50	Non-Conforming Uses
74.60	Permits
74.70	Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
74.80	Variances
74.90	Notice of Construction or Alteration
74.100	Enforcement
74.110	Appeal and Judicial Review
74.120	Penalties
74.130	Conflicting Regulations
74.140	Severability
74.150	Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Emergency rule adopted July 24, 1974; codified at 6 Ill. Reg. 15285; repealed at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 74.5 Introduction**

- a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Pittsfield-Penstone Municipal Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

Pittsfield-Penstone Airport zoning plans (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

- b) These zoning regulations are adopted at the request of the City of Pittsfield a municipal corporation of the State of Illinois, as owner and operator of Pittsfield-Penstone Municipal Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Pittsfield-Penstone Municipal Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Pittsfield-Penstone Airport and the public investment therein.
- 1) Accordingly, it is declared:
    - A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Pittsfield-Penstone Municipal Airport;
    - B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and
    - C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.
  - 2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.
- c) It is hereby determined by the Department of Transportation, Division of

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

Aeronautics, State of Illinois, that the zoning regulations for Pittsfield-Penstone Municipal Airport be adopted as follows:

**Section 74.10 Short Title**

These zoning regulations shall be known and may be cited as "Pittsfield-Penstone Municipal Airport Hazard Zoning Regulations".

**Section 74.20 Definitions**

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Pittsfield-Penstone Municipal Airport located near Pittsfield in the Southwest  $\frac{1}{4}$  of Section 8, plus part of the Southeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$ , and part of the Southeast  $\frac{1}{4}$  of Section 7, all in Township 5 South, Range 3 West of the Fourth Principal meridian, Pike County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 710' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 30° 38' 20" N and Longitude 90° 46' 46" W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs and foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 74.40 hereof.

"Precision Instrument Runway" – A runway having an existing instrument

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by an FAA Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 74.90.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

**Section 74.30 Surfaces and Height Limitations**

- a) Establishment and Creation
  - 1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Hazard Zoning Plan for Pittsfield-Penstone Municipal Airport consisting of one (1) sheet, prepared by Casler and Associates and dated December 7, 1972, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.
- 3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.
- 4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:
  - b) Horizontal Surface
    - 1) A horizontal plane 150' above the established airport elevations of 589.00 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
      - A) 5,000 feet for all runways designated as utility or visual;
      - B) 10,000 feet for all other runways.
    - 2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

- 3) The horizontal surface does not include the approach and transitional surfaces.
- c) Conical Surface
- 1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.
  - 2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.
- d) Primary Surface
- 1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:
    - A) 250' for utility runways having only visual approaches;
    - B) 500' for utility runways having non-precision instrument approaches;
    - C) For other than utility runways, the width is:
      - i) 500' for visual runways having only visual approaches;
      - ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.
- 2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.
- e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.
- 1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
- A) 1,250' for that end of a utility runway with only visual approaches;
  - B) 1,500' for that end of runway other than a utility runway with only visual approaches;
  - C) 2,000' for that end of a utility runway with a non-precision instrument approach;
  - D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;
  - E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and
  - F) 16,000' for precision instrument runways.
- 2) The approach surface extends for a horizontal distance of:
- A) 5,000' at a slope of 20' horizontally for each foot vertically for all

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

utility and visual runways;

- B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and
  - C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.
- 3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
- f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 710.00 feet above mean sea level. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.
  - g) Circling Approach Surface – This is a surface 200' above ground level (AGL) and above the established airport elevation, whichever is higher, within three (3) nautical miles of the established reference point of Pittsfield-Penstone Municipal Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.
  - h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

**Section 74.40 Use Restrictions**

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

**Section 74.50 Non-Conforming Uses**

- a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.
- b) Marking and Lighting – Notwithstanding the provisions of Section 74.50(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Pittsfield-Penstone Municipal Airport.

**Section 74.60 Permits**

- a) Future Uses – Except as specifically provided in Paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.
  - 2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.
  - 3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 50 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.
- b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

**Section 74.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed**

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

- a) No permit shall be granted by the Division that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and
- b) Whether application is made for a permit, or not, the Department may by

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

appropriate action, compel the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use or growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Division may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

**Section 74.80 Variances**

- a) Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Division for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.
- b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

**Section 74.90 Notice of Construction or Alteration**

- a) Construction or Alteration Requiring Notice – The Division shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 74.30 hereof with respect to Pittsfield-Penstone Municipal Airport:
  - 1) Any construction or alteration of more than 200' in height above the ground level at its site.
  - 2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3,200 feet in actual length.
  - B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.
- 3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a)(1) or (a)(2) of this paragraph.
  - 4) When requested by the Division, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Division or these zoning regulations.
- b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Pittsfield-Penstone Municipal Airport:
- 1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.
  - 2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

## c) Form and Time of Notice

- 1) Each person who is required to notify the Department under paragraph (a) of this Section shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.
- 2) Such notice must be submitted at least thirty (30) days before the date the proposed construction or alteration is to begin.
- 3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the thirty (30) day requirement in paragraph (c)(2) of this Section above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

## d) Acknowledgment of Notice

The Division will acknowledge in writing the receipt of such notice submitted under paragraph (a) above. The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

- 1) Would not exceed any standard of the statute, rules and regulations of the Division, or these zoning regulations and would not be a hazard to air navigation; or
- 2) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or
- 3) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 4) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or
- 5) Would require supplemental information from the sponsor in order for a determination to be made by the Division.

**Section 74.100 Enforcement**

It shall be the duty of the Division to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied by the Department.

**Section 74.110 Appeal and Judicial Review**

- a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Division to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.
- b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Pike County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, pars. 3-101 et seq.).

**Section 74.120 Penalties**

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred Dollars (\$200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Pike County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

**Section 74.130 Conflicting Regulations**

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

**Section 74.140 Severability**

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

**Section 74.150 Effective Date**

- a) Whereas, the immediate application of the provisions for these zoning regulations are necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.
- b) Adopted by the Division of Aeronautics on the 29<sup>th</sup> day of May, 1974.
- c) Concurred in the Illinois Commerce Commission on the 17<sup>th</sup> day of July, 1974.
- d) Certified copy filed with the Secretary of State's Office on the 24<sup>th</sup> day of July, 1974.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Sparta Community Airport Hazard Zoning Regulations
- 2) Code Citation: 92 Ill. Adm. Code 82
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
82.5	Repeal
82.10	Repeal
82.20	Repeal
82.30	Repeal
82.40	Repeal
82.50	Repeal
82.60	Repeal
82.70	Repeal
82.80	Repeal
82.90	Repeal
82.100	Repeal
82.110	Repeal
82.120	Repeal
82.130	Repeal
82.140	Repeal
82.150	Repeal
- 4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and is proposing to include the Sparta Community Airport under 92 Ill. Adm. Code 16, the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports. It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 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 amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist  
Illinois Department of Transportation  
Division of Aeronautics  
1 Langhorne Bond Drive  
Abraham Lincoln Capital Airport  
Springfield, Illinois 62707-8415

217/524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
Office of Chief Counsel  
2300 South Dirksen Parkway, Room 317  
Springfield, Illinois 62764

217/524-3838

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER b: AERONAUTICSPART 82  
SPARTA COMMUNITY AIRPORT  
HAZARD ZONING REGULATIONS ([REPEALED](#))

## Section

82.5	Introduction
82.10	Short Title
82.20	Definitions
82.30	Surfaces and Height Limitations
82.40	Use Restrictions
82.50	Non-Conforming Uses
82.60	Permits
82.70	Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
82.80	Variances
82.90	Notice of Construction or Alteration
82.100	Enforcement
82.110	Appeal and Judicial Review
82.120	Penalties
82.130	Conflicting Regulations
82.140	Severability
82.150	Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Emergency rule adopted October 24, 1977; codified at 6 Ill. Reg. 15293; repealed at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 82.5 Introduction**

- a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Sparta Community Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Sparta

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

Community Airport zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.) ; providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

- b) These zoning regulations are adopted at the request of the Sparta Community Airport Authority, a municipal corporation of the State of Illinois, as owner and operator of Sparta Community Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Sparta Community Airport and of occupants of land or to property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Sparta Community Airport and the public investment therein.
- 1) Accordingly, it is declared:
- A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Sparta Community Airport;
- B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and
- C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.
- 2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.
- c) It is hereby determined by the Department of Transportation, Division of

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

Aeronautics, State of Illinois, that the zoning regulations for Sparta Community Airport be adopted as follows:

**Section 82.10 Short Title**

These zoning regulations shall be known and may be cited as "Sparta Community Airport Hazard Zoning Regulations".

**Section 82.20 Definitions**

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Sparta Community Airport located near Sparta, in the Northwest 1/4 of the Northwest 1/4 of Section 31; the South 1/2 of the Southwest 1/4 of Section 31; the South 1/2 of the Southwest 1/4 of Section 30; and the approximate East 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 30, Township 4 South, Range 5 West of the Third Principal Meridian, Randolph County, Illinois. pal Meridian, Macon County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 532.00' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 38° 08' 45" N and Longitude 89° 42' 00" W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs and foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 82.30 hereof.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by an FAA Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 82.80.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

**Section 82.30 Surfaces and Height Limitations**

- a) Establishment and Creation
  - 1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

- 2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Sparta Community Airport prepared by John T. Blankinship, Consulting Engineers, of Murphysboro, Illinois and dated January 3, 1974, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.
- 3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.
- 4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:
  - b) Horizontal Surface
    - 1) A horizontal plane 150' above the established airport elevations of 532' AMSL, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
      - A) 5,000 feet for all runways designated as utility or visual;
      - B) 10,000 feet for all other runways.
    - 2) The radius of the arc specified for each end of a runway will have the

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

## c) Conical Surface

- 1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.
- 2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

## d) Primary Surface

- 1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:
  - A) 250' for utility runways having only visual approaches;
  - B) 500' for utility runways having non-precision instrument approaches;
  - C) For other than utility runways, the width is:
    - i) 500' for visual runways having only visual approaches;
    - ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.
- 2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.
- e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.
- 1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
- A) 1,250' for that end of a utility runway with only visual approaches;
  - B) 1,500' for that end of runway other than a utility runway with only visual approaches;
  - C) 2,000' for that end of a utility runway with a non-precision instrument approach;
  - D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;
  - E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and
  - F) 16,000' for precision instrument runways.
- 2) The approach surface extends for a horizontal distance of:
- A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and
  - C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.
- 3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
- f) **Transitional Surface** – These surfaces extend outward and upward at right (90~) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 532' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90~) angles to the runway centerline.
  - g) **Circling Approach Surface** – This is a surface 200' above ground level and above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Sparta Community Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.
  - h) **Excepted Height Limitations** – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

**Section 82.40 Use Restrictions**

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

**Section 82.50 Non-Conforming Uses**

- a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.
- b) Marking and Lighting – Notwithstanding the provisions of Section 82.50 (a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Sparta Community Airport.

**Section 82.60 Permits**

- a) Future Uses – Except as specifically provided in Paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
  - 1) In the area lying within the limits of the horizontal surface and the conical

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

- 2) In the area lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.
  - 3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.
- b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

**Section 82.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed**

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

- a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and
- b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

**Section 82.80 Variances**

- a) General – Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.
- b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

**Section 82.90 Notice of Construction or Alteration**

- a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 82.30 hereof with respect to Sparta Community Airport:
  - 1) Any construction or alteration of more than 200' in height above the ground level at its site.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:
    - 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3,200 feet in actual length.
  - 3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a)(1) or (a)(2) of this Section.
  - 4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.
- b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Sparta Community Airport:
- 1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.
  - 2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.
- c) Form and Time of Notice

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 1) Each person who is required to notify the Department under paragraph (a) of this Section shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, Springfield, Illinois 62705. Copies of this form may be obtained from the Department.
  - 2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.
  - 3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the thirty (30) day requirement in paragraph (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.
- d) Acknowledgment of Notice
- 1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) above.
  - 2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:
    - A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or
    - B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or
    - C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

hazard to air navigation; or

- D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or
- E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

**Section 82.100 Enforcement**

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied by the Department.

**Section 82.110 Appeal and Judicial Review**

- a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.
- b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Randolph County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, pars. 3-101 et seq.)

**Section 82.120 Penalties**

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred Dollars (\$200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Randolph County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

**Section 82.130 Conflicting Regulations**

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

**Section 82.140 Severability**

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

**Section 82.150 Effective Date**

- a) Whereas, the immediate application of the provisions of these zoning regulations is necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.
- b) Adopted by the Division of Aeronautics on the 22<sup>nd</sup> day of August, 1977.
- c) Concurred in by the Illinois Commerce Commission on the 19<sup>th</sup> day of October, 1977.
- d) Certified copy filed with the Secretary of State's Office on the 24<sup>th</sup> day of October, 1977.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Vermilion County Airport Hazard Zoning Regulations
- 2) Code Citation: 92 Ill. Adm. Code 90
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
90.10	Repeal
90.20	Repeal
90.30	Repeal
90.40	Repeal
90.50	Repeal
90.60	Repeal
90.70	Repeal
90.80	Repeal
90.90	Repeal
90.100	Repeal
90.110	Repeal
90.120	Repeal
90.130	Repeal
90.140	Repeal
90.150	Repeal
90.160	Repeal
- 4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [625 ILCS 25]
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part and is proposing to include the Vermilion County Airport under 92 Ill. Adm. Code 16, the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports. It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 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 amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist  
Illinois Department of Transportation  
Division of Aeronautics  
1 Langhorne Bond Drive  
Abraham Lincoln Capital Airport  
Springfield, Illinois 62707-8415

217/524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
Office of Chief Counsel  
2300 South Dirksen Parkway, Room 317  
Springfield, Illinois 62764

217/524-3838

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER b: AERONAUTICSPART 90  
VERMILION COUNTY AIRPORT  
HAZARD ZONING REGULATIONS ([REPEALED](#))

## Section

90.10	Introduction
90.20	Short Title
90.30	Definitions
90.40	Surfaces and Height Limitations
90.50	Use Restrictions
90.60	Non-Conforming Uses
90.70	Permits
90.80	Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
90.90	Variances
90.100	Notice of Construction or Alteration
90.110	Enforcement
90.120	Appeal and Judicial Review
90.130	Penalties
90.140	Conflicting Regulations
90.150	Severability
90.160	Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Adopted at 3 Ill. Reg. 42, p. 271, effective October 13, 1979; codified at 6 Ill. Reg. 15301; repealed at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 90.10 Introduction**

- a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Vermilion County Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Vermilion

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

County Airport zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.) ; providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

- b) These zoning regulations are adopted at the request of the Vermilion County Airport Authority, a municipal corporation of the State of Illinois, as owner and operator of Vermilion County Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Vermilion County Airport and of occupants of land or to property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Vermilion County Airport and the public investment therein.
- 1) Accordingly, it is declared:
- A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Vermilion County Airport;
- B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and
- C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.
- 2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.
- c) It is hereby determined by the Department of Transportation, Division of

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

Aeronautics, State of Illinois, that the zoning regulations for Vermilion County Airport be adopted as follows:

**Section 90.20 Short Title**

These zoning regulations shall be known and may be cited as "Airport Hazard Zoning Regulations for Vermilion County Airport".

**Section 90.30 Definitions**

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Vermilion County Airport located near Danville, in the West ½ of Section 15; the West ½ of the Northeast ¼ of Section 15; the West ½ of the Southeast ¼ of Section 10, and the West ½ of the Southeast ¼ of the Southeast ¼ of Section 10, Township 20 North, Range 11 West of the Second Principal Meridian, Vermilion County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing strip; the established airport elevation shall be 696.72' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 40° 11' 57" and Longitude 87° 35' 43".

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

"Department" – The Department of Transportation.

"Growth" – Any object of natural growth, including trees, shrubs or foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 90.30 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

Approach Radar (PAR), or a runway for which a precision approach system is planned and so indicated by an Federal Aviation Administration (FAA) Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 1 to 100 means one foot vertically for each one hundred feet of horizontal distance.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 90.90.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

**Section 90.40 Surfaces and Height Limitations**

- a) Establishment and Creation
  - 1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Vermilion County Airport prepared by Crawford, Murphy & Tilly, Inc., of Springfield, Illinois, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.
- 3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.
- 4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:
  - b) Horizontal Surface
    - 1) A horizontal plane 150' above the established airport elevations of 696.72 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
      - A) 5,000 feet for all runways designated as utility or visual;
      - B) 10,000 feet for all other runways.
    - 2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

## c) Conical Surface

- 1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.
- 2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

## d) Primary Surface

- 1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:
  - A) 250' for utility runways having only visual approaches;
  - B) 500' for utility runways having non-precision instrument approaches;
  - C) For other than utility runways, the width is:
    - i) 500' for visual runways having only visual approaches;
    - ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;
    - iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

low as three-fourths statute mile, and for precision instrument runways.

- 2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.
- e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.
- 1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
    - A) 1,250' for that end of a utility runway with only visual approaches;
    - B) 1,500' for that end of runway other than a utility runway with only visual approaches;
    - C) 2,000' for that end of a utility runway with a non-precision instrument approach;
    - D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths statute mile;
    - E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and
    - F) 16,000' for precision instrument runways.
  - 2) The approach surface extends for a horizontal distance of:
    - A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;
    - B) 10,000' at a slope of 34' horizontally for each foot vertically for all

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

non-precision instrument runways other than utility; and

- C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.
- 3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
- f) Transitional Surface – These surfaces extend outward and upward at right (90~) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 696.72' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90~) angles to the runway centerline.
- g) Circling Approach Surface – This is a surface 200' above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Vermilion County Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.
- h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

**Section 90.50 Use Restrictions**

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

**Section 90.60 Non-Conforming Uses**

- a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.
- b) Marking and Lighting – Notwithstanding the provisions of Section 90.60(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Vermilion County Airport Authority.

**Section 90.70 Permits**

- a) Future Uses – Except as specifically provided in paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
  - 1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

- 2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.
  - 3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.
- b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

**Section 90.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed**

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

- a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and
- b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove,

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

**Section 90.90 Variances**

- a) Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these zoning regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.
- b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

**Section 90.100 Notice of Construction or Alteration**

- a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 90.40 hereof with respect to Vermilion County Airport:
  - 1) Any construction or alteration of more than 200' in height above the ground level at its site.
  - 2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3,200 feet in actual length.
  - B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.
- 3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a)(1) or (a)(2) of this paragraph.
  - 4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.
- b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Vermilion County Airport:
- 1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.
  - 2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- 3) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.
- c) Form and Time of Notice
- 1) Each person who is required to notify the Department under paragraph (a) shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, North Walnut Street Road, Springfield, Illinois 62705. Copies of this form may be obtained from the Department.
  - 2) Such notice must be submitted at least 30 days before the proposed construction or alteration is to begin.
  - 3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.
- d) Acknowledgment of Notice
- 1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) above within 30 days of receipt of such notice.
  - 2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:
    - A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

- B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation, although an application for variance pursuant to Section 90.90 of these regulations would be required; or
- C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation and an application for variance pursuant to Section 90.90 of these regulations would be required; or
- D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or
- E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

**Section 90.110 Enforcement**

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

**Section 90.120 Appeal and Judicial Review**

- a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.
- b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Vermilion County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED REPEALER

located, in accordance with the provisions of an Act entitled, "Administrative Review Law" (Ill. Rev. Stat. 1981, ch. 110, par. 3-101 et seq.).

**Section 90.130 Penalties**

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a petty offense, and such hazard shall be removed by proper legal proceedings and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Vermilion County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

**Section 90.140 Conflicting Regulations**

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

**Section 90.150 Severability**

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

**Section 90.160 Effective Date**

- a) These zoning regulations shall be in full force and effect from and after concurrence by the Illinois Commerce Commission, adoption by the Department and ten (10) days after filing with the Secretary of State.
- b) Concurred in by Order of the Illinois Commerce Commission dated September 19, 1979.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- c) Adopted by Order of the Division of Aeronautics dated September 26, 1979.
- d) Filed with the Office of the Secretary of State on October 3, 1979 and became effective on October 13, 1979.

## DEPARTMENT OF VETERANS' AFFAIRS

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Rules Governing Payment of War on Terrorism Compensation Act
- 2) Code Citation: 95 Ill. Adm. Code 123
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
123.10	New Section
123.20	New Section
123.30	New Section
123.40	New Section
123.50	New Section
123.60	New Section
123.70	New Section
- 4) Statutory Authority: Implementing and authorized by the War on Terrorism Compensation Act [P.A. 96-76, effective July 24, 2009]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking enables the payment of the Global War on Terrorism bonuses. The GA enacted PA 96-76 to pay a \$100 bonus for honorably discharged or honorably separated resident veterans who served at least 30 consecutive or 60 nonconsecutive days overseas and were awarded the Global War on Terrorism Expeditionary Medal or the Global War on Terrorism Service Medal. The rule sets out application procedures and requirements for eligibility.
- 6) Published studies or reports, and sources of underlying data, used to compose this rule: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a

## DEPARTMENT OF VETERANS' AFFAIRS

## NOTICE OF PROPOSED RULES

period of 45 days following publication of this Notice to:

Jack Price, General Counsel  
Department of Veterans' Affairs  
833 S. Spring Street  
Springfield IL 62794

217/557-5682

- 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: This rulemaking was not summarized on the Regulatory Agenda submitted for the period July 1-December 31, 2009, because the statute was not signed into law until July 24, 2009.

The full text of these Proposed Rules is identical to the text of the Emergency Rules that can be found in this issue of *Illinois Register* on page 12275:

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities
- 2) Code Citation: 83 Ill. Adm. Code 590
- 3) Section Number: 590.10                      Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3]
- 5) Effective Date of Amendment: August 15, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 33 Ill. Reg. 4280; March 20, 2009
- 10) Has JCAR issued a Statement of Objection to this amendment? 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 agreement letter issued by JCAR? No agreements were necessary.
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The Illinois Commerce Commission has adopted 83 Ill. Adm. Code 590 to incorporate by reference certain federal safety standards. This complies with Section 3 of the Illinois Gas Pipeline Safety Act, which requires the Commission's rules to be as inclusive and as stringent as the federal safety standards and compatible with the federal safety standards. It is appropriate to incorporate the federal

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

amendments into Part 590 adopted by the U.S. Department of Transportation since the last amendment of Part 590 was in 2007.

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

Conrad S. Rubinkowski  
Office of General Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701

217/785-3922

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

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENT

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER d: GAS UTILITIESPART 590  
MINIMUM SAFETY STANDARDS FOR TRANSPORTATION  
OF GAS AND FOR GAS PIPELINE FACILITIES

Section  
590.10          Standards

**AUTHORITY:** Implementing and authorized by Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3].

**SOURCE:** Filed effective November 28, 1977; amended at 3 Ill. Reg. 5, p. 761, effective February 3, 1979; amended at 3 Ill. Reg. 11, p. 25, effective March 17, 1979; amended at 4 Ill. Reg. 1, p. 23, effective January 1, 1980; amended at 5 Ill. Reg. 6778, effective June 16, 1981; rules repealed, new rules adopted and codified at 7 Ill. Reg. 12858, effective September 16, 1983; amended at 8 Ill. Reg. 13195, effective July 16, 1984; amended at 10 Ill. Reg. 19405, effective November 15, 1986; amended at 11 Ill. Reg. 11733, effective July 1, 1987; amended at 12 Ill. Reg. 11707, effective July 15, 1988; recodified from 92 Ill. Adm. Code 1800 at 12 Ill. Reg. 12997; amended at 13 Ill. Reg. 16968, effective November 1, 1989; amended at 14 Ill. Reg. 10018, effective June 15, 1990; amended at 17 Ill. Reg. 12291, effective July 15, 1993; amended at 18 Ill. Reg. 11518, effective July 25, 1994; amended at 19 Ill. Reg. 13549, effective October 1, 1995; amended at 21 Ill. Reg. 8906, effective July 1, 1997; amended at 23 Ill. Reg. 11872, effective October 1, 1999; amended at 25 Ill. Reg. 11355, effective September 1, 2001; amended at 27 Ill. Reg. 12385, effective August 1, 2003; amended at 29 Ill. Reg. 11808, effective August 1, 2005; amended at 31 Ill. Reg. 11562, effective August 1, 2007; amended at 33 Ill. Reg. 12226, effective August 15, 2009.

**Section 590.10 Standards**

- a) The Illinois Commerce Commission adopts the standards contained in 49 CFR 191.23, 192, 193 and 199 as of January 1, ~~2009~~2007, as its minimum safety standards for the transportation of gas and for gas pipeline facilities.
- b) No later amendment or editions are incorporated by this Part.

(Source: Amended at 33 Ill. Reg. 12226, effective August 15, 2009)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Adopted Action:</u>
140.413	Amendment
140.435	Amendment
140.436	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rulemaking: October 1, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 22, 2008; 32 Ill. Reg. 13761
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Yes
  - A) Statement of Objection and Filing Prohibition: July 6, 2009; 33 Ill. Reg. 9519
  - B) Agency Response: August 7, 2009; 33 Ill. Reg. 11725
  - C) Date Agency Response Submitted for Approval to JCAR: July 23, 2009
- 11) Differences Between Proposal and Final Version:

In Section 140.413(a)(4)(A), strike "or Aid to the Medically Indigent".

In Section 140.413(a)(4)(C)(ii), add "beginning 1/1/10," at the beginning of the subsection; change "and" to "who"; and add "or is providing the service as a resident or attending physician at an approved or accredited residency program" before the semicolon.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

In Section 140.413(a)(4)(C)(iii), change "10" to "12".

In Section 140.413(a)(4)(C)(iv), change "one hour" to "45 minutes".

In Section 140.413(a)(4)(C)(vii), change the period to "; and".

Add a new subsection 140.413(a)(4)(C)(viii) as follows:

"viii) if the patient is a resident of a long term care facility, the provider of the group psychotherapy must maintain documentation in the patient's medical record demonstrating the coordination of services and the sharing with the long term care facility of information related to the patient's needs and the implementation and effectiveness of the patient's plan of care."

In Section 140.413(a)(11), strike subsection "E) Hysterectomies", and relabel remaining subsections as "E" through "I".

In Section 140.435, add a new subsection as follows:

"i) To be eligible for reimbursement for psychiatric services, as defined in the American Medical Association Current Procedural Terminology (CPT) book, CPT code range 90801 through 90899, excluding 90853, the rendering APN must hold a current certification in Psychiatric and Mental Health Nursing as set forth in 68 Ill. Adm. Code 1305.Appendix A."

In Section 140.436(d), add "or telepsychiatry" after "psychotherapy".

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
140.14	Amendment	August 29, 2008; 32 Ill. Reg. 14003
140.16	Amendment	August 29, 2008; 32 Ill. Reg. 14003
140.44	Amendment	August 29, 2008; 32 Ill. Reg. 14003
140.3	Amendment	January 30, 2009; 33 Ill. Reg. 1617

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

140.403	New Section	January 30, 2009; 33 Ill. Reg. 1617
140.400	Amendment	March 27, 2009; 33 Ill. Reg. 4468
140.425	Amendment	April 10, 2009; 33 Ill. Reg. 5178
140.992	Amendment	July 31, 2009; 33 Ill. Reg. 11174
140.994	Amendment	July 31, 2009; 33 Ill. Reg. 11174

- 15) Summary and Purpose of Amendments: These amendments remove prior approval requirements for surgeries for morbid obesity and add qualifying criteria necessary for the surgery. Also, the rulemaking sets limitations for group psychotherapy sessions and requires that a physician who has completed an approved general psychiatry residency program provide service. Further, the amendments make changes regarding the repealed Nursing and Advance Practice Nursing Act and remove limitations on Advanced Practice Nurses (APNs) for psychiatric services, with the exception of group psychotherapy.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Tamara Tanzillo Hoffman  
Chief of Staff  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue E., 3<sup>rd</sup> Floor  
Springfield IL 62763-0002

217/557-7157

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER d: MEDICAL PROGRAMS

## PART 140

## MEDICAL PAYMENT

## SUBPART A: GENERAL PROVISIONS

## Section

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

## SUBPART B: MEDICAL PROVIDER PARTICIPATION

## Section

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

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

## SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 140.98 Covered Hospital Services (Recodified)
- 140.99 Hospital Services Not Covered (Recodified)
- 140.100 Limitation On Hospital Services (Recodified)
- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

(Recodified)  
140.398 Hearings (Recodified)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

## Section

140.400 Payment to Practitioners  
140.402 Copayments for Noninstitutional Medical Services  
140.405 SeniorCare Pharmaceutical Benefit (Repealed)  
140.410 Physicians' Services  
140.411 Covered Services By Physicians  
140.412 Services Not Covered By Physicians  
140.413 Limitation on Physician Services  
140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers  
140.416 Optometric Services and Materials  
140.417 Limitations on Optometric Services  
140.418 Department of Corrections Laboratory  
140.420 Dental Services  
140.421 Limitations on Dental Services  
140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items –  
Dentists (Repealed)  
140.425 Podiatry Services  
140.426 Limitations on Podiatry Services  
140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry  
(Repealed)  
140.428 Chiropractic Services  
140.429 Limitations on Chiropractic Services (Repealed)  
140.430 Independent Clinical Laboratory Services  
140.431 Services Not Covered by Independent Clinical Laboratories  
140.432 Limitations on Independent Clinical Laboratory Services  
140.433 Payment for Clinical Laboratory Services  
140.434 Record Requirements for Independent Clinical Laboratories  
140.435 Advanced Practice Nurse Services  
140.436 Limitations on Advanced Practice Nurse Services  
140.438 Imaging Centers  
140.440 Pharmacy Services  
140.441 Pharmacy Services Not Covered  
140.442 Prior Approval of Prescriptions  
140.443 Filling of Prescriptions

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 140.444 Compounded Prescriptions
- 140.445 Legend Prescription Items (Not Compounded)
- 140.446 Over-the-Counter Items
- 140.447 Reimbursement
- 140.448 Returned Pharmacy Items
- 140.449 Payment of Pharmacy Items
- 140.450 Record Requirements for Pharmacies
- 140.451 Prospective Drug Review and Patient Counseling
- 140.452 Mental Health Services
- 140.453 Definitions
- 140.454 Types of Mental Health Services
- 140.455 Payment for Mental Health Services
- 140.456 Hearings
- 140.457 Therapy Services
- 140.458 Prior Approval for Therapy Services
- 140.459 Payment for Therapy Services
- 140.460 Clinic Services
- 140.461 Clinic Participation, Data and Certification Requirements
- 140.462 Covered Services in Clinics
- 140.463 Clinic Service Payment
- 140.464 Hospital-Based and Encounter Rate Clinic Payments
- 140.465 Speech and Hearing Clinics (Repealed)
- 140.466 Rural Health Clinics (Repealed)
- 140.467 Independent Clinics
- 140.469 Hospice
- 140.470 Eligible Home Health Providers
- 140.471 Description of Home Health Services
- 140.472 Types of Home Health Services
- 140.473 Prior Approval for Home Health Services
- 140.474 Payment for Home Health Services
- 140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies
- 140.480 Equipment Rental Limitations
- 140.481 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

140.482	Family Planning Services
140.483	Limitations on Family Planning Services
140.484	Payment for Family Planning Services
140.485	Healthy Kids Program
140.486	Illinois Healthy Women
140.487	Healthy Kids Program Timeliness Standards
140.488	Periodicity Schedules, Immunizations and Diagnostic Laboratory Procedures
140.490	Medical Transportation
140.491	Limitations on Medical Transportation
140.492	Payment for Medical Transportation
140.493	Payment for Helicopter Transportation
140.494	Record Requirements for Medical Transportation Services
140.495	Psychological Services
140.496	Payment for Psychological Services
140.497	Hearing Aids
140.498	Fingerprint-Based Criminal Background Checks

## SUBPART E: GROUP CARE

Section	
140.500	Long Term Care Services
140.502	Cessation of Payment at Federal Direction
140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Informal Hearing Process for Denial of Payment for New ICF/MR
140.506	Provider Voluntary Withdrawal
140.507	Continuation of Provider Agreement
140.510	Determination of Need for Group Care
140.511	Long Term Care Services Covered By Department Payment
140.512	Utilization Control
140.513	Notification of Change in Resident Status
140.514	Certifications and Recertifications of Care (Repealed)
140.515	Management of Recipient Funds – Personal Allowance Funds
140.516	Recipient Management of Funds
140.517	Correspondent Management of Funds
140.518	Facility Management of Funds
140.519	Use or Accumulation of Funds
140.520	Management of Recipient Funds – Local Office Responsibility
140.521	Room and Board Accounts

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

140.522	Reconciliation of Recipient Funds
140.523	Bed Reserves
140.524	Cessation of Payment Due to Loss of License
140.525	Quality Incentive Program (QUIP) Payment Levels
140.526	County Contribution to Medicaid Reimbursement
140.527	Quality Incentive Survey (Repealed)
140.528	Payment of Quality Incentive (Repealed)
140.529	Reviews (Repealed)
140.530	Basis of Payment for Long Term Care Services
140.531	General Service Costs
140.532	Health Care Costs
140.533	General Administration Costs
140.534	Ownership Costs
140.535	Costs for Interest, Taxes and Rent
140.536	Organization and Pre-Operating Costs
140.537	Payments to Related Organizations
140.538	Special Costs
140.539	Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation
140.540	Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
140.541	Salaries Paid to Owners or Related Parties
140.542	Cost Reports – Filing Requirements
140.543	Time Standards for Filing Cost Reports
140.544	Access to Cost Reports (Repealed)
140.545	Penalty for Failure to File Cost Reports
140.550	Update of Operating Costs
140.551	General Service Costs Updates
140.552	Nursing and Program Costs
140.553	General Administrative Costs Updates
140.554	Component Inflation Index (Repealed)
140.555	Minimum Wage
140.560	Components of the Base Rate Determination
140.561	Support Costs Components
140.562	Nursing Costs
140.563	Capital Costs
140.565	Kosher Kitchen Reimbursement
140.566	Out-of-State Placement

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 140.567 Level II Incentive Payments (Repealed)
- 140.568 Duration of Incentive Payments (Repealed)
- 140.569 Clients With Exceptional Care Needs
- 140.570 Capital Rate Component Determination
- 140.571 Capital Rate Calculation
- 140.572 Total Capital Rate
- 140.573 Other Capital Provisions
- 140.574 Capital Rates for Rented Facilities
- 140.575 Newly Constructed Facilities (Repealed)
- 140.576 Renovations (Repealed)
- 140.577 Capital Costs for Rented Facilities (Renumbered)
- 140.578 Property Taxes
- 140.579 Specialized Living Centers
- 140.580 Mandated Capital Improvements (Repealed)
- 140.581 Qualifying as Mandated Capital Improvement (Repealed)
- 140.582 Cost Adjustments
- 140.583 Campus Facilities
- 140.584 Illinois Municipal Retirement Fund (IMRF)
- 140.590 Audit and Record Requirements
- 140.642 Screening Assessment for Nursing Facility and Alternative Residential Settings and Services
- 140.643 In-Home Care Program
- 140.645 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21 (Repealed)
- 140.646 Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
- 140.647 Description of Developmental Training (DT) Services
- 140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
- 140.649 Effective Dates of Reimbursement for Developmental Training (DT) Programs
- 140.650 Certification of Developmental Training (DT) Programs
- 140.651 Decertification of Day Programs
- 140.652 Terms of Assurances and Contracts
- 140.680 Effective Date Of Payment Rate
- 140.700 Discharge of Long Term Care Residents
- 140.830 Appeals of Rate Determinations
- 140.835 Determination of Cap on Payments for Long Term Care (Repealed)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

SUBPART F: FEDERAL CLAIMING FOR STATE AND  
LOCAL GOVERNMENTAL ENTITIES

Section	
140.850	Reimbursement of Administrative Expenditures
140.855	Administrative Claim Review and Reconsideration Procedure
140.860	County Owned or Operated Nursing Facilities (Repealed)
140.865	Sponsor Qualifications (Repealed)
140.870	Sponsor Responsibilities (Repealed)
140.875	Department Responsibilities (Repealed)
140.880	Provider Qualifications (Repealed)
140.885	Provider Responsibilities (Repealed)
140.890	Payment Methodology (Repealed)
140.895	Contract Monitoring (Repealed)
140.896	Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
140.900	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
140.901	Functional Areas of Needs (Recodified)
140.902	Service Needs (Recodified)
140.903	Definitions (Recodified)
140.904	Times and Staff Levels (Repealed)
140.905	Statewide Rates (Repealed)
140.906	Reconsiderations (Recodified)
140.907	Midnight Census Report (Recodified)
140.908	Times and Staff Levels (Recodified)
140.909	Statewide Rates (Recodified)
140.910	Referrals (Recodified)
140.911	Basic Rehabilitation Aide Training Program (Recodified)
140.912	Interim Nursing Rates (Recodified)

## SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section	
140.920	General Description
140.922	Covered Services
140.924	Maternal and Child Health Provider Participation Requirements
140.926	Client Eligibility (Repealed)
140.928	Client Enrollment and Program Components (Repealed)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 140.930 Reimbursement  
140.932 Payment Authorization for Referrals (Repealed)

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND  
REIMBURSEMENT EQUITY (ICARE) PROGRAM

## Section

- 140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)  
140.942 Definition of Terms (Recodified)  
140.944 Notification of Negotiations (Recodified)  
140.946 Hospital Participation in ICARE Program Negotiations (Recodified)  
140.948 Negotiation Procedures (Recodified)  
140.950 Factors Considered in Awarding ICARE Contracts (Recodified)  
140.952 Closing an ICARE Area (Recodified)  
140.954 Administrative Review (Recodified)  
140.956 Payments to Contracting Hospitals (Recodified)  
140.958 Admitting and Clinical Privileges (Recodified)  
140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)  
140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)  
140.964 Contract Monitoring (Recodified)  
140.966 Transfer of Recipients (Recodified)  
140.968 Validity of Contracts (Recodified)  
140.970 Termination of ICARE Contracts (Recodified)  
140.972 Hospital Services Procurement Advisory Board (Recodified)  
140.980 Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)  
140.982 Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

## SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM

## Section

- 140.990 Primary Care Case Management Program  
140.991 Primary Care Provider Participation Requirements

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

140.992	Populations Eligible to Participate in the Primary Care Case Management Program
140.993	Care Management Fees
140.994	Panel Size and Affiliated Providers
140.995	Mandatory Enrollment
140.996	Access to Health Care Services
140.997	Payment for Services

## SUBPART J: ALTERNATE PAYEE PARTICIPATION

## Section

140.1001	Registration Conditions for Alternate Payees
140.1002	Participation Requirements for Alternate Payees
140.1003	Recovery of Money for Alternate Payees
140.1004	Conditional Registration for Alternate Payees
140.1005	Revocation of an Alternate Payee
140.TABLE A	Medichek Recommended Screening Procedures (Repealed)
140.TABLE B	Geographic Areas
140.TABLE C	Capital Cost Areas
140.TABLE D	Schedule of Dental Procedures
140.TABLE E	Time Limits for Processing of Prior Approval Requests
140.TABLE F	Podiatry Service Schedule
140.TABLE G	Travel Distance Standards
140.TABLE H	Areas of Major Life Activity
140.TABLE I	Staff Time and Allocation for Training Programs (Recodified)
140.TABLE J	HSA Grouping (Repealed)
140.TABLE K	Services Qualifying for 10% Add-On (Repealed)
140.TABLE L	Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
140.TABLE M	Enhanced Rates for Maternal and Child Health Provider Services

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

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; preemptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140. Table H and 140. Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147. Table A and 147. Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; peremptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12229, effective October 1, 2009.

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

**Section 140.413 Limitation on Physician Services**

- a) When provided in accordance with the specified limitations and requirements, the Department shall pay for the following services:

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Termination of pregnancy – only in those cases in which the physician has certified in writing to the Department that the procedure is necessary to preserve the life of the mother. All claims for reimbursement for abortions or induced miscarriages or premature births must be accompanied by the physician's written certification ~~which specifies~~ that the procedure is necessary for preservation of the life of the woman, or that the induced premature birth was to produce a live viable child and was necessary for the health of the mother or her unborn child.
- 2) Sterilization
  - A) Therapeutic sterilization – only when the procedure is either a necessary part of the treatment of an existing illness, or is medically indicated as an accompaniment of an operation on the female genitourinary tract. Mental incapacity does not constitute an illness or injury ~~that~~which would authorize this procedure.
  - B) Nontherapeutic sterilization – only for recipients age 21 or older and mentally competent. The physician must obtain the recipient's informed written consent in a language understandable to the recipient before performing the sterilization and must advise the recipient of the right to withdraw consent at any time prior to the operation. The operation shall be performed no sooner than 30 days and no later than 180 days following the date of the recipient's written informed consent, except in cases of premature delivery or emergency abdominal surgery. An individual may consent to be sterilized at the time of premature delivery or emergency abdominal surgery if at least 72 hours have passed since informed consent was given.
- 3) Surgery ~~By-pass surgery~~ for morbid obesity – ~~only with the prior approval of the Department. The~~ the Department shall approve payment for this service only in those cases in which the physician~~†~~ determines that obesity is exogenous in nature, the recipient has had the benefit of other therapy with no success, ~~and~~ endocrine disorders have been ruled out, and the body mass index (BMI) is 40 or higher, or 35 to 39.9 with serious medical complications. The medical record must contain the following documentation of medical necessity: (See Sections 140.40 through 140.42

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

~~for prior approval requirements.)~~

- A) Documentation of review of systems (history and physical);
- B) Client height, weight and BMI;
- C) Listing of co-morbidities;
- D) Patient weight loss attempts;
- E) Current and complete psychiatric evaluation indicating the patient is an appropriate candidate for weight loss surgery; and
- F) Documentation of nutritional counseling.

4) Psychiatric ~~services~~Services

- A) Treatment – when the services are provided by a physician who has been enrolled as an approved provider with the Department. Psychiatric treatment services are not covered services for ~~recipients~~Recipients of General Assistance ~~or Aid to the Medically Indigent~~.
- B) Consultation – only when necessary to determine the need for psychiatric care. Services provided subsequent to the initial consultation must comply with the requirements for treatment.
- C) Group Psychotherapy – payment may be made for up to two group sessions per week, with a maximum of one session per day. The following conditions must be met for group psychotherapy:
  - i) documentation maintained in the patient's medical record must indicate the person participating in the group session has been diagnosed with a mental illness as defined in the International Classification of Diseases (ICD-9-CM) or the Diagnostic and Statistical Manual of Mental Disorders (DSM IV). The allowable diagnosis code ranges will be specified in the Handbook for Physicians; and

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- ii) beginning 1/1/10, the entire group psychotherapy service is directly performed by a physician licensed to practice medicine in all its branches who has completed an approved general psychiatry residency program or is providing the service as a resident or attending physician at an approved or accredited residency program; and
  - iii) the group size does not exceed 12 patients, regardless of payment source; and
  - iv) the minimum duration of a group session is 45 minutes; and
  - v) the group session is documented in the patient's medical record by the rendering physician, including the session's primary focus, level of patient participation, and begin and end times of each session; and
  - vi) the group treatment model, methods, and subject content have been selected on evidence-based criteria for the target population of the group and follows recognized practice guidelines for psychiatric services; and
  - vii) the group session is provided in accordance with a clear written description of goals, methods and referral criteria; and
  - viii) if the patient is a resident of a long term care facility, the provider of the group psychotherapy must maintain documentation in the patient's medical record demonstrating the coordination of services and the sharing with the long term care facility of information related to the patient's needs and the implementation and effectiveness of the patient's plan of care.
- 5) Services provided to a recipient in his or her home – only when the recipient is physically unable to go to the physician's office.
- 6) Services provided to recipients in group care facilities by a physician other than the attending physician – only for emergency services provided when

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

the attending physician of record is not available or when the attending physician has made referral with the recipient's knowledge and permission.

- 7) Services provided to recipients in a group care facility by a physician who derives a direct or indirect profit from total or partial ownership (or from other types of financial investment for profit in the facility) – only when occasioned by an emergency due to acute illness or, unavailability of essential treatment facilities in the vicinity for short-term care pending transfer, or when there is no comparable facility in the area.
- 8) Maternity care – Payment shall be made for pre-natal and post-natal care only when the following conditions are met:
  - A) the physician, whether based in a hospital, clinic, or individual practice, retains hospital delivery privileges, ~~or~~ maintains a written referral arrangement with another physician who retains such privileges, or has been included in the Maternal and Child Health Program as a result of having entered into an appropriate Healthy Moms/Healthy Kids Program provider agreement;
  - B) the written referral agreement is kept on file and is available for inspection at the physician's place of business, and details procedures for timely transfer of medical records; and
  - C) maternal services are delivered in a manner consistent with the quality of care guidelines published by the American College of Obstetricians and Gynecologists in the current edition of the "Standards for Obstetric-Gynecologic Services" (1989 Edition), 409 12<sup>th</sup> Street, S.W., Washington, D.C. 20024-2188.
- 9) Physician services to children under age 21
  - A) Payment shall be made only when the physician meets one or more of the following conditions. The physician:
    - i) has admitting privileges at a hospital; or
    - ii) is certified or is eligible for certification in pediatrics or

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- family practice by the medical specialty board recognized by the American Board of Medical Specialties; or
- iii) is employed by or affiliated with a Federally Qualified Health Center; or
  - iv) is a member of the National Health Service Corps; or
  - v) has been certified by the Secretary of the Department of Health and Human Services as qualified to provide ~~physician~~physicians' services to a child under 21 years of age; or
  - vi) has current, formal consultation and referral arrangements with a pediatrician or family practitioner for the purposes of specialized treatment and admission to a hospital. The written referral agreement is kept on file and is available for inspection at the physician's place of business, and details procedures for timely transfer of medical records; or
  - vii) has entered into a Maternal and Child Health provider agreement or has otherwise been transferred in from the Healthy Moms/Healthy Kids Program;
- B) The physician shall certify to the Department the way in which he or she meets the above criteria; and
- C) Services to children shall be delivered in a manner consistent with the standards of the American Academy of Pediatrics and rules ~~as~~ published by the Illinois Department of Public Health (77 Ill. Adm. Code 630, Maternal and Child Health Services; 77 Ill. Adm. Code 665, Child Health ~~Examination Code~~Examinations; 77 Ill. Adm. Code 675, Hearing Screening; 77 Ill. Adm. Code 685, Vision Screening).
- 10) Hysterectomy – only if the individual has been informed, orally and in writing, that the hysterectomy will render her permanently incapable of reproducing and the individual has signed a written acknowledgment of receipt of the information. The Department will not pay for a

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

hysterectomy ~~thatwhich~~ would not have been performed except for the purpose of rendering an individual permanently incapable of reproducing.

- 11) Selected surgical procedures, including:
- A) Tonsillectomies or Adenoidectomies
  - B) Hemorrhoidectomies
  - C) Cholecystectomies
  - D) Disc Surgery/Spinal Fusion
  - ~~E)~~ ~~Hysterectomies~~
  - ~~E)F)~~ Joint Cartilage Surgery/Meniscectomies
  - ~~FG)~~ Excision of Varicose Veins
  - ~~GH)~~ Submucous Resection/Rhinoplasty/Repair of Nasal System
  - ~~HI)~~ Mastectomies for Non-Malignancies
  - ~~I)~~ Surgical procedures ~~thatwhich~~ generally may be performed in an outpatient setting (see Section 140.117) only if the Department authorizes payment. The Department will in some instances require that a second physician agree that the surgical procedure is medically necessary prior to approving payment for one of these procedures. The Department will require a second opinion when the attending physician has been notified by the Department that he ~~or she~~ will be required to obtain prior approval for payment for the surgeries listed. (See Sections 140.40 through 140.42 for prior approval requirements.) The Department will select physicians for this requirement based on the recommendation of a peer review committee that has reviewed the utilization pattern of the physician.
- 12) Mammography screening

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- A) Covered only when ordered by a physician for screening by low-dose mammography for the presence of occult breast cancer under the following guidelines:
- i) a baseline mammogram for women 35 through 39 years of age; and
  - ii) a mammogram once per year for women 40 years of age or older.
- B) As used in this [subsection \(a\)\(12\) rule](#), "low-dose mammography" means the x-ray examination of the breast using equipment specifically designated for mammography that will meet appropriate radiological standards.
- 13) Pap tests and prostate-specific antigen tests – coverage is provided for the following:
- A) An annual cervical smear or Pap smear test for women.
  - B) An annual digital rectal examination and a prostate-specific antigen test, upon the recommendation of a physician licensed to practice medicine in all its branches, for:
    - i) asymptomatic men age 50 and over;
    - ii) African-American men age 40 and over; and
    - iii) men age 40 and over with a family history of prostate cancer.
- b) In cases [in which](#) where a physical examination by a second physician is needed, the Department will notify the recipient and designate a physician to perform the examination. Physicians will be subject to this requirement for six months, after which a request can be submitted to the peer review committee to consider removal of the prior approval requirement.

(Source: Amended at 33 Ill. Reg. 12229, effective October 1, 2009)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

**Section 140.435 Advanced Practice Nurse Services**

- a) For purposes of enrollment in the Medical Assistance Program, an [advanced practice nurse](#)~~Advanced Practice Nurse~~ (APN) means a person who is licensed as a registered professional nurse, holds a valid license in the state of practice and is legally authorized under state law or rule to practice as an advanced practice nurse, so long as that practice is not in conflict with the [Nurse Practice Act](#)~~Nursing and Advanced Practice Nursing Act~~ [225 ILCS 65], the Medical Practice Act of 1987 [225 ILCS 60] and implementing rules (68 Ill. Adm. Code 1305). Categories of APNs include:
- 1) Certified Registered Nurse Anesthetist (CRNA);
  - 2) Certified Nurse Midwife (CNM);
  - 3) Certified Nurse Practitioner (CNP); and
  - 4) Clinical Nurse Specialist (CNS).
- b) An [APN](#)~~Advanced Practice Nurse~~ must have and maintain a current collaborative or written practice agreement with a collaborating physician or practitioner under whom the APN will be practicing, as set forth in the [Nurse](#)~~Nursing and Advanced Practice Nursing~~ Act.
- c) Depending on the site of care, CRNAs may or may not be required to possess a written collaborative or written practice agreement as set forth in the [Nurse Practice Act](#)~~Nursing and Advanced Practice Nursing Act~~. CRNAs may work in a hospital, ~~or~~ a physician's, dentist's or podiatrist's office, or an Ambulatory Surgical Treatment Center.
- d) The agreement or agreements required under [subsections](#) ~~Section 140.435~~(b) and (c) shall comply with all requirements as described in the [Nurse Practice Act](#)~~Nursing and Advanced Practice Nursing Act~~ and 68 Ill. Adm. Code 1305. Agreements ~~as~~ required under the Act and 68 Ill. Adm. Code 1305 must be updated, be maintained on file at each practice location, and be available upon the Department's request.
- e) The APN must notify the Department within 10 business days if an agreement is dissolved or if a change occurs in the collaborating physician or practitioner under

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

the agreement. The Department will then re-evaluate the APN's enrollment status.

- f) The collaborating physician or practitioner is not required to be enrolled with the Department. However, the collaborating physician or practitioner may not be terminated, suspended or barred by the Department from participating in the Medical Assistance Program.
- g) An APN who is required to maintain a collaborative or written practice agreement must submit the following information with the initial application for enrollment:
  - 1) Documentation of specialty of practice.
  - 2) Collaborating physician's or practitioner's name and address.
  - 3) Collaborating physician's or practitioner's Federal Employer Identification Number (FEIN).
  - 4) Collaborating physician's or practitioner's medical license number.
  - 5) Collaborating physician's or practitioner's state of licensure, if other than Illinois.
- h) A CRNA who is not required to maintain a collaborative or written practice agreement and who provides services in a hospital or Ambulatory Surgical Treatment Center setting must submit [with the initial application for enrollment](#) the names and addresses of the hospitals or Ambulatory Surgical Treatment Centers where he or she practices ~~with the initial application for enrollment~~.
- i) [To be eligible for reimbursement for psychiatric services, as defined in the American Medical Association Current Procedural Terminology \(CPT\) book, CPT code range 90801 through 90899, excluding 90853, the rendering APN must hold a current certification in Psychiatric and Mental Health Nursing as set forth in 68 Ill. Adm. Code 1305.Appendix A.](#)

(Source: Amended at 33 Ill. Reg. 12229, effective October 1, 2009)

**Section 140.436 Limitations on Advanced Practice Nurse Services**

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

The following will not be reimbursed:

- a) Nursing services provided in the role of ~~physician assistant~~Physician Assistant.
- b) Mileage to and from place of service.
- c) Consultations between ~~APNs~~Advanced Practice Nurses or between an ~~APN~~Advanced Practice Nurse and a physician.
- d) ~~Group psychotherapy or telepsychiatry. Psychiatric services as defined in the American Medical Association Current Procedural Terminology (CPT) book code range 90801 through 90899.~~

(Source: Amended at 33 Ill. Reg. 12229, effective October 1, 2009)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Water Use Designations and Site-Specific Water Quality Standards
- 2) Code Citation: 35 Ill. Adm. Code 303
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
303.447	New Section
303.448	New Section
- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/10, 27 and 28]
- 5) Effective Date of Amendments: August 11, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do 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 Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: March 6, 2009; 33 Ill. Reg. 3898
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Technical, non-substantive changes only
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements 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 Amendments: For a more detailed discussion of these amendments, see the Board's August 6, 2009, opinion and order in docket R09-11, titled City of Galva Site Specific Water Quality Standard for Boron Discharges to Edwards River and Mud Creek (35 Ill. Adm. Code 303.447 and 303.448 (R09-11)). The City of Galva (Galva) proposed site-specific amendments to allow alternative boron standards for

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

discharges from both of its Sewage Treatment Plants (STPs). The amendments establish a 3.0 milligram per liter (mg/L) alternative boron standard to the generally applicable 1.0 mg/L boron water quality standard in 35 Ill. Adm. Code. 302.208(g). The alternative standard for boron applies to certain segments of an unnamed tributary to the South Branch of the Edwards River, the South Branch of the Edwards River, and the Mud Creek Run. These segments receive discharges from the two Sewage Treatment Plants (STPs) operated by Galva. Galva states that the source of the boron in its STP discharge is the groundwater from aquifers that supply Galva's drinking water. Galva states that relief from this standard is necessary to ensure that it does not violate any relevant regulation or appropriate permit condition. 35 Ill. Adm. Code 303.447 contains certain exemptions that are applicable only to boron standards in discharges from the Northeast STP into the South Branch Edwards River and its Southwest STP discharges into Mud Run Creek. Without the amendments, according to Galva, compliance with the Agency effluent standard for boron would be cost prohibitive for a rural community without the resources to deal with these costs.

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

Marie Tipsord  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago, IL 60601

312/814-4925

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R09-11 in your request. The Board order is also available from the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us))

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE C: WATER POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD

PART 303  
WATER USE DESIGNATIONS AND SITE-SPECIFIC  
WATER QUALITY STANDARDS

SUBPART A: GENERAL PROVISIONS

Section	
303.100	Scope and Applicability
303.101	Multiple Designations
303.102	Rulemaking Required

SUBPART B: NONSPECIFIC WATER USE DESIGNATIONS

Section	
303.200	Scope and Applicability
303.201	General Use Waters
303.202	Public and Food Processing Water Supplies
303.203	Underground Waters
303.204	Secondary Contact and Indigenous Aquatic Life Waters
303.205	Outstanding Resource Waters
303.206	List of Outstanding Resource Waters

SUBPART C: SPECIFIC USE DESIGNATIONS AND SITE  
SPECIFIC WATER QUALITY STANDARDS

Section	
303.300	Scope and Applicability
303.301	Organization
303.311	Ohio River Temperature
303.312	Waters Receiving Fluorspar Mine Drainage
303.321	Wabash River Temperature
303.322	Unnamed Tributary of the Vermilion River
303.323	Sugar Creek and Its Unnamed Tributary
303.326	Unnamed Tributary of Salt Creek, Salt Creek, and Little Wabash River
303.331	Mississippi River North Temperature

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

303.341	Mississippi River North Central Temperature
303.351	Mississippi River South Central Temperature
303.352	Unnamed Tributary of Wood River Creek
303.353	Schoenberger Creek; Unnamed Tributary of Cahokia Canal
303.361	Mississippi River South Temperature
303.400	Bankline Disposal Along the Illinois Waterway/River
303.430	Unnamed Tributary to Dutch Creek
303.431	Long Point Slough and Its Unnamed Tributary
303.441	Secondary Contact Waters
303.442	Waters Not Designated for Public Water Supply
303.443	Lake Michigan Basin
303.444	Salt Creek, Higgins Creek, West Branch of the DuPage River, Des Plaines River
303.445	Total Dissolved Solids Water Quality Standard for the Lower Des Plaines River
303.446	Boron Water Quality Standard for Segments of the Sangamon River and the Illinois River
<a href="#">303.447</a>	<a href="#">Unnamed Tributary of the South Branch Edwards River and South Branch Edwards River</a>
<a href="#">303.448</a>	<a href="#">Mud Run Creek</a>

## SUBPART D: THERMAL DISCHARGES

## Section

303.500	Scope and Applicability
303.502	Lake Sangchris Thermal Discharges

303.APPENDIX A	References to Previous Rules
303.APPENDIX B	Sources of Codified Sections

AUTHORITY: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b) and 27].

SOURCE: Filed with the Secretary of State January 1, 1978; amended at 2 Ill. Reg. 27, p. 221, effective July 5, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 5 Ill. Reg. 11592, effective October 19, 1981; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg. 11161, effective September 7, 1982; amended at 7 Ill. Reg. 8111, effective June 23, 1983; amended in R87-27 at 12 Ill. Reg. 9917, effective May 27, 1988; amended in R87-2 at 13 Ill. Reg. 15649, effective September 22, 1989; amended in R87-36 at 14 Ill. Reg. 9460, effective May 31, 1990; amended in R86-14 at 14 Ill. Reg. 20724, effective December 18, 1990; amended in R89-14(C) at 16 Ill. Reg. 14684, effective September 10, 1992; amended in R92-17 at 18 Ill.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

Reg. 2981, effective February 14, 1994; amended in R91-23 at 18 Ill. Reg. 13457, effective August 19, 1994; amended in R93-13 at 19 Ill. Reg. 1310, effective January 30, 1995; amended in R95-14 at 20 Ill. Reg. 3534, effective February 8, 1996; amended in R97-25 at 22 Ill. Reg. 1403, effective December 24, 1997; amended in R01-13 at 26 Ill. Reg. 3517, effective February 22, 2002; amended in R03-11 at 28 Ill. Reg. 3071, effective February 4, 2004; amended in R06-24 at 31 Ill. Reg. 4440, effective February 27, 2007; amended in R09-8 at 33 Ill. Reg. 7903, effective May 29, 2009; amended in R09-11 at 33 Ill. Reg. 12260, effective August 11, 2009.

SUBPART C: SPECIFIC USE DESIGNATIONS AND SITE  
SPECIFIC WATER QUALITY STANDARDS

**Section 303.447 Unnamed Tributary of the South Branch Edwards River and South Branch Edwards River**

The general use water quality standard for boron at 35 Ill. Adm. Code 302.208(g) does not apply to the waters of the State that are located from the point of discharge of the publicly owned treatment works located at 523 NE 9<sup>th</sup> Street in Galva, known as the Galva Northeast Sewage Treatment Plant, to an unnamed tributary of the South Branch of the Edwards River (the discharge point being located in Henry County, Township 14 North, Range 4 East, occupying portions of Sections 21, 26, 27, 28, 33, 34, and 35 in the Fourth Principal Meridian, Latitude N 41.175°, Longitude: W 90.035°) to the confluence of unnamed tributary with the South Branch Edwards River; to the confluence with the Edwards River. Boron levels in these waters must meet a water quality standard for boron of 3.0 mg/L.

(Source: Added at 33 Ill. Reg. 12260, effective August 11, 2009)

**Section 303.448 Mud Run Creek**

The general use water quality standard for boron set forth at 35 Ill. Adm. Code 302.208(g) does not apply to the waters of the State that are located from the point of discharge of the publicly owned treatment works located at ½ mile South of the Burlington Northern Santa Fe Railroad and SW 4<sup>th</sup> Street in Galva, known as the Galva Southwest Sewage Treatment Plant, to Mud Run Creek (the point is located in Henry County, Township 14 North, Range 4 East, occupying portions of Sections 21, 26, 27, 28, 33, 34 and 35 of the Fourth Principal Meridian, Latitude: N 41.154°, Longitude W. 90.053°) to the confluence of Mud Run Creek with Walnut Creek. Boron levels in these waters must meet a water quality standard for boron of 3.0 mg/L.

(Source: Added at 33 Ill. Reg. 12260, effective August 11, 2009)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Loan Repayment Assistance for Physicians
- 2) Code Citation: 77 Ill. Adm. Code 581
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
581.100	New
581.110	New
581.200	New
581.210	New
581.220	New
581.230	New
581.240	New
- 4) Statutory Authority: Loan Repayment Assistance for Physicians Act [110 ILCS 949]
- 5) Effective Date of Rulemaking: August 17, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file and available for public inspection at the Illinois Department of Public Health, 535 West Jefferson Street, Springfield, Illinois 62701-0001.
- 9) Notice of Proposal Published in Illinois Register: December 19, 2008; 32 Ill. Reg. 19440
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version:

No changes were made in response to comments received during the First Notice or public comment period.

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

1. In Section 581.100, the definition of "Full-Time Practice" was revised as follows:  
"means maintaining office hours for patient care that equal or exceed the mean number of office hours per week reported by physicians, by specialty, and

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED RULES

published in the American Medical Association's 'Socioeconomic Characteristics of Medical Practice, 2002', incorporated by reference in Section 581.110."

2. In Section 581.100, the definition for "Health Professional Shortage Area" was deleted.
3. In Section 581.100, the definition for "Rational Service Area" was deleted.
4. In Section 581.100, in the definition for "Rural", "community" was changed to "geographic area".
5. The proposed text in Section 581.110 was deleted and the following was inserted:

"The following materials are incorporated or referenced in this Part:

a) Illinois Statutes

- 1) Medical Practice Act of 1987 [225 ILCS 60]
- 2) Loan Repayment Assistance for Physicians Act [110 ILCS 949]

b) Other Guidelines

"Socioeconomic Characteristics of Medical Practice, 2002" prepared by the American Medical Association's Center for Health Policy Research (515 North State Street, #16, Chicago, Illinois 60654, (312)464-5000)

- c) All incorporations by reference of standards of nationally recognized organizations refer to the standards on the date specified and do not include any additions or deletions subsequent to the date specified."

6. In Section 581.200, the proposed language was deleted and the following was inserted:

"d) *The total amount of grants that a person may be awarded under the program shall not exceed \$25,000. (Section 30 of the Act)*".

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED RULES

7. In Section 581.220(d), language after the word "applicants" in the first sentence was deleted and replaced with "awards will be prorated.", and subsections (d)(1), (2), and (3) were deleted.
8. In Section 581.230(a), language after the word "Department" in the first sentence was deleted.
9. In Section 581.230(d), the proposed language was deleted and the following inserted:
  - "d) The grant program administered under this Part will allow for initial three year grants and subsequent one year grants. Grant recipients will be given priority for additional year funding so long as they continue to meet the eligibility requirements described in Section 25 of the Act".
10. In Section 581.240(b)(4), the word "or" was added after the semicolon at the end of the phrase.
11. Section 581.240(b)(6) was deleted.
12. In Section 581.240(e), the word "collection" was changed to "resolution" at the end of the sentence.

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

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Part 581 implements the Loan Repayment Assistance for Physicians Act [110 ILCS 949], which established an educational loan repayment assistance program for physicians who practice in Illinois. The rules include definitions, referenced materials, application requirements, eligibility requirements,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

provisions for grant awards, grant terms and obligations and penalties for failure to fulfill grant obligations.

- 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, 5<sup>th</sup> Floor  
Springfield, Illinois 62761

217/782-2043  
e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

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 g: GRANTS TO DENTAL AND MEDICAL STUDENTS

PART 581

LOAN REPAYMENT ASSISTANCE FOR PHYSICIANS

SUBPART A: GENERAL PROVISIONS

Section

- 581.100 Definitions
- 581.110 Referenced Materials

SUBPART B: EDUCATIONAL LOAN REPAYMENT FOR PHYSICIANS

Section

- 581.200 Application
- 581.210 Eligibility
- 581.220 Grant Awards
- 581.230 Grant Terms and Obligations
- 581.240 Penalty for Failure to Fulfill Obligation

AUTHORITY: Implementing and authorized by the Loan Repayment Assistance for Physicians Act [110 ILCS 949].

SOURCE: Adopted at 33 Ill. Reg. 12265, effective August 17, 2009.

SUBPART A: GENERAL PROVISIONS

**Section 581.100 Definitions**

"Act" means the Loan Repayment Assistance for Physicians Act [110 ILCS 949].

"Applicant" means a person who submits an application to the Department to receive a physician loan assistance grant.

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED RULES

*"Educational Loans" means higher education student loans that a person has incurred in attending a registered professional physician education program. (Section 10 of the Act)*

"Full-Time Practice" means maintaining office hours for patient care that equal or exceed the mean number of office hours per week reported by physicians, by specialty, and published in the American Medical Association's "Socioeconomic Characteristics of Medical Practice, 2002", incorporated by reference in Section 581.110.

"Grantee" refers to a person who is the recipient of a grant for educational loan repayment assistance under the Act and this Part.

"Grant Period" means the duration of the loan repayment benefit, which is one year.

*"Physician" means a person licensed under the Medical Practice Act of 1987 [225 ILCS 60] to practice medicine in all of its branches. (Section 10 of the Act)*

*"Program" means the educational loan repayment assistance program for physicians established by the Department under the Act. (Section 10 of the Act)*

"Rural" means any geographic area not located in a U.S. Census Bureau Metropolitan Statistical Area; or a county located within a Metropolitan Statistical Area but having a population of 60,000 or less; or a geographic area located within a Metropolitan Statistical Area but having a population of 2,500 or less.

"Service Term" refers to the length of time that the physician is obligated to serve as a physician in Illinois as the result of receiving loan repayment funds from the Department.

"Urban" means any geographic area that does not meet the rural geographic area definition in this Part.

**Section 581.110 Referenced Materials**

The following materials are incorporated or referenced in this Part:

- a) Illinois Statutes

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED RULES

- 1) Medical Practice Act of 1987 [225 ILCS 60]
- 2) Loan Repayment Assistance for Physicians Act [110 ILCS 949]
- b) Other Guidelines  
"Socioeconomic Characteristics of Medical Practice, 2002" prepared by the American Medical Association's Center for Health Policy Research (515 N. State St #16, Chicago IL 60654, (312)464-5000)
- c) All incorporations by reference of standards of nationally recognized organizations refer to the standards on the date specified and do not include any additions or deletions subsequent to the date specified.

## SUBPART B: EDUCATIONAL LOAN REPAYMENT FOR PHYSICIANS

**Section 581.200 Application**

- a) Applicants shall complete an application on forms available from the Department.
- b) Applicants shall document currently existing educational loan indebtedness to a governmental or commercial lending institution incurred for educational expenses in pursuit of the applicant's medical degree in Illinois. The documentation of indebtedness shall include a photocopy or original copy of promissory notes or other evidence of indebtedness with disclosure of lending institution or agency, loan amount, loan period, interest rate, and any amounts repaid prior to date of application.
- c) Applicants shall provide their practice location and their specialty.
- d) *The total amount of grants that a person may be awarded under the program shall not exceed \$25,000. (Section 30 of the Act)*

**Section 581.210 Eligibility**

*To be eligible for assistance under the program, an applicant must meet all of the following qualifications:*

- a) *He or she must be a citizen or permanent resident of the United States.*

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED RULES

- b) *He or she must be a resident of Illinois.*
- c) *He or she must be practicing full time in Illinois as a physician.*
- d) *He or she must currently be repaying educational loans.*
- e) *He or she must agree to continue full-time practice in Illinois for 3 years. (Section 25 of the Act)*

**Section 581.220 Grant Awards**

- a) *Under the program, for each year that a qualified applicant who is selected as a recipient practices full-time in Illinois as a physician, the Department shall, subject to appropriation, award a grant to that person in an amount equal to the amount in educational loans that the person must repay that year. However, the total amount in grants that a person may be awarded under the program shall not exceed \$25,000. The Department shall require recipients to use the grants to pay off their educational loans. (Section 30 of the Act)*
- b) Payments received must be used for the repayment of education loans, including principal, interest and related expenses of government and commercial loans received by the individual and used for tuition expenses while attending a registered professional physician education program in the State.
- c) When qualified applications are available to support a geographical separation into urban and rural groupings, an equal number of applicants will be selected from each of the groups.
- d) When appropriations are insufficient to provide loan repayment to all qualified applicants, awards will be prorated.
- e) Applications shall be accepted between July 1 and September 30 of each year. If all funds are not expended, subsequent applications will be evaluated individually as received.

**Section 581.230 Grant Terms and Obligations**

- a) Each physician selected for educational loan repayment shall enter into a written grant agreement with the Department.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED RULES

- b) Grantees shall complete three years of service in Illinois. Grantees who were awarded a grant based on geographical preference and who wish to move their practice from the location described in the grantee's original application and retain status as a grantee shall receive approval from the Department prior to relocating and shall relocate to an area in Illinois.
- c) Every six months, the grantee shall provide documentation to the Department that the amount of money paid for educational loan debt is greater than or equal to the amount of money paid by the Department under this program. Cancelled checks or documentation from the lending institution will be accepted for this purpose.
- d) The grant program administered under this Part will allow for initial three year grants and subsequent one year grants. Grant recipients will be given priority for additional year funding so long as they continue to meet the eligibility requirements described in Section 25 of the Act.

**Section 581.240 Penalty for Failure to Fulfill Obligation**

- a) Upon breach of grant agreement, *loan repayment recipients who fail to practice full-time in Illinois for three years shall repay the Department a sum equal to three times the amount received under the program.* (Section 35 of the Act)
- b) A breach of grant agreement shall include, but not be limited to, the following situations:
  - 1) Failure to practice full-time at the location specified in the grant agreement;
  - 2) Relocation to an area that is outside of the State of Illinois;
  - 3) Material misstatement in furnishing information to the Department;
  - 4) Making any misrepresentation for the purpose of obtaining a grant; or
  - 5) *Failure to practice in Illinois for three years.* (Section 25 of the Act)
- c) *Loan repayment recipients who fail to practice full-time in Illinois for three years shall repay the Department a sum equal to three times the amount received under the program.* (Section 35 of the Act).

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DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- d) The grantee shall repay all funds provided by the Department under this Part within a period of time equal to the recipient's service term.
- e) If the grantee does not repay all funds owed to the Department within the required time period, the Department will refer the matter to the Attorney General for resolution.

## DEPARTMENT OF VETERANS' AFFAIRS

## NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Rules Governing Payment of War on Terrorism Compensation Act
- 2) Code Citation: 95 Ill. Adm. Code 123
- 3) 

<u>Section Numbers:</u>	<u>Emergency Action:</u>
123.10	New Section
123.20	New Section
123.30	New Section
123.40	New Section
123.50	New Section
123.60	New Section
123.70	New Section
- 4) Statutory Authority: Implementing and authorized by the War on Terrorism Compensation Act [PA 96-76, effective July 24, 2009]
- 5) Effective Date of Emergency Rulemaking: August 17, 2009
- 6) If this emergency rule expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rule will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever comes first.
- 7) Date filed with the Index Department: August 14, 2009
- 8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Department of Veterans' Affairs principal office and is available for public inspection.
- 9) Reason for Emergency: This emergency rule enables the payment of Global War on Terrorism bonuses. It is in the public's interest to institute the rule immediately rather than through the regular rulemaking process.
- 10) A Complete Description of the Subjects and Issues Involved: The GA enacted PA 96-76 to pay a \$100 bonus for honorably discharged or honorably separated resident veterans who served at least 30 consecutive or 60 nonconsecutive days overseas and were awarded the Global War on Terrorism Expeditionary Medal or the Global War on Terrorism Service Medal. The rule sets out application procedures and requirements for eligibility.
- 11) Is there a proposed rulemaking pending on this Part? Yes

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF EMERGENCY RULES

- 12) Statement of Statewide Policy Objective: This rulemaking will not affect units of local governments.
- 13) Information and questions regarding this emergency rulemaking shall be directed to:

Jack Price, General Counsel  
Department of Veterans' Affairs  
833 S. Spring Street  
Springfield IL 62794

217/557-5692

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

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF EMERGENCY RULES

TITLE 95: VETERANS AND MILITARY AFFAIRS  
CHAPTER I: DEPARTMENT OF VETERANS' AFFAIRS

PART 123  
RULES GOVERNING PAYMENT OF  
WAR ON TERRORISM COMPENSATION ACT

Section

123.10 General Purpose

EMERGENCY

123.20 Definitions

EMERGENCY

123.30 Eligibility

EMERGENCY

123.40 Disqualification

EMERGENCY

123.50 Application

EMERGENCY

123.60 Disability

EMERGENCY

123.70 Appeal

EMERGENCY

AUTHORITY: Implementing and authorized by the War on Terrorism Compensation Act [330 ILCS 32].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 12275, effective August 17, 2009, for a maximum of 150 days.

**Section 123.10 General Purpose**

**EMERGENCY**

The intent and purpose of this Part is to implement the War on Terrorism Act [330 ILCS 32] and make a bonus payment to those persons who served in the armed forces of the United States and received the Global War on Terrorism Expeditionary or Service Medal.

**Section 123.20 Definitions**

**EMERGENCY**

## DEPARTMENT OF VETERANS' AFFAIRS

## NOTICE OF EMERGENCY RULES

"Armed Forces of the United States" means the United States Army, Navy, Air Force, Marines, Coast Guard, the United States Reserve Forces, or the Illinois National Guard. Service in the Merchant Marine or civilian service is not service in the armed forces for the purposes of this Part.

"Department" means the Illinois Department of Veterans' Affairs.

"Resident of this State" means a person who was domiciled in Illinois for at least 12 months immediately preceding the time he or she entered the Armed Forces of the United States, as shown by such things as Illinois driver's license or voter registration.

"Honorably Discharged" means either an Honorable Discharge or a Discharge Under Honorable Conditions. No other form of discharge is acceptable.

"Legal Disability" means a finding of legal disability by a court of competent jurisdiction or by any adjudication officer of the United States Department of Veterans' Affairs.

"Period of Service" means from September 11, 2001 until such time as the Congress of the United States declares such person ineligible for the Global War on Terrorism Expeditionary or Service Medal.

**Section 123.30 Eligibility**  
**EMERGENCY**

Every person who served on active duty with the Armed Forces of the United States on or after September 11, 2001 and prior to such future date as Congress ends such eligibility for the Global War on Terrorism Expeditionary or Service Medal, is entitled to receive \$100 for such service, subject to legislative appropriation, if:

- a) he or she was a resident of this State, and
- b) he or she is still in active service and has not been separated by a discharge except Honorable or Under Honorable Conditions, has been Honorably separated from such service, has been furloughed to a reserve, or has been retired, and
- c) he or she has received the Global War on Terrorism Expeditionary or Service Medal.

## DEPARTMENT OF VETERANS' AFFAIRS

## NOTICE OF EMERGENCY RULES

**Section 123.40 Disqualification  
EMERGENCY**

An applicant is disqualified for receipt of this award if:

- a) he or she was discharged under any circumstances other than Honorable Discharge;
- b) he or she was transferred to the reserve or retired under any conditions other than Honorable;
- c) service time was not within the period of service as defined;
- d) no award of the Global War on Terrorism Expeditionary or Service Medal; and
- e) no qualifying service outside the United States of at least 30 consecutive or 60 nonconsecutive days;
- f) he or she was not a resident of Illinois at time of entering service;
- g) he or she has received a Global War on Terrorism Bonus from any other state or compensation of like nature as set forth in PA 96-0076;
- h) the service member is deceased.

**Section 123.50 Application  
EMERGENCY**

Application must include proof, by documents such as DD214, Armed Forces Certificate or such other document showing service in the Armed Forces during the period of service that included at least 30 consecutive or 60 nonconsecutive days of service outside the United States or its territories, and the award of the Global War on Terrorism Expeditionary Medal or the Global War on Terrorism Service Medal. Application must also include proof, by documents such as an Illinois driver's license or voter registration, that applicant was a resident of Illinois for the 12 months immediately preceding entry into the Armed Forces of the United States.

**Section 123.60 Disability  
EMERGENCY**

## DEPARTMENT OF VETERANS' AFFAIRS

## NOTICE OF EMERGENCY RULES

If a person to whom compensation is payable under this Part is under a legal disability, the compensation shall be paid to the person legally vested with the care of the legally disabled person under the laws of his or her state of residence, or, if no person is so vested, then to the administrator of any hospital or institution under the supervision or control of a state or of the United States Department of Veterans' Affairs in which the legally disabled person is placed. The award shall be held or used solely for the benefit of the disabled person. Under no circumstances is this award transferrable to anyone other than the named recipient.

**Section 123.70 Appeal  
EMERGENCY**

Any applicant whose application for the Global War on Terrorism award has been denied may appeal the denial to General Counsel, Illinois Department of Veterans' Affairs, 833 S. Spring Street, Springfield IL 62794. The appeal must contain a copy of the application, a copy of the denial letter, and a clear statement of the reason why the appellant believes the denial was improper.

## DEPARTMENT OF REVENUE

## NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Notice of Proposed Amendments being corrected appeared at: 33 Ill. Reg. 11230, dated July 31, 2009
- 4) The information being corrected is as follows: The statutory authority listed in #4 on the notice page is corrected to read: 35 ILCS 120/12; 20 ILCS 2505/2505-795

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of August 11, 2009 through August 17, 2009 and have been scheduled for review by the Committee at its September 15, 2009 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
9/24/09	<u>Department of Children and Family Services,</u> Indian Child Welfare Services (89 Ill. Adm. Code 307)	4/24/09 33 Ill. Reg. 5990	9/15/09
9/24/09	<u>Illinois Emergency Management Agency,</u> Administrative Hearings (32 Ill. Adm. Code 200)	5/15/09 33 Ill. Reg. 6592	9/15/09
9/24/09	<u>Secretary of State,</u> Issuance of Licenses (92 Ill. Adm. Code 1030)	6/26/09 33 Ill. Reg. 8890	9/15/09
9/25/09	<u>Department of Human Services,</u> Electronic Prescription Monitoring Program (77 Ill. Adm. Code 2080)	5/29/09 33 Ill.Reg. 7060	9/15/09
9/26/09	<u>Department of State Police,</u> Bait Car Procedures (20 Ill. Adm. Code 1297)	6/26/09 33 Ill. Reg. 8900	9/15/09

## PROCLAMATIONS

**2009-241****Women's Business Development Day**

WHEREAS, the Women's Business Development Center (WBDC) was founded in 1986 by S. Carol Dougal and Hedy M. Ratner and is a nationally-recognized women's business assistance organization; and

WHEREAS, the WBDC is devoted to providing services and programs that support and accelerate women's business ownership and strengthen the impact of women on the economy; and

WHEREAS, there are now over 10.1 million women-owned businesses in the U.S., employing 13 million workers and generating \$1.9 trillion in revenues; and

WHEREAS, more than 400,000 of those women-owned businesses are located in Illinois; and

WHEREAS, the Women's Business Development Center has put forth creative and innovative approaches to empowering women and their families, influencing the larger political and economic environment in a way that encourages and supports women's economic empowerment; and

WHEREAS, since its inception, more than 55,000 women business owners have used the programs and services provided by the Women's Business Development Center; and

WHEREAS, these services include one-on-one counseling, workshops, and entrepreneurial training, as well as programs focused on finance, certification and capacity building, procurement and technical assistance, and child care; and

WHEREAS, the Women's Business Development Center will hold its 23<sup>rd</sup> Annual Entrepreneurial Woman's Conference on September 16, 2009 at Chicago's Navy Pier; and

WHEREAS, this Conference marks the third decade of the WBDC's commitment to the meeting demands of women entrepreneurs for greater opportunities in business ownership and development:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim September 16, 2009 as **WOMEN'S BUSINESS DEVELOPMENT DAY** in Illinois, in recognition of the Women's Business Development Center's 23<sup>rd</sup> Anniversary Entrepreneurial Woman's Conference,

## PROCLAMATIONS

and in celebration of the past two decades of the WBDC's outstanding advocacy and service to women business owners in the Land of Lincoln.

Issued by the Governor August 6, 2009

Filed by the Secretary of State August 14, 2009.

**2009-242****Career and Technical Organizations Week**

WHEREAS, the proper education of today's youth is a concern of all Americans; and

WHEREAS, career and technical student organizations are dedicated to the advancement of proper education, training and development of America's youth; and

WHEREAS, for more than 31 years, organizations such as the Illinois Coordinating Council for Career and Technical Student Organizations (ICCCTSO) have advanced awareness of the importance of career and technical student organizations as an integral part of the educational curriculum; and

WHEREAS, career and technical student organizations in Illinois include the Business Professionals of America (BPA), Future Business Leaders Association (FBLA), Illinois Association of Family, Career and Community Leaders Association (FCCLA), Health Occupations Students of America (HOSA), Illinois Association of FFA, Illinois Association of DECA, Illinois Postsecondary Agricultural Student Organization (PAS), Phi Beta Lambda (PBL), Illinois Association of SkillsUSA, and Technology Student Association (TSA):

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 4 - 10, 2009 as **CAREER AND TECHNICAL ORGANIZATIONS WEEK** in Illinois in recognition of the contributions made by these organizations to the education of our youth.

Issued by the Governor August 7, 2009

Filed by the Secretary of State August 14, 2009.

**2009-243****Chamber of Commerce Week**

WHEREAS, chambers of commerce encourage the growth of existing industries, services, and commercial firms and encourage new businesses and individuals to locate in Illinois, acting as a liaison with the State of Illinois, local governments, schools and the business community; and

## PROCLAMATIONS

WHEREAS, chambers of commerce work with Illinois businesses, merchants, and industry to advance the civic, economic, industrial, professional, and cultural life of our state; and

WHEREAS, chambers of commerce have contributed to the civic and economic life of Illinois for 171 years, since the Galena Chamber of Commerce was founded in 1838; and

WHEREAS, Illinois is home to international chambers of commerce, the Great Lakes Regional Office of the United States Chamber of Commerce, the Illinois Chamber of Commerce, and more than 456 local chambers of commerce; and

WHEREAS, this year marks the 90<sup>th</sup> anniversary of the founding of the Illinois Chamber of Commerce, the state's leading broad-based business organization which serves as the unified voice for business; and

WHEREAS, this year also marks the 94<sup>th</sup> anniversary of the Illinois Association of Chamber of Commerce Executives (IACCE), a career development organization for chamber of commerce professionals; and

WHEREAS, during the week of September 14 – 18, various local chambers of commerce in Illinois will be hosting open houses, business expos, business of the year awards, and other promotional events in order to promote their involvement in the local economy:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim September 14 – 18, 2009 as **CHAMBER OF COMMERCE WEEK** in Illinois, and encourage all citizens to recognize the important role that chambers of commerce play in the economic well being of their communities.

Issued by the Governor August 7, 2009

Filed by the Secretary of State August 14, 2009.

**2009-244****Dyslexia Awareness Month**

WHEREAS, millions of Americans throughout the country, including the State of Illinois, have dyslexia, which is a language-based neurological disorder that affects their ability to read, write, and spell proficiently; and

## PROCLAMATIONS

WHEREAS, dyslexia occurs among all groups regardless of age, ethnicity, race, socio-economic background, and sex. The disorder is not related to one's level of intelligence or desire to learn; and

WHEREAS, although the degree of dyslexia varies from person to person, both children and adults can overcome the disorder with proper diagnosis and treatment. Today, many dedicated professionals work in homes and schools to help those with dyslexia; and

WHEREAS, the International Dyslexia Association is also dedicated to helping those with dyslexia. They and their state branches, including the Illinois Branch, promote literacy through research, education, and advocacy; and

WHEREAS, last year, state branches of the International Dyslexia Association offered more than 50 free and successful events about dyslexia to educators, parents, and the public during the month of October, which is recognized as Dyslexia Awareness Month, and they plan to repeat their public awareness campaign again this October:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 2009 as **DYSLEXIA AWARENESS MONTH** in Illinois, in support of the campaign by the International Dyslexia Association and their state branches to raise awareness about this disorder and to help those afflicted with it.

Issued by the Governor August 7, 2009

Filed by the Secretary of State August 14, 2009.

**2009-245****National Prosthodontics Awareness Week**

WHEREAS, prosthodontics, an American Dental Association recognized specialty, encompasses diagnosing, treatment planning, restoring and replacing the natural teeth to rehabilitate and maintain the function, comfort, appearance and health of patients; and

WHEREAS, tooth loss can be caused by decay, gum disease, traumatic injury, cancer or wear. Losing teeth places stress on the mouth's structures and shape, causing the bone to shrink, possibly changing a person's facial appearance; and

WHEREAS, many adults who do not replace their missing teeth suffer poor self-esteem, premature aging, poor diet, loss of function and social embarrassment, but by

## PROCLAMATIONS

utilizing dental implants, fixed bridgework, removable partial dentures and complete dentures, a prosthodontists' expertise can change a smile and a life; and

WHEREAS, prosthodontists undergo three years of additional training after dental school in the prevention and treatment of tooth loss; and

WHEREAS, prosthodontists have a highly skilled understanding of the dynamics of a smile, the preservation of a healthy mouth and the creation of tooth replacements; and

WHEREAS, prosthodontists also maintain a strong commitment to the dental health care needs of older patients, individuals with congenital anomalies, and those who have been affected by oral cancer, with many providing pro bono care to their local communities; and

WHEREAS, prosthodontists are represented by the American College of Prosthodontists, an educational and scientific association founded in 1970 to represent the needs and interests of prosthodontists within organized dentistry, and to the public, by providing a means for stimulating awareness and interest in the field of prosthodontics; and

WHEREAS, the American College of Prosthodontists' mission is to provide the highest quality of patient care, work closely with other dental professionals to provide the most comprehensive and effective treatments, and improve the quality of patients' lives; and

WHEREAS, in 2010, the American College of Prosthodontists, incorporated in Illinois and headquartered in Chicago, and its 3,200 members internationally will celebrate the organization's 40<sup>th</sup> anniversary:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 7-13, 2010 as **NATIONAL PROSTHODONTICS AWARENESS WEEK** in Illinois, to raise public awareness of the critical importance of mouth health and how to best care for missing teeth, and in recognition of the important services that prosthodontists provide.

Issued by the Governor August 10, 2009

Filed by the Secretary of State August 14, 2009.

**2009-246**

**Illinois Association for Home and Community Education Week**

## PROCLAMATIONS

WHEREAS, since 1924, members of the Illinois Association for Home and Community Education (IAHCE) have been promoting social and economic wellbeing in Illinois homes and neighborhoods; and

WHEREAS, the State Association is an educational and community service organization comprised of over 11,000 men and women from 82 associations in 102 counties; and

WHEREAS, IAHCE members volunteer their skills and energy to many different community service projects that include sending our troops care packages and making blankets for children in crisis situations and hospitals; and

WHEREAS, altogether, IAHCE members in 28 counties volunteered more than 310,000 hours of their time to service projects last year:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 11 - 17, 2009 as **ILLINOIS ASSOCIATION FOR HOME AND COMMUNITY EDUCATION WEEK** in Illinois, in commendation of IAHCE members for their dedication and commitment to the welfare of local communities across the Land of Lincoln.

Issued by the Governor August 10, 2009

Filed by the Secretary of State August 14, 2009.

**2009-247****Tom Sapp Day**

WHEREAS, the hard work and determination of America's citizens is among our greatest resources; and

WHEREAS, one person can effect a positive change with just a single selfless act, no matter how big or small; and

WHEREAS, the Land of Lincoln is blessed with men and women who dedicate their time and energy to performing acts of good will and improving the quality of life for all people; and

WHEREAS, countless people throughout the state strive to improve our communities by supporting volunteer and community service efforts; and

WHEREAS, to recognize several of these individuals, on each day of the Illinois State Fair one person will be named Illinoisan of the Day; and

## PROCLAMATIONS

WHEREAS, each winner is being honored for making a difference in their community, displaying a true Illinois spirit through their hard work and dedication to helping others, and for making the State of Illinois a great place to live; and

WHEREAS, one such person is Tom Sapp of Springfield; and

WHEREAS, Tom Sapp moved to Sangamon County at the age of five, where he worked with his father on the family farm, renting teams of horses and equipment for mowing and maintaining the race track at the fairgrounds; and

WHEREAS, Tom Sapp has a love for life and agriculture, animals and the Illinois State Fair, all of which he has strived to pass on to the next generation:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 13, 2009 as **TOM SAPP DAY** in Illinois, in recognition of his positive impact on our state.

Issued by the Governor August 12, 2009

Filed by the Secretary of State August 14, 2009.

**2009-248****Denene Wilmeth Day**

WHEREAS, the hard work and determination of America's citizens is among our greatest resources; and

WHEREAS, one person can effect a positive change with just a single selfless act, no matter how big or small; and

WHEREAS, the Land of Lincoln is blessed with men and women who dedicate their time and energy to performing acts of good will and improving the quality of life for all people; and

WHEREAS, countless people throughout the state strive to improve our communities by supporting volunteer and community service efforts; and

WHEREAS, to recognize several of these individuals, on each day of the Illinois State Fair one person will be named Illinoisan of the Day; and

## PROCLAMATIONS

WHEREAS, each winner is being honored for making a difference in their community, displaying a true Illinois spirit through their hard work and dedication to helping others, and for making the State of Illinois a great place to live; and

WHEREAS, one such person is Denene Wilmeth of Decatur; and

WHEREAS, Denene Wilmeth has been with the Decatur Area Convention and Visitors Bureau since 1981, and serves as Associate Director, where she has secured countless events for the Decatur community; and

WHEREAS, Denene Wilmeth also serves on numerous charity events and councils and is involved with the Decatur Public School District and the Farm Progress Show; and

WHEREAS, Denene Wilmeth tirelessly works to improve her community and the lives of the people of Illinois:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 14, 2009 as **DENENE WILMETH DAY** in Illinois, in recognition of her positive impact on our state.

Issued by the Governor August 12, 2009

Filed by the Secretary of State August 14, 2009.

**2009-249****Bill Vandergraph Day**

WHEREAS, the hard work and determination of America's citizens is among our greatest resources; and

WHEREAS, one person can effect a positive change with just a single selfless act, no matter how big or small; and

WHEREAS, the Land of Lincoln is blessed with men and women who dedicate their time and energy to performing acts of good will and improving the quality of life for all people; and

WHEREAS, countless people throughout the state strive to improve our communities by supporting volunteer and community service efforts; and

## PROCLAMATIONS

WHEREAS, to recognize several of these individuals, on each day of the Illinois State Fair one person will be named Illinoisan of the Day; and

WHEREAS, each winner is being honored for making a difference in their community, displaying a true Illinois spirit through their hard work and dedication to helping others, and for making the State of Illinois a great place to live; and

WHEREAS, one such person is Bill Vandergraph of Alto Pass; and

WHEREAS, Pastor Bill Vandergraph and his board members are responsible for ensuring that Bald Knob Cross, a majestic 111-foot high cross on Bald Knob Mountain in Shawnee National Forest, historical landmark, and tourist attraction, will be saved and restored for all people; and

WHEREAS, Bill Vandergraph tirelessly works to improve his community and the lives of the people of Illinois:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 15, 2009 as **BILL VANDERGRAPH DAY** in Illinois, in recognition of his positive impact on our state.

Issued by the Governor August 12, 2009

Filed by the Secretary of State August 14, 2009.

**2009-250****Charles Klinefelter Day**

WHEREAS, the hard work and determination of America's citizens is among our greatest resources; and

WHEREAS, one person can effect a positive change with just a single selfless act, no matter how big or small; and

WHEREAS, the Land of Lincoln is blessed with men and women who dedicate their time and energy to performing acts of good will and improving the quality of life for all people; and

WHEREAS, countless people throughout the state strive to improve our communities by supporting volunteer and community service efforts; and

## PROCLAMATIONS

WHEREAS, to recognize several of these individuals, on each day of the Illinois State Fair one person will be named Illinoisan of the Day; and

WHEREAS, each winner is being honored for making a difference in their community, displaying a true Illinois spirit through their hard work and dedication to helping others, and for making the State of Illinois a great place to live; and

WHEREAS, one such person is Charles Klinefelter of DePue; and

WHEREAS, Charles Klinefelter, chef at Starved Rock Lodge, is better known as "Chef Charlie"; and

WHEREAS, in addition to being a chef, Charles Klinefelter is also a decorated U.S. Navy veteran, a member of the local school board, an honorary chairman of the Illinois Valley March of Dimes, a basketball coach, and a volunteer with Junior Achievement; and

WHEREAS, Charles Klinefelter tirelessly works to improve his community and the lives of the people of Illinois:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 16, 2009 as **CHARLES KLINEFELTER DAY** in Illinois, in recognition of his positive impact on our state.

Issued by the Governor August 12, 2009

Filed by the Secretary of State August 14, 2009.

**2009-251****Thomas Shinn Day**

WHEREAS, the hard work and determination of America's citizens is among our greatest resources; and

WHEREAS, one person can effect a positive change with just a single selfless act, no matter how big or small; and

WHEREAS, the Land of Lincoln is blessed with men and women who dedicate their time and energy to performing acts of good will and improving the quality of life for all people; and

## PROCLAMATIONS

WHEREAS, countless people throughout the state strive to improve our communities by supporting volunteer and community service efforts; and

WHEREAS, to recognize several of these individuals, on each day of the Illinois State Fair one person will be named Illinoisan of the Day; and

WHEREAS, each winner is being honored for making a difference in their community, displaying a true Illinois spirit through their hard work and dedication to helping others, and for making the State of Illinois a great place to live; and

WHEREAS, Thomas Shinn is a retired school teacher and owner and breeder of standardbred horses; and

WHEREAS, a historian, Thomas Shinn tracks various records and compiles other information about harness racing in Illinois; and

WHEREAS, Thomas Shinn willingly shares his love of standardbreds with all generations:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 17, 2009 as **THOMAS SHINN DAY** in Illinois, in recognition of his positive impact on our state.

Issued by the Governor August 12, 2009

Filed by the Secretary of State August 14, 2009

**2009-252****Mike Black Day**

WHEREAS, the hard work and determination of America's citizens is among our greatest resources; and

WHEREAS, one person can effect a positive change with just a single selfless act, no matter how big or small; and

WHEREAS, the Land of Lincoln is blessed with men and women who dedicate their time and energy to performing acts of good will and improving the quality of life for all people; and

WHEREAS, countless people throughout the state strive to improve our communities by supporting volunteer and community service efforts; and

## PROCLAMATIONS

WHEREAS, to recognize several of these individuals, on each day of the Illinois State Fair one person will be named Illinoisan of the Day; and

WHEREAS, each winner is being honored for making a difference in their community, displaying a true Illinois spirit through their hard work and dedication to helping others, and for making the State of Illinois a great place to live; and

WHEREAS, one such person is Mike Black of Westville; and

WHEREAS, Mike Black is one in a long line of proud Illinois farmers, growing corn and soybeans on the Black Family Farm, which has been in operation since 1853; and

WHEREAS, Mike Black has also served on numerous board, remains active in community events, and as a dedicated family man has always been involved in his two daughters' grade school, high school, and college events; and

WHEREAS, Mike Black embodies the qualities of integrity, dependability, sense of shared community, and strong work ethic that exemplify our state:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 18, 2009 as **MIKE BLACK DAY** in Illinois, in recognition of his positive impact on our state.

Issued by the Governor August 12, 2009

Filed by the Secretary of State August 14, 2009

**2009-253**

**Arthur Kane Day**

WHEREAS, the hard work and determination of America's citizens is among our greatest resources; and

WHEREAS, one person can effect a positive change with just a single selfless act, no matter how big or small; and

WHEREAS, the Land of Lincoln is blessed with men and women who dedicate their time and energy to performing acts of good will and improving the quality of life for all people; and

WHEREAS, countless people throughout the state strive to improve our communities by supporting volunteer and community service efforts; and

## PROCLAMATIONS

WHEREAS, to recognize several of these individuals, on each day of the Illinois State Fair one person will be named Illinoisan of the Day; and

WHEREAS, each winner is being honored for making a difference in their community, displaying a true Illinois spirit through their hard work and dedication to helping others, and for making the State of Illinois a great place to live; and

WHEREAS, one such person is Arthur Kane of Media; and

WHEREAS, Arthur Kane, a history buff with a strong interest in Abraham Lincoln, resides on the family farm where he was raised in Media; and

WHEREAS, active in the American Legion and countless community events as well as a number of boards, Arthur Kane is also a cancer survivor who assists with local Relay for Life events; and

WHEREAS, Arthur Kane loves Illinois and enjoys taking family members all over the state to show off historic sites:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 19, 2009 as **ARTHUR KANE DAY** in Illinois, in recognition of his positive impact on our state.

Issued by the Governor August 12, 2009

Filed by the Secretary of State August 14, 2009

**2009-254**

**John Slayton Day**

WHEREAS, the hard work and determination of America's citizens is among our greatest resources; and

WHEREAS, one person can effect a positive change with just a single selfless act, no matter how big or small; and

WHEREAS, the Land of Lincoln is blessed with men and women who dedicate their time and energy to performing acts of good will and improving the quality of life for all people; and

WHEREAS, countless people throughout the state strive to improve our communities by supporting volunteer and community service efforts; and

## PROCLAMATIONS

WHEREAS, to recognize several of these individuals, on each day of the Illinois State Fair one person will be named Illinoisan of the Day; and

WHEREAS, each winner is being honored for making a difference in their community, displaying a true Illinois spirit through their hard work and dedication to helping others, and for making the State of Illinois a great place to live; and

WHEREAS, one such person is John Slayton of Springfield; and

WHEREAS, John Slayton has served on several boards and is active in numerous charitable events; and

WHEREAS, John Slayton feels that community service is a way to give back for the opportunities he had as a livestock exhibitor when he was young; and

WHEREAS, John Slayton personifies great Illinois values, and remains active in helping current youth livestock exhibitors at the State Fair have a long-lasting, positive experience:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 20, 2009 as **JOHN SLAYTON DAY** in Illinois, in recognition of his positive impact on our state.

Issued by the Governor August 12, 2009

Filed by the Secretary of State August 14, 2009

**2009-255****Christine Brooks Day**

WHEREAS, the hard work and determination of America's citizens is among our greatest resources; and

WHEREAS, one person can effect a positive change with just a single selfless act, no matter how big or small; and

WHEREAS, the Land of Lincoln is blessed with men and women who dedicate their time and energy to performing acts of good will and improving the quality of life for all people; and

WHEREAS, countless people throughout the state strive to improve our communities by supporting volunteer and community service efforts; and

## PROCLAMATIONS

WHEREAS, to recognize several of these individuals, on each day of the Illinois State Fair one person will be named Illinoisan of the Day; and

WHEREAS, each winner is being honored for making a difference in their community, displaying a true Illinois spirit through their hard work and dedication to helping others, and for making the State of Illinois a great place to live; and

WHEREAS, one such person is Christine Brooks of Frankfort; and

WHEREAS, Christine Brooks has been a Museum Curator for ten years, where her emphasis has always been on sharing her love of history with children; and

WHEREAS, Christine Brooks has volunteered countless hours to help preserve the history of the City of Worth, mentoring others and teaching them the love of history, genealogy, and preservation of society:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 21, 2009 as **CHRISTINE BROOKS DAY** in Illinois, in recognition of her positive impact on our state.

Issued by the Governor August 12, 2009

Filed by the Secretary of State August 14, 2009

**2009-256****Dr. Ted Flickinger Day**

WHEREAS, the hard work and determination of America's citizens is among our greatest resources; and

WHEREAS, one person can effect a positive change with just a single selfless act, no matter how big or small; and

WHEREAS, the Land of Lincoln is blessed with men and women who dedicate their time and energy to performing acts of good will and improving the quality of life for all people; and

WHEREAS, countless people throughout the state strive to improve our communities by supporting volunteer and community service efforts; and

WHEREAS, to recognize several of these individuals, on each day of the Illinois State Fair one person will be named Illinoisan of the Day; and

## PROCLAMATIONS

WHEREAS, each winner is being honored for making a difference in their community, displaying a true Illinois spirit through their hard work and dedication to helping others, and for making the State of Illinois a great place to live; and

WHEREAS, one such person is Dr. Ted Flickinger of Springfield; and

WHEREAS, Dr. Ted Flickinger, currently President and CEO of the Illinois Association of Park Districts, has served in various capacities for a number of professional organizations, including the National Recreation and Park Association and the American Park and Recreation Society; and

WHEREAS, in addition to almost 50 years of experience in working with boards and community groups, Dr. Ted Flickinger is also an author and a leading advocate for parks, recreation, and conservation in Illinois:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 22, 2009 as **DR. TED FLICKINGER DAY** in Illinois, in recognition of his positive impact on our state.

Issued by the Governor August 12, 2009

Filed by the Secretary of State August 14, 2009

**2009-257****Dr. Karl Luthin Day**

WHEREAS, the hard work and determination of America's citizens is among our greatest resources; and

WHEREAS, one person can effect a positive change with just a single selfless act, no matter how big or small; and

WHEREAS, the Land of Lincoln is blessed with men and women who dedicate their time and energy to performing acts of good will and improving the quality of life for all people; and

WHEREAS, countless people throughout the state strive to improve our communities by supporting volunteer and community service efforts; and

WHEREAS, to recognize several of these individuals, on each day of the Illinois State Fair one person will be named Illinoisan of the Day; and

## PROCLAMATIONS

WHEREAS, each winner is being honored for making a difference in their community, displaying a true Illinois spirit through their hard work and dedication to helping others, and for making the State of Illinois a great place to live; and

WHEREAS, one such person is Dr. Karl Luthin of Riverton; and

WHEREAS, Dr. Karl Luthin entered his first Illinois State Fair 51 years ago. Since then he has shown entries in the Arabian horse, English, hunter, western, and native costume class; and

WHEREAS, Dr. Karl Luthin is always helping riders, both young and old, and is willing to teach anyone about horses and share his love of the sport; and

WHEREAS, the efforts of Dr. Karl Luthin have helped many young riders get started in the show ring, including his own two daughters:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 23, 2009 as **DR. KARL LUTHIN DAY** in Illinois, in recognition of his positive impact on our state.

Issued by the Governor August 12, 2009

Filed by the Secretary of State August 14, 2009

**2009-258****Veterans' Day at the State Fair**

WHEREAS, throughout our nation's history, America's men and women in uniform have demonstrated bravery and courage in the face of danger; and

WHEREAS, our veterans answered the call to duty with honor, decency and selflessness; and

WHEREAS, as we recall the service of our Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen, we are reminded that the defense of freedom comes with great loss and sacrifice; and

WHEREAS, it is our duty to ensure the sacrifice of these heroes is never forgotten. Our veterans represent the best of America, and they deserve everything we can give them; and

## PROCLAMATIONS

WHEREAS, August 16, 2009 is Veterans' Day at the Illinois State Fair – a day to give thanks to those who have served our country, to salute our servicemembers and to honor the men and women who have lost their lives protecting our freedom; and

WHEREAS, it is important that we recognize these true patriots of freedom, liberty and democracy, not only on this day, but throughout the year; and

WHEREAS, on this day, veterans and their families are admitted to the fairgrounds for free, and a number of special Veterans' Day activities will be held:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 16, 2009 as **VETERANS' DAY AT THE STATE FAIR** in Illinois, and encourage all Americans to recognize and honor the sacrifice of our veterans.

Issued by the Governor August 13, 2009

Filed by the Secretary of State August 14, 2009.

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 33, Issue 35 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

**PROPOSED RULES**

89 - 527	.....	12056
32 - 330	.....	12061
77 - 530	.....	12076
80 - 1540	.....	12084
92 - 16	.....	12100
92 - 47	.....	12108
92 - 48	.....	12131
92 - 66	.....	12145
92 - 74	.....	12164
92 - 82	.....	12183
92 - 90	.....	12202
95 - 123	.....	12222

**ADOPTED RULES**

83 - 590	8/15/2009	.....	12224
89 - 140	10/1/2009	.....	12227
35 - 303	8/11/2009	.....	12258
77 - 581	8/17/2009	.....	12263

**EMERGENCY RULES**

95 - 123	8/17/2009	.....	12273
----------	-----------	-------	-------

**NOTICE OF CORRECTIONS**

86 - 130	.....	12279
----------	-------	-------

**EXECUTIVE ORDERS AND  
PROCLAMATIONS**

09 - 241	8/6/2009	.....	12281
09 - 242	8/7/2009	.....	12282
09 - 243	8/7/2009	.....	12282
09 - 244	8/7/2009	.....	12283
09 - 245	8/10/2009	.....	12284
09 - 246	8/10/2009	.....	12285
09 - 247	8/12/2009	.....	12286
09 - 248	8/12/2009	.....	12287
09 - 249	8/12/2009	.....	12288
09 - 250	8/12/2009	.....	12289
09 - 251	8/12/2009	.....	12290
09 - 252	8/12/2009	.....	12291
09 - 253	8/12/2009	.....	12292
09 - 254	8/12/2009	.....	12293

09 - 255	8/12/2009 .....	12294
09 - 256	8/12/2009 .....	12295
09 - 257	8/12/2009 .....	12296
09 - 258	8/13/2009 .....	12297

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