

2010

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2010

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 21, 2009	January 4, 2010
2	December 28, 2009	January 8, 2010
3	January 4, 2010	January 15, 2010
4	January 11, 2010	January 22, 2010
5	January 19, 2010	January 29, 2010
6	January 25, 2010	February 5, 2010
7	February 1, 2010	February 16, 2010
8	February 8, 2010	February 19, 2010
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21	May 10, 2010	May 21, 2010
22	May 17, 2010	May 28, 2010
23	May 24, 2010	June 4, 2010
24	June 1, 2010	June 11, 2010

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
25	June 7, 2010	June 18, 2010
26	June 14, 2010	June 25, 2010
27	June 21, 2010	July 2, 2010
28	June 28, 2010	July 9, 2010
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30	July 12, 2010	July 23, 2010
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32	July 26, 2010	August 6, 2010
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36	August 23, 2010	September 3, 2010
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39	September 13, 2010	September 24, 2010
40	September 20, 2010	October 1, 2010
41	September 27, 2010	October 8, 2010
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49	November 22, 2010	December 3, 2010
50	November 29, 2010	December 10, 2010
51	December 6, 2010	December 17, 2010
52	December 13, 2010	December 27, 2010
53	December 20, 2010	January 3, 2011

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Community Health Center Construction
- 2) Code Citation: 71 Ill. Adm. Code 42
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
42.100	New
42.110	New
42.200	New
42.210	New
42.220	New
42.230	New
42.240	New
42.250	New
42.260	New
42.270	New
- 4) Statutory Authority: Implemented and authorized by the Community Health Center Construction Act [30 ILCS 766]
- 5) A Complete Description of the Subjects and Issues Involved: Part 41 administers the Community Health Center Construction Act [30 ILCS 766] that established a grant program to provide additional support to Community Health Centers throughout the State in the form of grants for facilities and/or equipment. The rules include definitions, incorporated and referenced materials, grant requirements, sustainability funding guidelines, eligibility requirements, use of grant moneys, reporting obligations and public comment requirements.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed amendments pending on this Part? No

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:
- Ngozi C. Okorafor
Capital Development Board
James R. Thompson Center
100 West Randolph Street
Suite 14-600
Chicago, Illinois 60601
- 312/814-6037
ngozi.okorafor@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Community Health Centers, Federally Qualified Health Centers, and Federally Qualified Health Center Lookalikes.
- B) Reporting, bookkeeping or other procedures required for compliance: Progress reports must be submitted to the Capital Development Board (Board) and the Department of Public Health (Department). For grants in excess of \$25,000, quarterly reports must be submitted to the Board and the Department.
- C) Types of professional skills necessary for compliance: Familiarity with grant administration and reporting.
- 14) Regulatory Agenda on which this rulemaking was summarized: The rulemaking was not included on either of the 2 most recent regulatory agendas because: the need for the rulemaking was not anticipated.

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

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

TITLE 71: PUBLIC BUILDINGS, FACILITIES, AND REAL PROPERTY
CHAPTER I: CAPITAL DEVELOPMENT BOARD
SUBCHAPTER a: RULES

PART 42
COMMUNITY HEALTH CENTER CONSTRUCTION

SUBPART A: GENERAL PROVISIONS

- Section
- 42.100 Definitions
- 42.110 Incorporated and Referenced Materials

SUBPART B: GRANTS TO FUND
COMMUNITY HEALTH CENTER CAPITAL PROJECTS

- Section
- 42.200 Grants
- 42.210 Eligibility for Grant
- 42.220 Program Requirements
- 42.230 Use of Grant Moneys
- 42.240 Application Evaluation Process
- 42.250 Grant Award Process
- 42.260 Reporting
- 42.270 Payment Schedules

AUTHORITY: Implementing and authorized by the Community Health Center Construction Act [30 ILCS 766].

SOURCE: Adopted at 34 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 42.100 Definitions

"Act" means the Community Health Center Construction Act [30 ILCS 766].

"Acquire a new physical location" means acquisition through leasing arrangements, purchase of real property or construction of existing or new space

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

for the purpose of delivering primary health care services. (Section 10-20(2) of the Act)

"Board" means the Capital Development Board. (Section 10-5 of the Act)

"Community health center" or "CHC" means migrant health centers or community health centers or health care programs for the homeless or for residents of public housing supported under section 330 of the federal Public Health Service Act and Federally Qualified Health Centers, including Look-Alikes, as designated by the Secretary of the United States Department of Health and Human Services, that operate at least one federally designated primary health care delivery site in the State of Illinois.

"Community health center site" or "CHC site" means a new or existing physical site where a community health center will provide primary health care services either to a medically underserved population or area or to the uninsured population of this State. (Section 10-5 of the Act)

"Community provider" means a Federally Qualified Health Center or FQHC Look-Alike (community health center or health center), designated as such by the Secretary of the United States Department of Health and Human Services, that operates at least one federally designated primary health care delivery site in the State of Illinois. (Section 10-5 of the Act)

"Department" means the Illinois Department of Public Health. (Section 10-5 of the Act)

"Equipment" means initial movable equipment, including all items of initial equipment, other than built-in equipment, that is necessary and appropriate for the functioning of a particular facility for its specific purpose, and that will be used solely or primarily in the rooms or areas covered in the subject project. Further, equipment is defined as manufactured items that have an extended useful life, are not affixed to a building and capable of being moved or relocated from room to room or building to building, are not consumed in use, and have an identity and function that will not be lost through incorporation into a more complex unit. The following guidelines should be applied in defining durable movable equipment:

- No commodities will be purchased from bond funds.

CAPITAL DEVELOPMENT BOARD

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- Office/household equipment and furniture will be bondable.
- Machinery, implements and major tools will be bondable.
- Scientific instruments and apparatus will be bondable with the exception of those items that are subject to a short useful life, i.e., glassware, tubing, crockery, light bulbs, etc.
- Library books, maps and paintings are not bondable.
- Livestock, for any use, is not bondable.
- Rolling stock, including cars, trucks and boats and related items, are not bondable.
- Spare and replacement parts are not bondable.
- Transportation costs and installation costs incurred with an outside source will be considered as part of the equipment cost.
- Computer hardware meeting the requirements of this list is considered bondable.

"Federally Qualified Health Center" or "FQHC" means a health center funded under section 330 of the Public Health Service Act.

"FQHC Look-Alike" means an organization that meets the requirements for receiving a grant under section 330 of the Public Health Service Act, but does not receive federal grants under that authority.

"Grant" refers to funds awarded to a Community Health Center under the Act for the purpose of purchasing equipment; acquiring a new physical location for the purpose of delivering primary health care services; and/or constructing or renovating new or existing community health center sites. (Section 10-20 of the Act)

"Grantee" refers to a community health center that is the recipient of a capital grant under the Act.

CAPITAL DEVELOPMENT BOARD

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"Medically underserved area" or "MUA" means an urban or rural area designated by the Secretary of the United States Department of Health and Human Services as an area with a shortage of personal health services. (Section 10-5 of the Act)

"Medically underserved population" or "MUP" means the population of an urban or rural area designated by the Secretary of the United States Department of Health and Human Services as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of those services. (Section 10-5 of the Act)

"Primary health care services" means the following:

Basic health services consisting of the following:

Health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and, if appropriate, physician assistants, nurse practitioners, and nurse midwives.

Diagnostic laboratory and radiologic services.

Preventive health services, including the following:

Prenatal and perinatal services.

Screenings for breast, ovarian, and cervical cancer.

Well-child services.

Immunizations against vaccine-preventable diseases.

Screenings for elevated blood lead levels, communicable diseases, and cholesterol.

Pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care.

Voluntary family planning services.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

Preventive dental services.

Emergency medical services.

Pharmaceutical services as appropriate for particular health centers.

Referrals to providers of medical services and other health related services (including substance abuse and mental health services).

Patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to federal, State, and local programs that provide or financially support the provision of medical, social, educational, or other related services.

Services that enable individuals to use the services of the health center (including outreach and transportation services and, if a substantial number of the individuals in the population are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of those individuals).

Education of patients and the general population served by the health center regarding the availability and proper use of health services.

Additional health services consisting of services that are appropriate to meet the health needs of the population served by the health center involved and that may include the following:

Environmental health services, including the following:

Detection and alleviation of unhealthful conditions associated with water supply.

Sewage treatment.

Solid waste disposal.

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NOTICE OF PROPOSED RULES

Detection and alleviation of rodent and parasite infestation.

Field sanitation.

Housing.

Other environmental factors related to health.

Special occupation-related health services for migratory and seasonal agricultural workers, including the following:

Screening for and control of infectious diseases, including parasitic diseases.

Injury prevention programs, which may include prevention of exposure to unsafe levels of agricultural chemicals, including pesticides. (Section 10-5 of the Act)

"Project" means a capital plan to:

acquire a new physical location, which may include necessary construction, renovations and/or real property or equipment purchases, to establish a new community health center site to provide primary health care services to medically underserved populations or areas or to provide primary health care services to the uninsured population of Illinois; or

renovate existing health center sites; purchase equipment to expand the services of an existing CHC site to provide primary health care services to medically underserved populations or areas or to provide primary health care services to the uninsured population of Illinois; or prevent or reverse the deterioration of existing health center structures or mechanical operations to prevent life, health or safety concerns for health center staff and patients.

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

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

"Service area" is the geographic area composed of the Medically Underserved Area or Medically Underserved Population.

"Uninsured population" means persons who do not own private health care insurance, are not part of a group insurance plan, and are not eligible for any State or federal government-sponsored health care program. (Section 10-5 of the Act)

"Urban" means any geographic area not designated as a rural area.

Section 42.110 Incorporated and Referenced Materials

- a) The following Illinois statutes and rules are referenced in this Part:
 - 1) Community Health Center Construction Act [30 ILCS 766]
 - 2) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
 - 3) Illinois Grant Funds Recovery Act [30 ILCS 705]
- b) The following federal statute is referenced in this Part:

Public Health Service Act (42 USC Ch. 6A)
- c) The following federal guidelines are incorporated in this Part:
 - 1) "Defining Scope of Project and Policy for Requesting Changes" (Policy Information Notice (PIN) number 2008-01), December 31, 2007, U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Primary Health Care Policy, Office of Grants Management, 4350 East West Highway, Bethesda, Maryland 20814
 - 2) "Federally Qualified Health Center Look-Alike Guidelines and Application" (PIN number 2009-06), September 22, 2009, U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Primary Health Care Policy, Office of

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

Grants Management, 4350 East West Highway, Bethesda, Maryland
20814

- d) The following federal regulation is incorporated in this Part:
- Grants for Community Health Services (42 CFR 51c, October 1, 2007)
- e) All incorporations by reference of federal regulations and guidelines refer to materials on the date specified and do not include any subsequent amendments or editions.

SUBPART B: GRANTS TO FUND
COMMUNITY HEALTH CENTER CAPITAL PROJECTS

Section 42.200 Grants

- a) *The Board shall establish a Community Health Center Construction Grant Program and may make grants to eligible community providers subject to appropriations for that purpose. The grants shall be for the purpose of:*
- 1) *Purchasing equipment;*
 - 2) *Acquiring a new physical location for the purpose of delivering health care services; or*
 - 3) *Constructing or renovating new or existing community health center sites.*
- b) *A recipient of a grant to establish a new community health center site must add each such site to the recipient's established service area for the purpose of extending federal FQHC or FQHC Look-Alike status to the new site in accordance with federal regulations (see 42 CFR 51c). (Section 10-10 of the Act) Failure to comply with this Part or any other State regulation may result in the recovery of grant funds as described in the Illinois Grant Funds Recovery Act.*
- c) The Department and Board will provide notice that the grant application process is open on the Board's website and through other venues. The notice shall include a deadline for receiving applications and details of the application process.

Section 42.210 Eligibility for Grant

CAPITAL DEVELOPMENT BOARD

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To be eligible for a grant under the Act and this Part, a recipient must be a community provider as defined in Section 10-5 of the Act. (Section 10-15 of the Act)

- a) Applicants shall meet the following requirements:
 - 1) Be an FQHC or FQHC Look-Alike;
 - 2) Serve, in whole or in part, a designated MUA or MUP;
 - 3) Meet requirements for FQHC grantees and Look-Alikes under section 330 of the Public Health Service Act; and
 - 4) Offer primary health care services.
- b) Applicants may only submit one application for funding per application period under the Act; however, one application may request funding for multiple community health center sites.
- c) Letter of Intent
At least 30 days prior to the application submission deadline, the applicant shall send a letter of intent to apply for grant funds to the Department and the Board that includes the following:
 - 1) The proposed grant project description, location and applicant.
 - 2) The proposed users of the primary health care services and service area, including identification of any MUA or MUP designations.
 - 3) Issues creating a high need for primary health care services, including any significant or unique barriers to care.
 - 4) Other providers of care in the service area, including any other FQHCs under section 330 of the Public Health Service Act.
 - 5) All primary health care services to be provided, including mental health, substance abuse and oral health care services, as well as the mechanism for providing each service (e.g., direct service, referral).

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- 6) Project stage of development and the ability of the applicant to meet the requirements of this Part for program compliance.
 - 7) Readiness to receive funding, including the ability of the facility and providers at the new access point or expanded facility to be operational upon completion of the capital portion of the project.
- d) Notification Process
Upon sending the Letter of Intent, the prospective applicant shall send a copy of the "Notification of Application for State Funding of Community Health Center Construction" to other FQHCs and FQHC Look-Alikes in the service area. The application packet submitted to the Department and the Board shall include a copy of the completed notification form, as well as the names and addresses of individuals to whom the forms were sent, the organizations that the individuals represent, and the date of the notification.
- e) Application
The application format shall include, but not be limited to:
- 1) A summary of the applicant's plan of action to address the goals of either:
 - A) Establishing a new CHC site to provide primary health care services to MUP or MUA or to provide primary health care services to the uninsured population of Illinois; or
 - B) Expanding the services of an existing CHC site to provide primary health care services to MUP or MUA or primary health care services to the uninsured population of Illinois; or
 - C) Preventing or reversing the deterioration of an existing health center structure or its mechanical operations to prevent life, health or safety concerns for health center staff and patients.
 - 2) A project narrative that shall include the following information:
 - A) Proposed service area and applicant description;
 - B) Statement of need for the project;

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

- C) Project objectives;
- D) Plan of operation;
- E) Project timeline;
- F) Budget; and
- G) Plan to include project in applicant's federal scope of project.

Section 42.220 Program Requirements

- a) Projects *shall be for the purpose of:*
 - 1) Acquiring a new physical location, which may include necessary construction, renovation and/or real property or equipment purchases, to *establish a new community health center site to provide primary health care services to medically underserved populations or areas or to provide primary health care services to the uninsured population of Illinois; or*
 - 2) Renovating existing sites or purchasing equipment to expand the services of an existing CHC site to provide *primary health care services to medically underserved populations or areas or to provide primary health care services to the uninsured population of Illinois, or to prevent or reverse the deterioration of existing health center structures or mechanical operations to address life, health or safety concerns for health center staff and patients. (Section 10-10 of the Act)*
- b) All projects awarded under the Act must be added to the applicant's federal scope of project according to the U.S. Department of Health and Human Services Policy Information Notice (PIN) Number 2008-01 "Defining Scope of Project and Policy for Requesting Changes" or submit an application for section 330 funding.
- c) Projects that are managed by FQHC Look-Alikes shall comply with the U.S. Department of Health and Human Services Policy Information Notice (PIN) Number 2009-06 "Federally Qualified Health Center Look-Alike Guidelines and Application".

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- d) Projects that include construction, renovation or equipment for leased property shall include a long-term lease agreement of a minimum of 10 years.

Section 42.230 Use of Grant Moneys

- a) *A recipient of a grant under the Act and this Part may use the grant moneys to do any one or more of the following:*
 - 1) *Purchase equipment.*
 - 2) *Acquire a new physical location for the purpose of delivering primary health care services.*
 - 3) *Construct or renovate new or existing community health center sites.*
(Section 10-20 of the Act)
- b) Grant funds shall not be used for the following:
 - 1) To offset existing debt;
 - 2) To supplant existing funds that support a service, program or activity for which grant support is requested; or
 - 3) To fund expenses associated with the operations of the health center.

Section 42.240 Application Evaluation Process

The Department, in consultation with the Board, will review applications for eligibility. Applications meeting all eligibility requirements will be forwarded to a review committee. Those applications that are determined to be ineligible will be returned to the applicant and will not be eligible for review.

- a) The review committee will consist of volunteers who have worked with uninsured populations or MUA or MUP and, when possible, have prior grant review experience and who represent different geographic areas in the State.
- b) The review committee will review the grant applications based upon the following:

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

- 1) Documented need for the project.
 - 2) Ability to successfully complete project objectives described in the grant application.
 - 3) Ability to implement and sustain the health center's new operations upon completion of the capital project including the plan to include the project in the applicant's federal scope of project.
- c) Applications will be submitted to the Board for analysis of the project based on the realistic budget and timeline for the completion of the project, including a detailed description of additional funds to be used toward the applicant's financial contribution if applicable and the readiness of the project to begin once the funds are awarded.
- d) Upon completion of the review committee's evaluation, the Department and the Board will give preference:
- 1) To applicants who demonstrate the project will result in increased access to health care for new service area residents.
 - 2) To applicants who have never been a grantee of the Community Health Center Construction Grant program under a Public Act that initially appropriates or re-appropriates capital funds for this program.
 - 3) To applicants to distribute the grants geographically from the Chicago area, downstate urban, and rural areas.

Section 42.250 Grant Award Process

- a) Grants will be awarded by the Board based on the combined scores of the review committee, the Department and the Board.
- b) Applicants may apply for up to \$3 million per application period and must demonstrate their ability to obtain balance of funds for projects totaling more than \$3 million.
- c) Grants will be awarded based on the availability of funding within a given application period.

CAPITAL DEVELOPMENT BOARD

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Section 42.260 Reporting

- a) *The grant recipient must submit a progress report to the Board and the Department. The Department may assist each grant recipient in meeting the goals and objectives stated in the original grant proposal submitted by the recipient, and may assist the grant recipient in ensuring that grant moneys are being used for appropriate purposes, and that residents of the community are being served by the new community health center sites established with grant moneys. (Section 10-25 of the Act)*
- b) For grants in excess of \$25,000, the grant recipient must submit quarterly reports to the Board and the Department describing the progress of the program, project, or use and the expenditure of the related grant funds.

Section 42.270 Payment Schedules

Grant funds will be disbursed as agreed to in the grant agreement.

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Relocation Towing
- 2) Code Citation: 92 Ill. Adm. Code 1710
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1710.10	Amend
1710.22	Amend
1710.33	Amend
1710.34	New Section
1710.35	New Section
1710.40	Amend
1710.44	Amend
1710.46	Amend
1710.52	Amend
1710.60	Amend
1710.91	Amend
1710.94	New Section
1710.122	Amend
1710.123	Amend
1710.131	Amend
1710.147	New Section
1710.150	Amend
1710.170	Amend
1710.190	New Section
1710.191	New Section
1710.192	New Section
- 4) Statutory Authority: Implementing Section 18a-101 and authorized by Section 18a-200 of the Illinois Commercial Relocation of Trespassing Vehicles Law [625 ILCS 5/18a-101 and 18a-200]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking revises the rules of the Illinois Commerce Commission relating to the relocation of trespassing vehicles. The rulemaking contains revisions intended to update references and to clarify current administrative and enforcement practices.

The specific changes include expanding the elements of the fitness test to include compliance with the Illinois Workers' Compensation Act; the addition of a standard of proof for relocater license applicants; prohibiting individuals under the age of 18 years

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

from obtaining operator employment permits; defining spotters and requiring spotters to obtain dispatcher employment permits; requiring dispatchers employments to be endorsed by the relocator; clarifying the status of a relocation towing license upon the death of a business owner or upon the filing of an application for renewal; exempting law enforcement vehicles from commercial relocation; prohibiting persons other than the licensed operator and assistant from riding in the cab of a tow truck; prohibiting "anti-spotting" operations; limiting the removal of towing signage to the signs' owner or the property owner; making all relocation towing contracts expire two years after their effective date and requiring all contract summaries to be electronically filed with the Commission; requiring relocators to maintain call logs for tows made from call-only lots; requiring relocated vehicles to be stored securely and separate from other stored vehicles; setting forth nine specific instances where towing fees are to be refunded to a vehicle owner; and requiring relocation tow invoices to be completely filled in at the time a vehicle is released.

New sections are added to resolve enforcement issues that have arisen since the Commission's jurisdiction was expanded to include the commercial relocation of trespassing vehicles weighing in excess of 10,000 pounds. Specifically, the new Sections require relocators to ascertain the weight of vehicles being relocated and set forth rebuttable presumptions to aid in this process; require relocators to separate certain multi-unit vehicles prior to relocation; and require the use of appropriate equipment to relocate medium duty or heavy duty vehicles.

Minor wording and grammatical changes are also being made.

- 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: The proposed rulemaking implements the Illinois Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-100 et seq., which is only applicable to five counties in Illinois. The proposed rulemaking contains revisions

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intended to clarify current administrative and enforcement practices concerning the regulation of relocation towing within these counties.

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* with:

Wil Nagel
Office of Transportation Counsel
Illinois Commerce Commission
160 N. LaSalle Street, Suite C-800
Chicago, Illinois 60601

wnagel@icc.illinois.gov

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking will affect small businesses that are currently operating as licensed commercial relocation towers in the State of Illinois and that are small businesses as defined in the Illinois Administrative Procedure Act. This rulemaking will not affect any small municipalities or not for profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance: Licensed commercial relocators will be required to maintain a call log documenting tows conducted pursuant to a written authorization that specifies that trespassing vehicles will be removed from the property upon request. Relocators will further be required to renew contracts with property owners every two years.
- C) Types of professional skills necessary for compliance: None

- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on previous regulatory agendas because: the Commission did not anticipate the need at that time. Many of the administrative and enforcement issues addressed by the rulemaking arose when the Commission's jurisdiction was expanded, effective January 1, 2008, to include the relocation of trespassing vehicles weighing in excess of 10,000 pounds.

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

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TITLE 92: TRANSPORTATION
CHAPTER III: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER d: RELOCATION TOWINGPART 1710
RELOCATION TOWING

SUBPART A: MISCELLANEOUS PROVISIONS

Section
1710.10 Definitions

SUBPART B: APPLICATIONS FOR RELOCATOR'S,
OPERATOR'S AND DISPATCHER'S LICENSES

Section
1710.20 Application Forms
1710.21 Notice of Applications
1710.22 Policy on Applications

SUBPART C: RELOCATOR'S, OPERATOR'S AND DISPATCHER'S LICENSES

Section
1710.30 Licenses Conditioned Upon Compliance
1710.31 Licenses To Be Carried by Holder
1710.32 Alteration of Licenses
1710.33 Relocator's Endorsement of Operator's and Dispatcher's Licenses~~License~~
1710.34 Status of License Upon Death of Business Owner
1710.35 Status of License Upon Application for Renewal

SUBPART D: PROHIBITED ACTIVITIES

Section
1710.40 Relocating Vehicles From Authorized Spaces
1710.41 Relocating Vehicles From Private Property Without Authorization From Property
Owner
1710.42 Relocation of Vehicles Not in Accordance with Proper Posting
1710.43 Relocating Vehicles Where Owner or Driver is Present
1710.44 Unsafe Operation of ~~Unsafe~~ Vehicles

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- 1710.45 Transacting Business at Unauthorized Locations
- 1710.46 ~~Operations at Posting Signs At~~ Locations Where the Relocator Is Not Authorized
~~to To~~ Operate
- 1710.47 Certain Types of Compensation to Relocators Prohibited
- 1710.48 Compensation to Property Owners and Others

SUBPART E: POSTING OF SIGNS

- Section
- 1710.50 Posting Requirements
- 1710.51 Sign Specifications
- 1710.52 Removal of Signs

SUBPART F: VEHICLE IDENTIFICATION

- Section
- 1710.60 Vehicle Identification Requirement

SUBPART G: INSURANCE REQUIREMENTS

- Section
- 1710.70 Licenses Conditioned Upon Compliance With Insurance Requirements
- 1710.71 Proof of Insurance or Bond Coverage
- 1710.72 Relocator's Liability

SUBPART H: REQUIRED NOTIFICATIONS

- Section
- 1710.80 Notification of Law Enforcement Agencies
- 1710.81 Notification of the Commission

SUBPART I: BOOKS AND RECORDS

- Section
- 1710.90 Records of Individual Relocation Tows (Repealed)
- 1710.91 Written Authorizations to Relocate/Contracts
- 1710.92 Accounting and Maintenance of Books and Records
- 1710.93 Audit and Inspection of Books and Records
- 1710.94 Call Logs

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SUBPART J: ANNUAL REPORTS

- Section
1710.100 Filing Requirements

SUBPART K: INFORMATION PROVIDED TO THE PUBLIC BY RELOCATORS

- Section
1710.110 Public Information Pamphlets
1710.111 Informal Complaint Form

SUBPART L: RECLAIMING RELOCATED VEHICLES

- Section
1710.120 Conditions Under Which Vehicles Are to Be Released
1710.121 Identification of Vehicle Owner or Driver
1710.122 Payment of Fees and Charges
1710.123 Hours During Which Vehicles May be Reclaimed

SUBPART M: STORAGE LOTS

- Section
1710.130 Ownership and Identification of Storage Lots
1710.131 Security of Storage Lots
1710.132 Attendance at Storage Lots
1710.133 Maintenance of Records at Storage Lots
1710.134 Secondary Storage Lots

SUBPART N: ENFORCEMENT

- Section
1710.140 Imposition of Sanctions
1710.141 Informal Settlement in Lieu of Formal Proceeding
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1710.147 Refunding Fees to Vehicle Owners

SUBPART O: LEASING

Section

- 1710.150 Leasing Requirements
1710.151 Supervision and Control of Leased Equipment with Drivers
1710.152 Leases to be Exclusive

SUBPART P: FEES

Section

- 1710.160 Fees

SUBPART Q: RECORDS OF INDIVIDUAL RELOCATION TOWS

Section

- 1710.170 Relocation Tow Record Form
1710.171 Use and Retention of Relocation Tow Record Forms
1710.172 Public Notice

SUBPART R: DISPOSITION OF UNCLAIMED VEHICLES

Section

- 1710.180 Disposition of Unclaimed Vehicles

SUBPART S: MEDIUM DUTY AND HEAVY DUTY TOWINGSection

- 1710.190 Establishing Vehicle Weights
1710.191 Towing Multi-Unit Vehicles
1710.192 Medium Duty or Heavy Duty Towing Equipment Necessary

AUTHORITY: Implementing Section 18a-101 and authorized by Section 18a-200 of the Illinois Commercial Relocation of Trespassing Vehicles Law [625 ILCS 5/18a-101 and 18a-200].

SOURCE: Adopted at 3 Ill. Reg. 22, p. 49, effective may 28, 1979; amended at 7 Ill. Reg. 4142, effective April 1, 1983; codified at 8 Ill. Reg. 8912; Part recodified at 10 Ill. Reg. 18012; old Part repealed and new Part adopted at 11 Ill. Reg. 17718, effective October 15, 1987; peremptory

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amendment at 12 Ill. Reg. 1630, effective December 23, 1987; amended at 14 Ill. Reg. 10310, effective July 1, 1990; amended at 18 Ill. Reg. 8609, effective May 20, 1994; expedited correction at 18 Ill. Reg. 15646, effective May 20, 1994; amended at 22 Ill. Reg. 16200, effective August 31 1998; amended at 28 Ill. Reg. 13220, effective October 1, 2004; amended at 34 Ill. Reg. _____, effective _____.

SUBPART A: MISCELLANEOUS PROVISIONS

Section 1710.10 Definitions

The following terms, when used in this Part, shall have the meanings ascribed to them in this Section.

"Addendum". A supplement to an existing lease.

"Air Mile". A distance of 5,280 feet as depicted on the Official Illinois Highway Map, by reference to the distance scale shown on that map, without regard to roads, streets or routes.

"Commission". The Illinois Commerce Commission.

"Equipment". Any truck designed or altered and equipped for and used to push, tow or draw vehicles by means of a crane, hoist, tow bar, towline or auxiliary axle, and rollback carriers when used to transport vehicles.

"Heavy Duty Tow". The relocation towing of a vehicle weighing greater than 40,000 pounds.

"Law". The Illinois Commercial Relocation of Trespassing Vehicles Law [625 ILCS 5/Ch. 18a].

"Lease". A written document vesting possession, use, control and responsibility in the lessee during the periods the vehicle is operated by or for the lessee.

"Lessee". In a lease, the party acquiring the use of equipment, with or without driver, from another.

"Lessor". In a lease, the party granting the use of equipment, with or without driver, to another.

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"Medium Duty Tow". The relocation towing of a vehicle weighing greater than 10,000 pounds but less than or equal to 40,000 pounds.

"Owner". A person to whom title to equipment has been issued, or who, without title, has the right to exclusive use of equipment, for a period longer than 30 days, or who has lawful possession of equipment, registered and licensed in any state in the name of that person.

"Relocated", "~~Relocating~~~~relocating~~", and "~~Relocation~~~~relocation~~". Refer to the towing of trespassing vehicle from private property. A tow from public property is not a relocation tow. A tow from private property pursuant to explicit authorization from the vehicle owner or owner's agent is not a relocation tow.

"Semi-tractor" and "Truck Tractor". Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn. [625 ILCS 5/1-2 12]

"Spotter". Any person who, as an employee or agent of a commercial vehicle relocater, observes vehicles and drivers entering a parking lot to identify trespassing vehicles and then contacts the relocater or an operator to remove the trespassing vehicle.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART B: APPLICATIONS FOR RELOCATOR'S,
OPERATOR'S, AND DISPATCHER'S LICENSES

Section 1710.22 Policy on Applications

- a) Relocator's Licenses.
 - 1) The Commission shall consider, with regard to applications for new or renewed relocater's licenses, the criminal conviction records (see Section 1710.22(b)(1)) of the applicant, its owners or controllers, directors, officers, ~~members, managers,~~ employees and agents; the safety record of ~~thosesaid~~ persons; the compliance record of ~~thosesaid~~ persons; the equipment, facilities and storage lots of the applicant; and other facts

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~~that~~which may bear on their fitness to hold the license ~~applied for~~.

2) The Fitness Test.

A) No person shall be deemed fit to hold a relocator's license unless the person:

i) Owns, or has exclusive possession of under a written lease with a term of at least 1 year, at least one storage lot ~~that~~which meets the requirements of Subpart M;

ii) Employs sufficient full-time employees at each storage lot to comply with Section 1710.123;

iii) Owns or has under exclusive lease at least 2 tow trucks dedicated to use under the relocator's license; ~~and~~

iv) Employs at least 2 individuals who will work as the relocator's operators; and-

v) Is in compliance with Section 4 of the Illinois Workers' Compensation Act [820 ILCS 305/4].

B) If the person is an applicant for a new relocator's license or the extension of a relocator's license, the requirements of subsection (a)(2)(A) must be met at the time of the hearing.

C) If the person is an applicant for renewal of a relocator's license, the requirements of subsection (a)(2)(A) must have been met throughout the previous year.

D) Each applicant for a relocator's license shall have the burden of proving its fitness by clear and convincing evidence.

b) Operator's and Dispatcher's Licenses.

1) The Commission shall consider, with regard to applications for new or renewed operator's and dispatcher's licenses, any record of the applicant of convictions involving injury or death to persons, use of a deadly weapon,

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injury to property, or unlawful taking of property; crimes relevant to the determination of the credibility of a witness; or of violation of the Law or this Part.

- 2) No provisional licenses shall be issued to persons who have been convicted of ~~such~~ crimes specified in subsection (b)(1) within the 5 year period preceding filing of the application, or to persons who are defendants in pending criminal proceedings involving ~~those~~~~such~~ crimes. The Commission may deny a provisional license to any person with a record of violations of the Law or this Part. In determining whether to deny a provisional license on the basis of violations of the Law or this Part, the Commission will consider such factors as the type of violation, when the violation occurred, and the age of the applicant at the time of the violation. The Commission may also deny a provisional license on the basis of the applicant's criminal or driving record, in the case of an application for a provisional operator's license,~~;~~ or on the basis of the applicant's criminal record, in the case of an application for a provisional dispatcher's license. In determining whether to deny a provisional license on the basis of a criminal or driving record, the Commission will consider such factors as the type of crime, when the crime occurred, and the age of the applicant at the time of the incident.
- 3) ~~When~~~~Where~~ the applicant has a record of convictions for ~~such~~ crimes specified in subsection (b)(1), or ~~where~~ the applicant was convicted for ~~those~~~~such~~ crimes, or ~~where~~ the applicant was convicted more than 5 years prior to filing the application, or ~~where~~ the applicant has a record of violations of the Law or this Part, the application for a permanent license shall be set for hearing.
- 4) Applications for operator employment permits shall be accompanied by written proof from the Secretary of State that the applicant has a valid driver's license.
- 5) No person under the age of 18 years shall be issued an operator employment permit.
- 6) A spotter must obtain a dispatcher employment permit prior to performing spotting services for a relocater.

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- c) In making the finding that an applicant previously convicted constitutes no threat to public safety (see 625 ILCS 5/18a-404(c)), the Commission will consider such factors as the findings of the convicting court, the sentence imposed, the age of the applicant at the time of conviction, the age at the time of application, the nature of the arrest, and the length of time since the arrest that resulted in the conviction.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART C: RELOCATOR'S, OPERATOR'S AND DISPATCHER'S LICENSES

Section 1710.33 Relocator's Endorsement of Operator's and Dispatcher's Licenses License

- a) Operators and dispatchers are licensed to operate only under authority of a relocator's license. As evidence that operations are under authority of a relocator's license, an owner or officer of the relocator must endorse the license by completing a form showing:
- 1) The name and license number of the operator or dispatcher as they appear on the operator's or dispatcher's license;
 - 2) The name and license number of the relocator, as they appear on the relocator's license; and
 - 3) A statement that "the referenced ~~operator's~~ license is endorsed by the referenced relocator," followed by the signature of the owner or officer and a statement of the capacity of the signatory.
- b) Endorsements of an operator's or dispatcher's license, once made by a relocator, shall become effective only when a copy is filed with the Commission. The endorsement shall remain in effect until written notice of cancellation is filed with the Commission.
- c) Operation under an operator's or dispatcher's license ~~that~~ which does not have a valid, current endorsement by a licensed relocator is not authorized by the relocator's license and shall constitute relocating without a license in violation of Section 18a-300(1) of the Law [625 ILCS 5/18a-300(1)].
- d) Employment or use of any operator who does not have a valid, current

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endorsement by the relocator shall constitute the employment or use of an unlicensed operator in violation of Section 18a-300(2) of the Law [625 ILCS 5/18a-300(2)].

- e) Employment or use of any dispatcher who does not have a valid, current endorsement by the relocator shall constitute the employment or use of an unlicensed dispatcher in violation of Section 18a-300(3) of the Law [625 ILCS 5/18a-300(3)].
- f)e) A valid, current endorsement shall be affixed to and carried in the vehicle with the operator's license at all times when the vehicle is being operated under authority of the relocator's license.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1710.34 Status of License Upon Death of Business Owner

- a) The death of a sole proprietor immediately terminates the relocator's license issued to the sole proprietorship.
- b) The death of one partner immediately terminates the relocator's license issued to the partnership.
- c) The death of a sole shareholder immediately terminates the relocator's license issued to the corporation except when the corporation, within 5 days after the shareholder's death, applies for a new relocator's license identifying the new shareholder or shareholders.
- 1) The corporation may continue operating under its original relocator's license until the Commission enters a final order either revoking the original relocator's license or granting the corporation's application for a subsequent relocator's license under the direction of the new shareholder or shareholders.
- 2) Under no circumstances shall the corporation be permitted to continue operating under its original relocator's license for a period greater than 365 days after the date of the sole shareholder's death.
- d) The death of a shareholder immediately terminates the relocator's license issued to

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the corporation except when the remaining shareholder or shareholders acquire all of the deceased shareholder's interests in the corporation and the corporation, within 5 days after the shareholder's death, updates the Commission's records concerning the remaining shareholder's or shareholders' ownership interests in the corporation.

- e) If the Commission does not receive the appropriate filings under subsections (c) and (d) within the 5 day limit, the Commission shall immediately terminate the relocator's license and the corporation shall cease its relocation towing operations.
- f) The death of a member of a limited liability company shall be treated in the same manner as the death of a shareholder of a corporation.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 1710.35 Status of License Upon Application for Renewal

- a) Applications for renewal of a relocator's license shall be filed with the Commission no earlier than 90 days and no later than 45 days prior to the license expiration date.
- b) Relocators that file an application for renewal within the time frame set forth in subsection (a) may continue their relocation towing operations until the Commission enters a final order regarding the renewal application.
- c) Relocators that fail to file an application for renewal within the time frame set forth in subsection (a) must cease relocation towing operations on the license expiration date and may not conduct relocation towing operations until the Commission enters a final order regarding the renewal application.

(Source: Added at 34 Ill. Reg. _____, effective _____)

SUBPART D: PROHIBITED ACTIVITIES

Section 1710.40 Relocating Vehicles From Authorized Spaces

- a) No vehicle shall be relocated if it is parked in a space on private property where it is authorized to be parked.

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b) Relocated vehicles must be towed directly from the initial point of the tow to the relocator's facility that is indicated on the relocator's signs posted on the property in conformance with Section 1710.51.

c) No vehicle owned by a law enforcement agency shall be relocated if it is parked on private property for a law enforcement purpose.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1710.44 Unsafe Operation of Unsafe Vehicles

a) No relocator shall operate any vehicle ~~that~~which does not display a valid Illinois Safety Test Inspection Sticker and conform to the requirements of 625 ILCS 5/12-606.

b) No one other than the licensed operator or assistant shall ride in the cab of a vehicle being operated under authority of a relocator's license.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1710.46 Operations~~Posting Signs~~ at Locations Where the Relocator Is Not Authorized to Operate

a) No relocator shall post a sign at a location in an incorporated area more than 10 air miles from a storage lot to which the relocator can relocate vehicles in compliance with this Part.

b) No relocator shall post a sign at a location in an unincorporated area more than 15 air miles from a storage lot to which the relocator can relocate vehicles in compliance with this Part.

c) No relocator shall allow an employee or agent to advertise or disclose relocation towing operations or spotting activities taking place at any location where that relocator is not authorized to operate.

d) No relocator shall tow a vehicle from public property under the authority of its relocator's license.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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SUBPART E: POSTING OF SIGNS

Section 1710.52 Removal of Signs

- a) The relocator must remove all signs from private property within 10 days after:
- 1a) the relocator receives notice of termination of the contract; or
 - 2b) the contract with property owner, lessee or agent expires; or
 - 3e) authorization from the property owner, lessee or agent is withdrawn.
- b) Only the owner of the signage or the property owner is permitted to remove relocation towing signage.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART F: VEHICLE IDENTIFICATION

Section 1710.60 Vehicle Identification Requirement

Except as provided in this Section, each vehicle operated under authority of a relocator's license must bear the full legal name of the relocator, as it appears on the relocator's license, together with the address and telephone number of the relocator. ~~This~~Such information shall be in characters not less than 2 inches in height, and in colors contrasting with the color of the background against which the information is painted or printed. All identification must be painted or firmly affixed to both sides of the cab of the vehicle.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART I: BOOKS AND RECORDS

Section 1710.91 Written Authorizations to Relocate/Contracts

- a) Each relocator shall maintain a file of all written authorizations to relocate vehicles, and of contracts relating to the relocation of vehicles~~thereto~~.
- b) Each contract between a relocator and one or more property owners, lessees, or

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agents shall state:

- 1) The name of the relocator and all other parties to the contract;
 - 2) The location of each property to which the contract applies;
 - 3) A description of all services to be provided by the relocator; and
 - 4) A description of all compensation to be received by the relocator.
- c) Each contract shall also provide that:
- 1) Signs posted on the property in compliance with this Part are the property of the relocator;
 - 2) The relocator has the right to enter the property for purposes of posting and removing signs;
 - 3) The contract shall not be terminated except on 10 days notice; and
 - 4) The contract is the exclusive statement of terms between the parties.
- d) The provisions required under subsection (c) shall be implied if not expressly stated in the contract.
- e) The provisions of subsections (c)(1) and (c)(2) shall remain in effect until all signs have been removed by the relocator, notwithstanding the termination of the contract for other purposes.
- f) Contract Summary.
- 1) No authorization to tow or contract shall be effective until a completed copy of the Commission's Relocator Contract Summary form covering the authorization or contract has been ~~filed~~/received ~~viaby~~ U.S. mail, hand delivery; ~~faecsimile~~, or electronic filing, and accepted by the Commission.
 - 2) Only one authorization to tow or contract shall be in effect for any lot at any time. No other authorization or contract shall become effective until the prior authorization has been cancelled and notice of cancellation is

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filed with the Commission.

- 3) Relocator Contract Summaries shall be filed electronically with the Commission. Summaries shall state whether trespassing vehicles will be removed from the property on a patrol basis or only when contacted by the property owner, lessee or agent. When one authorization to tow applies to multiple parking lot locations, each address shall be filed electronically with the Commission.
- 4) Notices of cancellation shall be filed with the Commission at the following address:

Illinois Commerce Commission Police
9511 West Harrison Street
Des Plaines, Illinois 60016

g) Expiration and Renewal of Contracts.

- 1) All written authorizations to relocate vehicles signed on or after August 1, 2010 shall expire two years after the date of the property owner's, lessee's or agent's signature.
- 2) All written authorizations to relocate vehicles in effect prior to August 1, 2010 shall expire on August 1, 2012.
- 3) Written authorizations to relocate vehicles are not transferrable from one property owner to the next owner.
- 4) Relocator Contract Summaries for all renewed contracts not already electronically filed with the Commission shall be electronically filed upon renewal.
- 5) Relocator Contract Summaries for renewed contracts already electronically filed with the Commission shall be updated upon renewal.
- 3) ~~Relocator Contract Summaries and notices of cancellation shall be filed with the Commission at the following address:~~

~~Illinois Commerce Commission~~

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~~Transportation Division
477 South River Road
Des Plaines, Illinois 60016~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1710.94 Call Logs

Relocators shall retain a Call Log for tows conducted pursuant to a written authorization that specifies that trespassing vehicles will be removed from the property only when contacted by the property owner, lessee or agent. The Call Log shall contain:

- a) The date and time of the request to tow a trespassing vehicle;
- b) The address of the property from which the vehicle is to be relocated;
- c) The password or code phrase used to determine ~~that~~ the request is made by an authorized individual or the name of the authorized individual requesting the tow;
- d) The color, make, model and license number of the vehicle requested to be relocated;
- e) The date and time that law enforcement notification was made; and
- f) The contact information for the individual contacted at the law enforcement agency.

(Source: Added at 34 Ill. Reg. _____, effective _____)

SUBPART L: RECLAIMING RELOCATED VEHICLES

Section 1710.122 Payment of Fees and Charges

- a) Form of Payment. Relocators shall accept any of the following methods of payment for lawful fees and charges:
 - 1) United States currency;
 - 2) Commonly recognized travelers checks;

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- 3) Money orders;
 - 4) Cashier's checks;
 - 5) Certified checks; and
 - 6) Commonly accepted credit cards.
- b) No storage charge shall be assessed for storage of the vehicle after the vehicle is claimed, proper identification is produced, and payment is tendered in the amount and form authorized by this Section.
- c) No storage charges shall be assessed for storage of the vehicle on days or hours; ~~as noted on signs posted pursuant to Section 1710.51, when~~ the relocater is closed to the public.
- d) No storage charges greater than \$200 shall be assessed for storage of the vehicle if the vehicle had been reported as stolen prior to its relocation.
- e) No relocater shall assess, demand, accept, or receive any charge other than the lesser of:
- 1) The rate set by the Commission pursuant to Section 18a-200 ~~(6)(4)~~ of the Law [625 ILCS 5/18a-200 ~~(6)(4)~~]; or
 - 2) The rate posted on the relocater's sign as required by Section 1710.51(b).
- f) A relocater shall not assess, demand, accept, or receive any charge unless the relocater has complied with Sections 1710.50 and 1710.51 ~~of this Part~~.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1710.123 Hours During Which Vehicles May Be Reclaimed

Relocaters shall maintain business hours permitting the public to reclaim relocated vehicles during all hours that relocation operations are conducted and for 2 hours after the termination of relocation operations, and shall not impose storage charges for any days or hours during which the relocater is not open to the public for reclaiming vehicles as noted on ~~signs~~ sign posted

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pursuant to Section 1710.51.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART M: STORAGE LOTS

Section 1710.131 Security of Storage Lots

- a) Each lot to which vehicles may be transported or at which vehicles may be stored must be secured by fencing with locking gates, to prevent unauthorized access to relocated vehicles.
- b) Vehicles stored pursuant to a relocater's license must be kept secured and separate from other vehicles being stored by the relocater.
- c) Only individuals employed by the relocater may have access to relocated vehicles while they are being stored by the relocater.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART N: ENFORCEMENT

Section 1710.147 Refunding Fees to Vehicle Owners

- a) A relocater shall refund to a vehicle owner any tow and storage fees paid to the relocater in excess of the rate posted on the relocater's sign as required by Section 1710.51(b).
- b) A relocater shall refund to a vehicle owner the entire towing and storage fee when the Commission has determined the vehicle was:
 - 1) relocated from a lot that did not, at the time of the tow and for at least 24 hours prior, have signs posted in compliance with Sections 1710.50 and 1710.51;
 - 2) parked in a space on private property where it was authorized to be parked;
 - 3) relocated from private property in violation of Section 1710.43;

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- 4) relocated from private property in violation of the written authorization entered into with the property owner, lessee or agent;
- 5) relocated from private property for which there was no valid, written authorization in effect and on file with the Commission at the time of the tow;
- 6) relocated by an operator who did not have a valid operator's employment permit at the time of the tow;
- 7) relocated while the relocator's license was suspended or revoked; or
- 8) properly relocated but notification to a law enforcement agency was not timely made within 1 hour as required by Section 1710.80.

(Source: Added at 34 Ill. Reg. _____, effective _____)

SUBPART O: LEASING

Section 1710.150 Leasing Requirements

Licensed relocators may perform relocation towing with equipment they do not own only in accordance with the provisions of this Subpart.

- a) Each lease must be executed on the lease form provided by the Commission.
- b) A lease subject to this Part must be between the owner of the equipment (the lessor) and the relocator to which the equipment is leased (the lessee). The lease must be signed by each party or its authorized representative.
- c) The original and 2 copies of each completed (signed and dated) lease to which this Part applies must be filed with the Commission's Transportation Division at the following address:

Illinois Commerce Commission
Transportation Division
~~9511 West Harrison Street~~~~477 South River Road~~
Des Plaines, [Illinois](#) 60016

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- d) A filing fee as prescribed in Section 1710.160 of this Part shall be remitted with each lease.
- e) No operations shall be conducted under a lease to which this Part applies until a copy of the completed lease has been filed with Commission at the address specified [in subsection \(c\) above](#).
- f) When the lessee takes or relinquishes possession of the equipment, the relocater shall give the owner of the equipment a receipt stating the date and time of day possession is transferred.
- g) During the period of the lease, the lessee shall identify the equipment by attaching a placard with the identification of the lessee in compliance with Section 1710.60 [of this Part](#). A copy of the approved executed lease shall be carried in each piece of equipment covered [by the lease thereby](#).
- h) A copy of the completed written lease shall be retained as part of the lessee's records.
- i) The term of the lease shall not exceed 3 years. In the event that a relocater wishes to cancel a lease prior to the expiration date, the relocater may file a notice of cancellation with the Commission at the address [in subsection \(c\) above](#). Otherwise, the lease shall remain in effect until the expiration date stated in the lease or at the end of 3 years, whichever occurs first.
- j) In the event that the license held by the lessee is revoked, the lease shall no longer be valid.
- k) In the event that the lessee undergoes a name change, the lease shall be void from the date of the name change unless the lessee files an amendment to the lease showing the changes.
- l) Any term of a lease [that which](#) conflicts with the Illinois Commercial Transportation Law, Commission rules, or Commission orders is void.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART Q: RECORDS OF INDIVIDUAL RELOCATION TOWS

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Section 1710.170 Relocation Tow Record Form

- a) Relocation Tow Record Forms or Relocation Tow Record Numbers must be purchased from the Commission.
- b) A Relocation Tow Record Form or a form identified with a Relocation Tow Record Number and conforming to a Relocation Tow Record Form purchased from the Commission must be completed at the time a relocated vehicle enters the relocator's facility of relocation for each relocation a relocator performs, whether or not the relocated vehicle is subsequently reclaimed. The form will consist of an original and two copies. Each form will be identified by a serial number, which will also be printed on the copies.
- c) At the time a relocated vehicle is released, all data fields of the Relocation Tow Record Form must be accurately completed.
- d)e) The Relocation Tow Record Forms and Relocation Tow Record Numbers will be available only at the Commission's office at 9511 West Harrison Street 477 South River Road, Des Plaines, Illinois 60016, (847)294-4326. ~~The forms and numbers may be ordered from the Commission by sending a written request specifying the number of forms or numbers desired along with payment, or may be obtained in person during normal business hours.~~
- e)d) The price charged for the Relocation Tow Record Forms and the Relocation Tow Record Numbers shall be ~~\$10.00~~\$7.50 per form or number.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART S: MEDIUM DUTY AND HEAVY DUTY TOWING**Section 1710.190 Establishing Vehicle Weights**

- a) Relocators bear the burden of ascertaining the actual weight of the vehicle being towed. Relocators may request from the vehicle owner any documents that support a factual determination of the vehicle's weight, including, but not limited to, freight bills, bills of lading, scale weight tickets, pictures of vehicle stickers and owners manuals. Where the vehicle owner provides documents regarding the

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vehicle's actual weight, the relocator must maintain a copy of those documents to the same extent the Relocation Tow Record Form is maintained.

- b) The following rebuttable presumptions regarding the weights of medium duty and heavy duty vehicles will be applied to medium duty and heavy duty tows.
- 1) Semi-tractors weigh less than 40,000 pounds.
 - 2) Closed and locked semi-trailers are loaded and weigh greater than 40,000 pounds.
 - 3) Scrap containers and bottle trailers weigh greater than 40,000 pounds when unloaded.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 1710.191 Towing Multi-Unit Vehicles

- a) Relocators shall separate truck tractors from their trailers and tow the units separately. Relocation Tow Record Forms shall be prepared for each unit.
- b) Multi-unit vehicles that are towed in combination by one tow truck constitute one tow. Relocators shall only charge one tow fee, based upon the gross combined weight, to multi-unit vehicles towed in combination.
- c) When a multi-unit vehicle with a gross combined weight greater than 10,000 pounds is separated for towing purposes into separate units each weighing less than or equal to 10,000 pounds, relocators shall charge separate towing fees based upon the actual vehicle weights of the individual units. Relocation Tow Record Forms shall be prepared for each unit.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 1710.192 Medium Duty or Heavy Duty Towing Equipment Necessary

Relocators shall not conduct medium duty or heavy duty towing without the use of an appropriately-sized tow vehicle. Relocators shall not enter a medium duty or heavy duty vehicle for the purposes of driving it off of the property upon which it is trespassing.

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(Source: Added at 34 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Regulations for State Operating Assistance to Downstate Areas
- 2) Code Citation: 92 Ill. Adm. Code 653
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
653.10	Amend
653.20	Amend
653.30	Amend
653.40	Amend
653.90	New
653.100	Amend
653.110	Amend
653.111	New
653.112	New
653.113	New
653.114	New
653.120	Amend
653.130	Amend
653.200	Amend
653.205	New
653.210	Amend
653.220	Amend
653.230	Amend
653.240	Repeal
653.300	Amend
653.310	Amend
653.320	Amend
653.330	Amend
653.335	New
653.340	Amend
653.350	New
653.400	Amend
653.410	Amend
653.430	Amend
653.460	Amend
653.470	Repeal
- 4) Statutory Authority: Implementing and authorized by Articles I and II of the Downstate Public Transportation Act [30 ILCS 740/Articles I and II]

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- 5) A Complete Description of the Subjects and Issues Involved: The following summaries highlight significant changes the Department is making to update this Part:

At **Section 653.10, Program Overview**, a revision is being made pursuant to Section 2-2.04 of the Act to include Madison, Monroe and St. Clair Counties, for new appropriation funding purposes, as part of the Downstate Public Transportation Fund.

At **Section 653.20, Purpose**, a revision is being made for consistency with Section 2-2.04 of the Act.

At **Section 653.30, Definitions**, the Department is revising, adding and deleting definitions for clarification purposes, to update the Part and for consistency with the Act.

At **Section 653.40, Applicability**, the Department is updating this Section for consistency with the Act.

At **Section 653.90, Preliminary Grant Application**, the Department is adding new requirements concerning preliminary grant applications to assist the Governor's Office should future year appropriations need to reflect actual projected expenditures.

At **Section 653.110, Application Contents**, the Department is adding information concerning the availability of operating assistance applications by writing or calling the Department. The Department is also clarifying provisions concerning the submission of information on Department-prescribed forms that are part of the application for an operating assistance grant. A new requirement, consistent with the Act, is being added providing for 65% reimbursement of eligible operating expenses rather than 40%. Additionally, the Department has determined that the debt service provision in the current rule contradicts the Act and that additional operating information is required to address issues raised by the Governor's Office with respect to operational and financial impacts on potential legislative or State policy initiatives. Other provisions are being moved and reorganized to update and clarify the Part.

At **Section 653.111, Eligible Operating Expenses**, the Department is updating this Part, and this Section, for consistency with the Act by reorganizing provisions and clarifying that operating assistance grants will be made only for the reimbursement of expenses deemed eligible to the degree that they are required for the day-to-day provision of public transportation; are subject to independent documentation and audit verification; and

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reflect actual costs after reductions are applied for rebates and other special revenues. Eligible expenses are listed in the text of the rulemaking.

At **Section 653.112, Ineligible Operating Expenses**, the Department has updated the Part by reorganizing provisions and clarifying language for consistency with the Act. Ineligible expenses are listed in the text of the rulemaking.

At **Section 653.113, Reportable Income**, a new Section has been added to the Part, for consistency with the Act, concerning a listing of revenues that reduce the operating deficit and, therefore, must be reported to the Department.

At **Section 653.114, Accounting and Documentation**, the Department is adding this Section to bring the Part into conformance with current practice. This Section also provides a mechanism the applicant can use to address certain operating expenses found to be questionable by the Department.

At **Section 653.130, Place of Filing**, the Department is updating its address for the proper filing of all grant application materials.

At **Section 653.200, Review of Application**, the Department is reorganizing and updating its grant application review provisions to reflect current practice and meet the objectives of the Act.

At **Section 653.205, Approval/Disapproval of Applicant's Program of Proposed Expenditures**, the Department is adding a new Section, for consistency with Sections 2-11, 2-12 and 2-13 of the Act, that provides for approval and disapproval of the applicant's "program of proposed expenditures".

At **Section 653.220, Grant Contract Requirements and Procedures**, the Department is updating the minimum terms and conditions included in every grant contract.

At **Section 653.230, Amounts of and Limitations on Grants**, the Department is adding language consistent with the continuing appropriation provisions of Section 2-3(d) and 2-7(b) of the Act to define the maximum amount a participant can receive in a given fiscal year. Each participant receives a statutory appropriation increase of 10% each fiscal year and can draw down this increase, if the participant has sufficient operating expenses, even if the legislature fails to appropriate the 10% increase in any given fiscal year.

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At **Section 653.300, Quarterly Reports/Requisitions for Advance Payment**, the Department is clarifying that no payments will be made until a grant contract is fully executed by the Department and the participant, and filed with the Office of the Comptroller. The Department is also clarifying the dates for submitting advance payment requests.

At **Section 653.330, Notification of Change in Services**, the Department is adding language that provides for at least 30 days prior notice to the Department of the participant's intention to implement certain proposed changes in services not included in the application. If the participant does not file the Notification of Change in Services form with the Department at least 30 days prior to implementation, the participant must not implement the proposed change in services. Additionally, the Department is updating language defining "a change in service".

At **Section 653.335, Notification of Change in Fares**, the Department is adding a new Section that prescribes that the participant shall file a Notification of Change in Fares on a form, provided by the Department, at least 90 days prior to the participant's implementation of any proposed increase in fares when an increase in fares was not included in the application. If the participant does not file a Notification of Change in Fares form at least 90 days prior to the implementation, the participant must not implement the fare increase.

At **Section 653.350, Downstate Transit Improvement Fund**, the Department has added provisions with respect to the Downstate Transit Improvement Fund, consistent with Section 2-15 of the Act. Additionally, the Department is adding some general provisions for the administration of the competitive capital grants program.

At **Section 653.460, Grant Closeout**, the Department is adding a provision, consistent with current practice, to allow several years of audit reconciliation balances to be combined to allow for one payment to reconcile minor annual reconciliation balances.

- 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

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- 10) Are there any proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: Under the Act, municipalities are eligible participants in the Downstate Public Transportation Assistance Program. If a municipality applies and receives State operating assistance funding under this Part, the municipality will need to have the managerial and fiscal capabilities to comply with the Act and this Part. At a minimum, a municipality must have the knowledge and experience to operate a general public transportation service, ensure that all expenses are eligible and properly documented, and meet the grant contract requirements.
- 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 rulemaking. Written submissions shall be filed with:

Mr. Joseph Clary, Director
Illinois Department of Transportation
Division of Public and Intermodal Transportation
100 West Randolph, Suite 6-600
Chicago, Illinois 60601

312/793-2116

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:

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- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking will have no effect on small businesses and not for profit corporations. Small municipalities will not be impacted any differently than any other entity applying for a grant under this Part.
 - B) Reporting, bookkeeping or other procedures required for compliance: Small municipalities that receive a grant under this Part will be required to comply with the bookkeeping requirements prescribed under the Act and this Part.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2010

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER h: PUBLIC TRANSPORTATION

PART 653

~~REGULATIONS FOR~~ STATE OPERATING ASSISTANCE TO DOWNSTATE AREAS

SUBPART A: GENERAL PROVISIONS

Section

653.10	Program Overview
653.20	Purpose
653.30	Definitions
653.40	Applicability Effective Date

SUBPART B: GRANT APPLICATION REQUIREMENTS

Section

<u>653.90</u>	<u>Preliminary Grant Application</u>
653.100	Notification of Grant Cycle
653.110	Application Contents
<u>653.111</u>	<u>Eligible Operating Expenses</u>
<u>653.112</u>	<u>Ineligible Operating Expenses</u>
<u>653.113</u>	<u>Reportable Income</u>
<u>653.114</u>	<u>Accounting and Documentation</u>
653.120	<u>Application</u> Filing Deadline
653.130	Place of Filing

SUBPART C: REVIEW AND APPROVAL OF APPLICATION

Section

653.200	Review of Application
<u>653.205</u>	<u>Approval/Disapproval of Applicant's Program of Proposed Expenditures</u>
653.210	Approval of Application
653.220	Grant Contract Requirements and Procedures
653.230	Amounts of and Limitations on Grants
653.240	Disapproval of Application (<u>Repealed</u>)

SUBPART D: PROGRAM MANAGEMENT

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Section

653.300	Quarterly Reports/Requisitions for Advance Payment
653.310	Reporting of Actual Expenses for all Quarters
653.320	Payment
653.330	Notification of Change in Services
<u>653.335</u>	<u>Notification of Change in Fares</u>
653.340	Filing of Reconciliation Report for Actual Expenses Accrued in Fiscal Year
<u>653.350</u>	<u>Downstate Transit Improvement Fund</u>

SUBPART E: AUDIT PROCEDURES/GRANT CLOSEOUT

Section

653.400	Year End Operating Data Report
653.410	Independent Audit Requirements and Procedures
653.420	Review of Independent Audit
653.430	State Audit
653.440	Corrective Action by Participant
653.450	Reconciliation of Payments
653.460	Grant Closeout
653.470	Finality of Prior Grant Related Decisions (<u>Repealed</u>)

SUBPART F: MISCELLANEOUS PROVISIONS

Section

653.500	Access to and Retention of Records
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AUTHORITY: Implementing and authorized by Articles I and II of the Downstate Public Transportation Act [30 ILCS 740/Articles I and II].

SOURCE: Adopted at 11 Ill. Reg. 1985, effective January 13, 1987; amended at 34 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 653.10 Program Overview

- a) Articles I and II of the Downstate Public Transportation Act [30 ILCS 740/Arts. I and II](~~Ill. Rev. Stat. 1985, ch. 111²/₃, par. 661 et seq.~~) (Act), establish a

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continuing program of State operating assistance for public transportation services outside the areas served by the Regional Transportation Authority (Cook, DuPage, Will, McHenry, Lake and Kane Counties) ~~and outside Madison, Monroe and St. Clair Counties.~~ (See Section 2-2.04 of the Act.)

- b) The funds for this program are appropriated annually by the Illinois General Assembly. Operating assistance grants are made by the Illinois Department of Transportation (Department) on an annual basis. Operating assistance funds may be used only for the purposes, and subject to the conditions, set forth in the Act and this Part.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.20 Purpose

The purpose of this Part is to implement Articles I and II of the Act by providing the procedures, conditions and limitations applicable to operating assistance grants for eligible downstate applicants and participants ~~in downstate areas excluding the Bi-State Metropolitan Development District.~~ (See Section 2-2.04 of the Act.)

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.30 Definitions

The following words and phrases as used in this Part shall have the meanings ascribed to them in this Section.

"Act" means the Downstate Public Transportation Act [30 ILCS 740/Arts. I and II](Ill. Rev. Stat. 1985, ch. 111²/₃, par. 661 et seq., as amended).

"Applicant" means any eligible participant who ~~applies~~ has applied for an operating assistance grant under the Act and this Part.

"Application" means those materials and forms required by the Department to be submitted by an applicant in support of its request for operating assistance. (See Sections 2-5 and 2-5.1 of the Act.) ~~including the following: cover letter requesting State operating assistance (Form OP-1), description of the applicant's organization (Form OP-2), summary of totals for expenses and revenues (Form OP-3), itemization of operating revenues (Form OP-4), itemization of operating~~

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~~expenses (Form OP-4), financial data and revenue and expense projections (Form OP-5), operating data and equipment inventory (Form OP-6), purchase of service information (Form OP-7), and notification of change in services, when applicable (Form OP-8).~~

"Complimentary Paratransit Service" means transportation service required by the Americans With Disabilities Act (ADA) (42 USC 12101) for individuals with disabilities who are unable to use fixed route transportation systems. This service must be provided within ¾ mile of any fixed route service and be comparable to the level of service provided to individuals without disabilities who use the fixed route system. This service must also meet the requirements specified in 49 CFR 37.123-133, Transportation Services for Individuals with Disabilities.

"Department" means the Illinois Department of Transportation, Division of Public and Intermodal Transportation. (Section 2-2.01 of the Act)

"Demand Response Service" means a non-fixed route shared use service operating in response to pre-arranged time and location requests from passengers, or their agents, to the transit operator.

"Deviated Fixed Route Service" means transit service that operates along a fixed alignment or path at generally fixed times but may deviate from the route alignment to collect or drop off passengers who have requested the deviation.

"Eligible ~~Operating Expenses~~operating expenses" means all those expenses required for public transportation, ~~eligible for State operating expenses~~ as defined in Section 2-2.04 of ~~Article II~~ of the Act and Section ~~653.111~~653.110(e)(1)(A) of this Part.

"Fiscal ~~Year~~year" means the fiscal year of the State of Illinois ~~that~~which begins on July 1 and ends on June 30. (Section 2-2.06 of the Act)

"Fixed Route Service" means service provided on a repetitive, fixed-schedule basis along a specific route with vehicles stopping to pick up and deliver passengers to specific locations.

"FTA" means the Federal Transit Administration of the United States Department of Transportation, or its successor.

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"Grant Contract" means the written agreement between the applicant and the Department defining the program, funding limits and terms of the grant.

"Ineligible ~~Operating Expenses~~operating expenses" means those expenses ineligible for State operating assistance, as defined in Section 2-2.04 ~~of Article II~~ of the Act and Section ~~653.112~~653.110 of this Part.

"OMB" means the U.S. Office of Management and Budget.

"Operating ~~Deficit~~deficits" means operating deficits as defined in ~~Article II~~, Section 2-2.03 of the Act.

"Participant" means any eligible participant as defined in Section 2-2.02 of the Act who has received an appropriation from the Illinois General Assembly for downstate operating assistance~~applied for and received approval from the Department for an operating assistance grant under the Act.~~

"Preliminary Application" means those materials and forms prescribed by the Department to be submitted by an applicant in support of its projected request for operating assistance in the next fiscal year.

"Program of Proposed Expenditures" or "POPE" means those activities, services and proposed eligible operating expenditures to be provided by the applicant that directly relate to the operation, maintenance or improvement of general public transportation service to the residents of the applicant.

"Public ~~Transportation~~transportation" means the transportation or conveyance of persons ~~within the urbanized area or in the non-urbanized area within the service area of each participant as approved by the Department~~ by means available to the general public, including groups of the general public with special needs:-

within the urbanized area; or

in the nonurbanized areas within the service area of each participant as approved by the Department, except for transportation by automobiles not used for conveyance of the general public as passengers. (Section 2-2.05 of the Act)~~except for transportation by automobiles not used for conveyance of the general public as passengers.~~

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For purposes of this definition "means"~~Means~~ available to the general public" means is~~is~~ "service available to any person within a participant's service area~~persons along a fixed route or flexible schedule route.~~" "Special needsand disabilities" means is~~is~~ " a specific permanent or temporary problem or incapacity, including aging, illness, injury, ~~or~~ congenital malfunction, or disability that causes a person to have more difficulty in using public transportation than the general population would have in using it.~~a person without a problem.~~ Public transportation includes transportation provided through purchase of service contracts, demand responsive service and subsidized taxi service. Transportation for persons with special needs and disabilities need not be available to the general public.

"Purchased Transportation~~transportation~~" means those public transportation activities procured by a participant and provided by a third party~~the applicant~~ through ~~service contracts with public or private carriers or operators, including taxi companies.~~

"Service Area" means a participant's territorial boundaries plus service extensions or contiguous service areas approved by the Department.

"State" means the State of Illinois.

~~"UMTA" means the Urban Mass Transportation Administration of the United States Department of Transportation.~~

"Territorial Boundaries" means the municipal or county boundaries for participants who are municipal or county governmental bodies and, for mass transit districts, the territorial boundaries of the municipalities, villages, incorporated towns and/or counties having created the mass transit district.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.40 ~~Applicability:~~ Effective Date

~~a) This Part applies to the operating assistance program for eligible participants in the downstate areas, excluding the Bi-State Metropolitan Development District (Bi-State). The regulations applicable to Bi-State can be obtained by contacting the Department.~~ b) This Part applies to grants made for the fiscal year beginning ~~on~~ July 1, 2010 and each year thereafter~~1987.~~ ~~Subparts E and F shall apply to grants made for the fiscal year beginning July 1, 1986, and thereafter.~~

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(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART B: GRANT APPLICATION REQUIREMENTS

Section 653.90 Preliminary Grant Application

At the discretion of the Department and no later than September 1 of each fiscal year, the Department will distribute preliminary grant applications for the following fiscal year to all participants. The preliminary grant application will contain information about the operating assistance program and required forms that must be filed with the Department. The completed preliminary grant application shall be submitted to the Department no later than 30 days after receipt and shall include certain identified preliminary revenue and expense budget information for the next fiscal year.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 653.100 Notification of Grant Cycle

~~No~~ later than March 1 prior to the start of any fiscal year, the Department will send operating assistance grant ~~applications~~application package to all eligible participants ~~as defined in the Act~~. The grant application ~~will package shall~~ contain information and instructions regarding the operating assistance program and will also include forms that must be filed with the Department. Operating assistance applications are available by writing:

Illinois Department of Transportation
Division of Public and Intermodal Transportation
100 West Randolph Street, Suite 6-600
Chicago, Illinois 60601
Phone: 312/793-2111.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.110 Application Contents

- a) ~~A single application may be submitted by a single eligible participant or joint application may be submitted by two or more eligible participants who are served by a single transit system.~~

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- ab) Operating assistance applications shall ~~include, at a minimum, be on forms prescribed by the Department and shall contain~~ the following information:
- 1) A ~~cover letter stating that the applicantsubmittal from the applicant to the Department on which the applicant states that he~~ is applying for operating assistance funds ~~(Form OP-1)~~. ~~The cover letterForm OP-1~~ shall contain the applicant's name, address and ~~a~~ certification that the information provided is true and correct.
 - 2) A description of the applicant including, but not limited to, service area, service characteristics, transit system management, transit and special taxing authority, year and means created, e.g., by statute, home rule or interstate compact, the name and title of the person directly responsible for supervising the applicant's proposed expenditures, the name and title of the person authorized to submit and execute the application, and name and title of the person authorized to certify financial reports ~~(Form OP-2)~~.
 - 3) A summary consisting of total estimated operating expenses, revenues, income and deficits ~~for the next fiscal year, 65% and 40%~~ of ~~the estimated~~ eligible operating expenses for the ~~next~~ fiscal year and a certification that the expenses ~~will beare~~ for public transportation in Illinois ~~or the service area approved by the Department.(Form OP-3)~~. ~~(See Section 2-7(b) of the Act.)~~
 - 4) ~~A summary consisting of projected totalAn itemization of~~ operating revenues and expenses ~~including, but not limited to, those associated with: OP-4 contains information on revenues, deficits and expenses as follows:~~ passenger fares; special transit fares; school bus service revenues; freight tariffs; charter service revenues; auxiliary transportation revenues; non-transportation revenues; taxes levied directly by transit system, local cash grants and reimbursement; local special fare assistance; ~~Statestate~~ cash grants and reimbursements; ~~Statestate~~ special fare assistance, federal grants and reimbursements; contributed services; ~~subsidies from other Sectors of Operations;~~ labor costs; salaries and wages; fringe benefits; services; materials and supplies; ~~utilityutilities~~, casualty and liability costs; taxes; ~~net~~ purchased transportation services; miscellaneous expenses; ~~debt service, including principal and interest, on publicly-owned equipment or facilities;~~ interest expenses ~~for short-term operating loans~~; and lease and rentals ~~(Form OP-4)~~. ~~(See Section 2-2.04 of the Act.)~~

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- 5) ~~An itemization of projected revenues and expenses which summarizes the information contained in Form OP-4 (Form OP-5).~~
- 56) ~~Operating information, itemized according to fixed route service, demand response service (including deviated fixed route service), and Americans With Disabilities Act complimentary paratransit services, including, but not limited to, route name and number, round trip length, daily round trips, total service miles and, hours, schedules, number of vehicles, passenger trips, passengers and facilities and equipment inventory (Form OP-6).~~
- 6) ~~Passenger trips shall be broken out by service type and by the following categories: general public; seniors who are at least 65 years old and who are receiving free or reduced fare transportation; people with disabilities who are receiving free or reduced fare transportation; and students who are receiving reduced-fare transportation.~~
- 7) ~~Information regarding purchased transportation, Purchase of service contract information including, but not limited to, a description of the public transportation services and products to be purchased, relevant information regarding the service, provider of the purchased services, the information, number and type of revenue and non-revenue vehicles, and operating revenues and expenses as detailed in Subpart B of this Part, wages and salaries (Form OP-7).~~
- e) ~~The applicant shall itemize expenses according to the following conditions and limitations:~~
- 1) ~~Eligible Operating Expenses~~
- A) ~~Operating assistance grants shall be made only for eligible operating expenses required for public transportation. Eligible operating expenses consist of the following:~~
- i) ~~employee wages and benefits;~~
 - ii) ~~materials, fuels and supplies;~~
 - iii) ~~rental of facilities;~~

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- ~~iv) taxes other than income taxes;~~
 - ~~v) payment for debt service (including principal and interest) on equipment or facilities owned by the applicant;~~
 - ~~vi) equipment purchases which do not exceed \$300;~~
 - ~~vii) administrative costs, i.e., costs incurred in capital grant record keeping, grant management, and the preparation of status reports as are required by the Department under its capital grant program, associated with capital projects which are not reimbursed elsewhere;~~
 - ~~viii) repairs to buildings, equipment or vehicles which do not extend the useful life of same;~~
 - ~~ix) expenses and compensation for applicant's board members or trustees as are provided for under the Local Mass Transit District Act (Ill. Rev. Stat. 1985, ch. 111²/₃, par. 354);~~
 - ~~x) and any other expenditure which the Department determines is an eligible operating expense according to generally accepted standard accounting practices adopted by the American Institute of Certified Public Accountants (AICPA) (1981) for public transportation operations.~~
- ~~B) Eligible operating expenses shall also include the costs associated with the audit requirements set forth in Section 653.410.~~
- ~~C) Eighty percent of the dues paid by the applicant to the Illinois Public Transit Association and ninety percent of the dues paid by the applicant to the American Public Transit Association are also eligible operating expenses.~~
- 2) **Ineligible Operating Expenses**
Operating assistance grants shall not be made for ineligible operating expenses. Ineligible operating expenses include those expenses for the following:

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- A) ~~depreciation;~~
- B) ~~amortization of any intangible costs which means depreciation of an asset which is without physical qualities, e.g., patents, copyrights and goodwill;~~
- C) ~~debt service on capital assets acquired with the assistance of capital grant funds provided by the State of Illinois;~~
- D) ~~profit or return on investment;~~
- E) ~~excessive payment to associated entities which means payments made by a participant to any entity which is owned or controlled by the participant or which controls or owns the participant;~~
- F) ~~any expense eligible for federal funding under a capital program;~~
- G) ~~costs reimbursed under Section 6 and 8 of the "Urban Mass Transportation Act of 1964", 49 U.S.C. 1605; 1607, as amended;~~
- H) ~~entertainment expenses consisting of costs incurred in attending social activities or amusements not directly related to the providing of public transportation;~~
- I) ~~charter, school bus and sightseeing expenses;~~
- J) ~~finer and penalties;~~
- K) ~~charitable donations;~~
- L) ~~interest expense on long-term borrowing and debt retirement other than on publicly owned equipment and facilities;~~
- M) ~~income taxes for which the applicant is liable;~~
- N) ~~any expenses for which participant has or will receive reimbursement from any Federal, State or local program;~~

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- ~~Θ) expenses associated with compliance with the Single Audit Act of 1984, (31 U.S.C. 75; OMB Circular A-128);~~
- ~~P) expenses for freight haulage provided by the applicant;~~
- ~~Q) any expense which is reimbursed from insurance proceeds; and~~
- ~~R) maintenance of vehicles which are not used for public transportation or to support operations (e.g., supervisory and maintenance vehicles);~~
- 3) ~~Accounting and Documentation~~
 - ~~A) Applicants shall use the accrual method of accounting when submitting the operating expense and revenue information called for in the application.~~
 - ~~B) In the event that the applicant enters into a purchase of service contract, only the actual amounts paid by the applicant to the service provider shall be an eligible operating expense. The applicant shall document the actual purchase of service costs by cancelled checks or bills, invoices, or purchase orders that clearly show that the out-of-pocket expense was incurred.~~
- 4) ~~All expenses shall be documented by cancelled check or bills, invoices, or purchase orders that clearly show that the expense was incurred.~~
- d) ~~Only those revenues and expenses attributable to providing public transportation for the fiscal year shall be contained in the application. Transportation services to groups with special needs and disabilities and tripper service are eligible operating expenses. Tripper service shall mean service open to the general public along published route schedules with service dictated by ridership patterns.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.111 Eligible Operating Expenses

- a) Operating assistance grants will be made only for the reimbursement of eligible operating expenses. In all instances, operating expenses shall be deemed eligible

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to the degree that they are required for public transportation, are subject to independent documentation and audit verification, as otherwise required by State or federal oversight agencies, and when the expenses reflect actual costs after reduction for applicable rebates (e.g., compressed natural gas fuel rebates or insurance settlements) and other special revenues. Eligible operating expenses include, but are not limited to:

- 1) employee wages, or a portion thereof, that are equal to or less than the Secretary of the Illinois Department of Transportation;
- 2) customary and reasonable employee benefits;
- 3) materials, fuels and supplies;
- 4) rental of facilities;
- 5) taxes other than income taxes;
- 6) payment made for debt service (including principal and interest) on equipment or facilities owned by the applicant, to the degree that the participant's governing board, through resolution, certifies that the public transportation portion of the equipment or facilities is required for the day-to-day provision of public transportation within the next 24 months, provided that, in undertaking and administering the acquisition and ownership of the equipment and facilities, the participant complies with the Department's "Public Transportation Capital Improvement Grants Manual" and "Supplemental Operating Assistance Guidelines";
- 7) non-rolling-stock equipment purchases that are less than \$10,000;
- 8) administrative costs, i.e., costs incurred in capital grant record keeping, grant management, and the preparation of status reports required by the Department under its capital grant program, associated with capital projects that are not reimbursed elsewhere;
- 9) repairs to buildings, equipment or vehicles that do not extend their useful life;

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- 10) reasonable expenses and compensation for applicant's board members or trustees as provided for under the Local Mass Transit District Act [70 ILCS 3610/4];
 - 11) established reserves for self-insurance programs; and
 - 12) any other expenditure that an independent auditor retained by the participant's governing board determines is required for the provision of public transportation according to generally accepted accounting principles of the American Institute of Certified Public Accountants (AICPA) for public transportation operations.
- b) Eligible operating expenses also include the costs associated with the audit requirements set forth in Section 653.410.
- c) Eighty percent of the dues paid by the applicant to the Illinois Public Transportation Association and 90% of the dues paid by the applicant to the American Public Transportation Association or the Community Transportation Association of America are also eligible operating expenses. (See Section 2-2.04 of the Act.)

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 653.112 Ineligible Operating Expenses

- a) Operating assistance grants will not be made for ineligible operating expenses, as defined in Section 2-2.04 of the Act, Section 653.30 of this Part and this Section. Ineligible operating expenses include, but are not limited to, the following:
- 1) depreciation, whether funded or unfunded;
 - 2) amortization of any intangible costs, which means depreciation of an asset that is without physical qualities, e.g., patents, copyrights and goodwill;
 - 3) debt service on capital assets acquired with the assistance of capital grant funds provided by the State or the FTA;
 - 4) profit or return on investments;

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- 5) excessive payment to associated entities, such as payments made by a participant to any entity that is owned or controlled by the participant or that controls or owns the participant;
- 6) expenses associated with the [Workplace Investment Act \(29 USC Chapter 30\)](#), or its successor;
- 7) costs reimbursed under Sections 5303, 5304 and 5305 of the Federal Mass Transit Act ([49 USC Chapter 53](#));
- 8) entertainment expenses incurred in attending social activities not required for the provision of public transportation;
- 9) charter, school bus and sightseeing expenses as defined by the FTA;
- 10) finances and penalties;
- 11) charitable donations;
- 12) interest expense on long-term borrowing and debt retirement other than on that portion of publicly-owned equipment and facilities required for public transportation;
- 13) income taxes;
- 14) that portion of any eligible operating expenses for which the participant has or will receive reimbursement from any other federal, State or local program;
- 15) expenses associated with compliance with OMB Circular A-133 ([Audits of States, Local Governments, and Non-Profit Organizations](#));
- 16) any expense that is reimbursed from insurance proceeds;
- 17) maintenance or operation of vehicles that are not used by a participant or its contractors for public transportation or to support public transportation operations;

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- 18) travel expenses incurred in attending social activities or amusements not required for the provision of public transportation; and
- 19) any other expense determined by the Department to be inconsistent with federal regulations or requirements.
- b) If a participant receives federal operating assistance funds through the Department, and federal law prohibits the participant from using those funds to pay for any expense that is an eligible operating expense under the Act or this Part, then that expense shall be ineligible for reimbursement. (See Section 2-2.04 of the Act.)

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 653.113 Reportable Income

- a) Revenues that reduce the operating deficit under standard accounting practices and, therefore, must be reported to the Department include, but are not limited to, revenues from the following sources:
- _____ 1) passenger fares for transit services;
- _____ 2) special transit fares;
- _____ 3) charter service revenues;
- _____ 4) auxiliary transportation revenues;
- _____ 5) non-transportation revenues; and
- _____ 6) federal cash grants and reimbursements.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 653.114 Accounting and Documentation

- a) Applicants shall use the accrual method of accounting when submitting the operating expense and revenue information called for in the application utilizing the same line items on which the actual expenses and revenues will eventually be

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reported to the Department in all quarterly and final fiscal year financial statements.

- b) All expenses shall be documented by cancelled check or bills, invoices or purchase orders that clearly show when the expense was incurred, when the vendor was paid, and what was purchased.
- c) If the Department questions the eligibility of a particular expense, the participant shall provide certification by an independent auditor that the expense is eligible under applicable State and federal law and the certification will be considered by the Department in determining whether the particular expense is eligible for reimbursement.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 653.120 Application Filing Deadline

Grant applications shall be submitted to the Department ~~not~~ later than April 1 prior to the fiscal year for which operating assistance is requested. (See Section 2-5 of the Act.)

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.130 Place of Filing

Grant applications and all ~~forms submitted~~submittals under the State operating assistance program shall be filed with the Department at the following address or at some other address as identified by the Department:

Illinois Department of Transportation;
~~100 West Randolph Street, Suite 6-600310 South Michigan Avenue, Room 1608;~~
Chicago, Illinois ~~6060160604;~~
Attn: ~~Director of the~~ Division of Public and Intermodal Transportation, Bureau of Downstate Area Programs.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART C: REVIEW AND APPROVAL OF APPLICATION

Section 653.200 Review of Application

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a) Review of Application. The Department will date stamp the application upon its receipt. The Department will perform an initial examination of review and evaluate the application to determine if the application is complete, in accordance with~~according to~~ the criteria contained in the Act and Subpart B, and will notify the applicant of any missing information~~missing from the application~~, any issues that require clarification, any errors or inaccuracies that exist in the application and any expenses ~~that which~~ are listed as eligible by the applicant but ~~that which~~ are ineligible under Section ~~653.112~~653.110(e)(2). The Department will begin its review process after the application is complete. An application is complete if all required information is included, is accurate if all calculations are correct, and is clear if the application is legible.~~b) The applicant shall respond to the Department's request for additional information, additional documents, clarification of issues and correction of errors. The Department will not approve any part of the application that is incomplete, inaccurate or unclear. The Department shall follow disapproval procedures set forth in Section 653.240. An application is incomplete if called for information is missing, inaccurate if the math is wrong or information is placed in the wrong space; unclear if illegible.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.205 Approval/Disapproval of Applicant's Program of Proposed Expenditures

- a) Within 45 days after the Department's receipt of the application, the Department will notify the applicant in writing of its approval or disapproval of the Program of Proposed Expenditures (POPE). (See Section 2-11 of the Act.)
- b) Disapproval of Applicant's Program of Proposed Expenditures. The Department will disapprove an applicant's POPE that contains:
- 1) a finding that expenditures are being proposed for projects or purposes that are not in compliance with Section 2-5 of the Act; i.e., proposed expenditures are not related to the actual operation, maintenance or improvement of the applicant's proposed public transportation service; or
 - 2) a finding that expenditures are being proposed for projects or purposes that are in conflict with established comprehensive transportation plans for a participant or a region of which it is a part, e.g., proposed expenditures for projects that are not included or consistent with long and short range planning documents for a region in which the applicant is a

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part. For example, proposed expenditures for a project must be consistent with long and short range planning documents that are approved by the local metropolitan planning organization or the region's human service public transportation plan, as approved by the regional transportation committee; or

3) proposed expenditures that are not, or other information that is not, in compliance with the Act and Section 653.111 of this Part.

- c) The Department will notify the applicant, in writing, of deficiencies in the applicant's POPE that result in disapproval and will include the reasons for disapproval. The applicant may, within 45 days after receipt of the disapproval, submit an amended application for that part of the application that was disapproved. The Department will then review the amended application in the same manner as provided in subsections (a) and (b) and, within 45 days after the Department's receipt of the amended application, the Department will notify the applicant in writing of its approval or disapproval of the amended POPE. The Department's decision concerning the amended application is final. (See Sections 2-11 and 2-12 of the Act.)

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 653.210 Approval of Application

Upon a determination, and subsequent notification to the applicant, by the Department that any initial or amended application, including the Program of Proposed Expenditures, is in compliance with the Act and this Part, the Department will enter into a grant contract with the participant and will make a grant to the participant to implement the approved application and the POPE. The Department will notify the applicant in writing of approval of the application, in whole or in part, within 45 days of the Department's receipt of the application.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.220 Grant Contract Requirements and Procedures

- a) As a condition for receiving ~~State~~-operating assistance, the applicant shall enter into a grant contract with the Department. The Department will send two copies of the grant contract to the applicant as soon as possible following notification that the application has been approved.

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- b) The grant contract shall ~~include, at a minimum, consist of~~ the following terms and conditions:
- 1) funding amounts and limitations;
 - 2) payment procedures and conditions;
 - 3) ~~the Department's attendance at the participant's FTA triennial reviews description of eligible expenses, deficits and ineligible expenses;~~
 - 4) records maintenance and access requirements ~~(see Section 653.500);~~
 - 5) participant's authority to contract;
 - 6) inspection rights of the State;
 - 7) indemnification of ~~the~~ State;
 - 8) audit scope, ~~procedures and requirements (see Section 653.410);~~
 - 9) ~~audit procedures and requirements (see Subpart E);~~
 - 910) provisions ~~governing the legal relationships between the participant and the State, and other provisions as~~ required by State or local laws; and
 - 10) ~~provisions regarding ethics, prohibited interests, a drug free workplace, non-discrimination, school bus operations, and other provisions as~~ required by State law.
 - 11) ~~provisions governing the legal relationships between the participant and the State.~~
- c) The applicant shall execute both copies of the grant contract and ~~shall~~ return both copies to the Department together with a resolution of the applicant's governing board and an opinion of counsel as described in ~~subsections paragraphs~~ (d) and (e) ~~below~~.
- d) The applicant shall submit, with the executed grant contract, a certified resolution

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or ordinance adopted by the applicant's governing body ~~that~~which authorizes the execution of the grant contract and identifies the persons authorized to sign the grant contract and payment requisitions and to provide official information to the Department.

- e) The applicant shall submit, with the executed grant contract, a legal opinion from an attorney licensed to practice law in ~~the~~this State ~~and~~, authorized to represent the applicant in the matter of the grant contract, stating that ~~the applicant is:~~
- 1) the applicant is lawfully organized;
 - 2) the applicant is an eligible participant under the Act;
 - 3) the applicant is legally authorized to enter into the grant contract; and
 - 4) ~~that~~ the grant contract will be legally binding on the applicant.
- f) Upon receipt of the applicant's executed grant contract, the applicant's governing body resolution or ordinance and the legal opinion, the Department will execute the grant contract on behalf of the State and will return one executed copy to the applicant~~participant~~.
- g) The application and all other documents or materials requested by the Department, submitted by the applicant and accepted by the Department before and after grant contract execution, shall become a part of and incorporated into the grant contract.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.230 Amounts of and Limitations on Grants

- a) For fiscal year 2008 and thereafter, the~~The~~ Department is authorized under the continuing appropriation language of Sections 2-3(d) and 2-7(b) of the Act to pay a participant in an amount equal to 65% of the participant's actual eligible operating expenses up to the amount set forth in the State's annual budget or the formula amount required under Section 2-7(b-10) of the Act, whichever is greater. If a participant's actual eligible operating expenses for a particular fiscal year are unknown at the time the grant agreement is executed for the year, the Department will, as soon as practicable at the beginning of that fiscal year, enter into a grant

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~~contract for the amount set forth in the State's annual budget or for the formula amount required under Section 2-7(b-10) of the Act, depending on which is greater. (See Section 2-7 of the Act.) make grants to a participant in an amount equal to 40% of the participant's eligible operating expenses. However, in no event shall the participant receive a grant for eligible operating expenses in excess of the amount appropriated for the participant for that fiscal year. Further, in the event that the participant reduces its operating expenses in direct response to a reduction in available federal operating assistance, then the participant shall receive in any fiscal year an amount not less than the amount received in the previous year, regardless of whether the amount received for the current year is in excess of 40% of eligible operating expenses for that year.~~

- b) The amount of operating assistance received from the State under the Act, together with any other operating assistance received from any ~~federal~~ **Federal**, State or local agency, shall not exceed the participant's operating deficit for that fiscal year.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.240 Disapproval of Application (Repealed)

- a) ~~The Department shall not approve an application that contains:~~
- ~~1) proposed expenditures not related to the actual operation, maintenance or improvement of an existing system of public transportation serving the residents of the applicant, for example, the Department would not fund the maintenance cost of city trucks which are not used exclusively in public transportation; or~~
 - ~~2) proposed expenditures for projects which are not included in the established comprehensive transportation plans for an applicant or a region of which it is a part. By way of example, proposed expenditures for a project must be consistent with long and short range planning documents which are approved by a metropolitan planning organization; or~~
 - ~~3) proposed expenditures or other information as required in the application which is not in compliance with the Act and Section 653.110 of this Part.~~

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- b) ~~The Department shall notify the applicant in writing of the parts of the application that cannot be approved and give the reasons. The applicant shall have 45 days from receipt of the notification to submit an amended application for that part of the application which was not approved. The Department will review and evaluate the amended application in the same manner as provided in Section 653.200. The decision of the Department on the amended application shall be final.~~

(Source: Repealed at 34 Ill. Reg. _____, effective _____)

SUBPART D: PROGRAM MANAGEMENT

Section 653.300 Quarterly Reports/Requisitions for Advance Payment

- a) Thirty calendar days before the end of a current quarter, the participant ~~may~~ shall file, on a form prescribed by the Department ~~(Form OP-10)~~, the Quarterly Financial Report request for advance payment of estimated eligible operating expenses and revenues for the next quarter. This report shall contain a description of and amounts of estimated revenues and expenses and any other information required by the Department (see items listed in Section 653.110(b)(6)).
- b) ~~The earliest date that requisitions for payments based on estimates may be processed by the Department are detailed in this subsection (b); however, no payments will be made until the State's annual budget has been passed and grant contracts are fully executed by both the Department and the participant and filed with the Office of the Comptroller. The filing deadlines for the quarterly report are as follows:~~
- 1) June 1 – for the 1st quarter (July, Aug., Sept.)
 - 2) Sept. 1 – for the 2nd quarter (Oct., Nov., Dec.)
 - 3) Dec. 1 – for the 3rd quarter (Jan., Feb., Mar.)
 - 4) March 1 – for the 4th quarter (Apr., May, June)

(See Section 2-7(b) of the Act.)

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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Section 653.310 Reporting of Actual Expenses for all Quarters

a) By December 1, March 1, May 1 and August 1, the participant shall file, on a form prescribed by the Department, ~~(Form OP-5)~~ a statement of actual eligible expenses incurred in the 1st, 2nd, 3rd and 4th quarters respectively, known as the Quarterly Financial Report – Actual Revenues and Expenses. ~~b) The estimated expenses for any given quarter shall be reconciled with the actual expenses for any prior quarter by appropriate payment or credit. c) Section 653.300 allows participants to requisition based on estimated expenses and revenues. However, if a participant prefers to requisition based on its actual expenses and revenues, then it shall be permitted to do so. Such requisitions shall be filed with the Department quarterly on a form prescribed by the Department (Form OP-5) and no later than 30 days following the last day of each quarter.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.320 Payment

- a) ~~Participants may requisition based on estimated or actual expenses and revenues, or any combination of the two. Requisitions shall be filed with the Department, quarterly, on forms prescribed by the Department. All Quarterly Financial Reports shall be accompanied by the "Request for Payment" form prescribed by the Department. The Request for Payment form shall specifically state the amount requested by the participant and the period of time for which the funds are requested.~~
- b) All payments by the Department are contingent upon the General Assembly's passing legislation, signed by the Governor, that appropriates and provides for the release of funds to the participant for operating assistance under the Act and this Part.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.330 Notification of Change in Services

- a) The participant shall file a Notification of Change in Services on a form prescribed by the Department ~~at least (Form OP-8) no later than~~ 30 days prior to the participant's implementation of a proposed change in services when the change in services was not included in the application. If the participant does not file a Notification of Change in Services form at least 30 days prior to the

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~~implementation of the proposed change in services, the participant must not implement the change in services.~~ The Notification of Change in Services shall include, ~~but not be limited to by way of example only and not by way of limitation,~~ the following information:

- 1) ~~the~~ nature of ~~the~~ proposed change;
 - 2) whether the proposed change is in an approved planning document; ~~and~~
 - 3) ~~and~~ a description of, and ~~the~~ budgetary impact of, the proposed change ~~that which~~ includes an estimate of the increase or decrease in operational expenses, ~~revenues and ridership an estimate of an increase or decrease in ridership, an increase or decrease in revenues~~ and an indication of the extent to which the service change will require additional equipment acquisition ~~or reduction in equipment usage or needs.~~
- b) A change in service means any of the following:
- 1) new ~~service areas routes; extension or discontinuance of routes;~~
 - 2) ~~discontinuance of routes and/or service areas; structural revision of routes;~~
 - 3) ~~a structural revision of routes; increase or decrease in service frequency;~~
 - 4) ~~or a change in service period or an increase or decrease in fares or execution of purchase of service contracts.~~
 - 4) a change in hours or days of service; or
 - 5) execution or termination of a purchased transportation contract.
- c) A change in service does not mean temporary changes, e.g., routing due to temporary road closures, ~~natural disasters or emergencies or any changes which will alter a route, schedule or fare by less than 25%.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.335 Notification of Change in Fares

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The participant shall file a Notification of Change in Fares on a form, prescribed by the Department, at least 90 days prior to the participant's implementation of any proposed increase in fares when an increase in fares was not included in the application. If the participant does not file a Notification of Change in Fares form at least 90 days prior to the implementation of the proposed increase in fares, the participant must not implement the fare increase. When submitting the required notification, the participant shall, at a minimum, explain in detail why the fare increase is necessary and why other approaches to financial and operational management will not eliminate the need for an increase in fares.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 653.340 Filing of Reconciliation Report for Actual Expenses Accrued in Fiscal Year

- a) On or before August 1 following each fiscal year for which the participant has received operating assistance, the participant shall file with the Department, on a form prescribed by the Department, a reconciliation statement and final requisition for actual but unaudited revenues and expenses accrued during that fiscal year. ~~This requirement is satisfied by filing the 4th Quarter Requisition and Financial Report (Form OP-5) if such Report contains the actual expenses and actual revenues for that fiscal year.~~
- b) Upon receipt of the documents referenced in subsection (a), ~~report~~ the Department ~~will~~ shall reconcile the actual amounts paid to the participant with the total eligible reimbursement owed based on actual eligible ~~actual~~ expenses accrued for the fiscal year and ~~will~~ shall make payment to the participant for any amounts due.
- c) Payment to the participant under this Section is contingent upon submission of the fiscal year final requisition and reconciliation report by August 1 as provided for in subsection Section 653.340(a) ~~for actual expenses and revenues~~. All funds in the Downstate Public Transportation Fund, except funds designated for payment of audit adjustments and 1st quarter estimated expenses for the succeeding fiscal year, revert to the Downstate Transit Improvement Fund ~~General Revenue Fund~~ on September 30 following the fiscal year for which ~~the~~ said funds were appropriated. Failure to timely file the fiscal year final requisition and reconciliation ~~report~~ payment under this Section may jeopardize the Comptroller's ability to make a payment during the lapse period. In the event that the late filing by participant does not allow time for the Department to process payment under this Section, any funds due the participant upon completion of the State audit shall

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be paid to the participant as provided in Section 653.450.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.350 Downstate Transit Improvement Fund

- a) Except as otherwise provided in Section 2-15 of the Act, all funds that remain in the Downstate Public Transportation Fund or the Metro-East Public Transportation Fund after the payment of the fourth quarterly payment to participants other than Metro-East Transit District participants and the last monthly payment to Metro-East Transit participants in each fiscal year shall be transferred to the Downstate Transit Improvement Fund. Transfers shall be made no later than 90 days following the end of the fiscal year. Beginning fiscal year 2010, all moneys each year in the Downstate Transit Improvement Fund, held solely for the benefit of the participants in the Downstate Public Transportation Fund, shall be appropriated to the Department to make competitive capital grants to the participants of the respective funds. However, such amount as the Department determines to be necessary for allocation to participants for the purposes of Section 2-7 of the Act for the first quarter of the succeeding fiscal year and an amount equal to 2% of the total allocations to participants in the fiscal year that just ended to be used for the purpose of audit adjustments shall be retained in such funds to be used by the Department for such purposes. (Section 2-15 of the Act)
- b) Competitive capital grants shall not be available for projects, purchases or purposes that are not:
- 1) required for the provision of public transportation;
 - 2) identified in the Department's annual Capital Needs Assessment;
 - 3) identified in the comprehensive long range or short range planning documents in the region for which the applicant is a part; and
 - 4) in accordance with the guidelines set forth in the Department's Procedural Handbook for Public Transportation Capital Improvement Grants.

(Source: Added at 34 Ill. Reg. _____, effective _____)

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SUBPART E: AUDIT PROCEDURES/GRANT CLOSEOUT

Section 653.400 Year End Operating Data Report

On or before August 1 following the fiscal year for which the participant has received State operating assistance under the Act, the participant shall file the Year End Operating Data Report (~~Form OP-9~~) with the Department. The report shall be on a form prescribed by the Department and shall include at a minimum:

- a) operators' and other employees' salary and wages by position;
- b) vehicle use; and
- c) passenger trips by service type, passenger category and fare category ~~count~~. (See Section 2-4 of the Act.)

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.410 Independent Audit Requirements and Procedures

- a) **Deadline for Submission of Audit**
No later than 180 days following the last day of the fiscal year, the participant shall provide the Department with an independent audit prepared by a certified public accountant. This deadline may be changed, at the discretion of the Department, to accommodate the participant's fiscal year periods or due to unforeseen circumstances. (See Section 2-7(c) of the Act.)
- b) **Selection of Auditor**
The selection of the certified public accountant shall be made by the participant. However, any certified public accountant selected by the participant shall be independent and shall not have a relationship with the participant ~~that~~which would create a conflict of interest. A conflict of interest will be deemed by the Department to exist where the certified public accountant serves the participant in any capacity other than that of auditor for the participant or where the certified public accountant has a relationship, contractual or otherwise, with the participant ~~that~~which would inhibit the ability to perform an independent audit.
- c) **Audit Requirements**

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- 1) The independent auditor shall ~~review~~read the following materials in preparing the audit report:
 - A) ~~Articles I and II of the Act;~~
 - B) ~~the grant~~Grant contract between the Department and participant;
 - C) ~~this Part and Regulations for State Operating Assistance to Downstate Areas, 92 Ill. Adm. Code 653, and the pertinent forms prescribed by the Department; and OP-1 through OP-10.~~
 - D) ~~the~~The appropriation legislation relating to the operating assistance grant.

- 2) The independent auditor shall examine the systems of internal control, systems established to ensure compliance with laws and regulations affecting the expenditure of State funds, financial transactions and accounts, and financial statements and reports of the participant. "Examine" means "all that is necessary for the auditor to make the determinations required in ~~this subsection (c)(2)~~Section 653.410(e)(2)(A)-(D)". These examinations are to determine whether:
 - A) There is effective control over and proper accounting for revenues, expenditures, assets, and liabilities.
 - B) The financial statements are presented fairly in accordance with generally accepted accounting principles adopted by the American Institute of Certified Public Accountants (AICPA) ~~(1981)~~.
 - C) The financial reports contain accurate and reliable financial data.
 - D) State funds are being expended in accordance with the terms of the grant contract and those applicable provisions of state law and regulations.

- 3) Compliance with Audit Standards
The audit shall be made in accordance with generally accepted auditing standards established by the ~~American Institute of Certified Public Accountants (AICPA) (1981)~~.

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- d) Requirements for Independent Audit Reports
- 1) Audit Report Elements
The audit report shall contain the following elements:
- A) Scope of audit
 - B) A description of audit procedures used
 - C) Opinion
 - D) Findings
 - E) Recommendations
 - F) Financial statements and analyses
 - G) On forms prescribed by the Department, a schedule~~Schedules~~ of operating revenues and expenses for the participant's grant contract period on a form prescribed by the Department. (See Section 2-4 of the Act.)
- 2) Contents of Report
The audit report shall consist of the following:
- A) Financial statements, including footnotes, of the participant.
 - B) The auditor's comments on the financial statements, which ~~shall~~:
 - i) Identify the statements examined, and the period covered.
 - ii) Express an opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting principles. If an unqualified opinion cannot be expressed, the nature of the qualification shall be stated.
 - C) Calculations, assurances, (i.e., positive or negative assurances that something has been done), and certifications, (i.e., statements by

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which it is declared that a fact is true or a requirement has been met), stating whether the requirements of ~~subsection (c)(2)~~Section 653.410(c)(2) have been met by the Department, including, ~~but not limited to by the way of example only and not by way of limitation,~~ the following:

- i) A determination and calculation of eligible and ineligible operating expenses.
 - ii) A determination and calculation that the State operating assistance, when added to the ~~federal~~Federal operating assistance, does not exceed the total operating deficit. Operating deficit shall be calculated as eligible expenses less revenues. In determining deficit, the definition of eligible expenses in the Act and this Part and the definition of revenue in the Act shall govern.
- D) The auditor's assurances that:
- i) The financial statements of the participant were prepared in accordance with generally accepted accounting principles adopted by the ~~American Institute of Certified Public Accountants (AICPA) (1981)~~.
 - ii) Applicable laws, ~~particularly Ill. Rev. Stat. 1985, ch. 111²/₃, par. 661 et seq., as amended, and 92 Ill. Adm. Code 653; Regulations for Operating Assistance to Downstate Areas~~ were complied with by the participant.
 - iii) The participant's system of internal accounting controls and procedures were adequate relating to funds received and costs chargeable to the grant contract.
 - iv) State funds were expended in accordance with the grant contract.
- E) The auditor's comments on compliance and internal control, which shall include:

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Section 653.430 State Audit

- a) The Department shall perform or commission an audit, known as the State audit, of the participant's financial records and the audit performed by the independent auditor submitted by the participant with its own forces or by contracting with an independent certified public accountant solely at the expense of the Department. Any audit under this ~~Section~~ shall begin no later than three years following the last day of the fiscal year that is being audited. The Department will perform a State audit on all grants. The State audit will be done after the Department receives the independent audit. The Department will give written notice to the participant of the ~~date~~(s) scheduled for the State audit, which shall be an agreed-upon time arrived at between the grantee and the Department.
- b) The independent auditor and the participant shall work with the Department in resolving any issues raised by the State audit. Any issues that cannot be resolved to the mutual agreement of the Department, the participant and/or independent auditor shall be decided by the Department consistent with the Act, ~~this Part~~these regulations and the Department's application and interpretation of generally accepted accounting principles adopted by the ~~American Institute of Certified Public Accountants (AICPA) (1981)~~. The Department's decisions shall be considered final.
- c) Upon resolution of the issues according to the procedures provided in ~~subsection paragraph~~(b) ~~above~~, the Department will issue a final ~~State~~ audit report to the participant. In the absence of fraud, payment issues, audit issues or any other matters pertaining to the grant may not be raised and are forever settled upon issuance of the final ~~State~~ audit.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.460 Grant Closeout

The Department shall consider the grant closed when the final reconciliation payment is made, either by the Department or the participant, as provided in Section 653.440. The Department shall send notification to the participant that the grant is closed. At the discretion of the Department, several years of audit reconciliation balances may be combined to allow for one payment to reconcile minor annual reconciliation balances.

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(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 653.470 Finality of Prior Grant Related Decisions (Repealed)

~~All grants made for fiscal years prior to the fiscal year beginning on July 1, 1986, shall be audited by the State and the independent auditor consistent with the directions, information and policy provided by the Department to the participant or the auditors during the fiscal year for which the grant was made during the period of time that the grant was or is being audited. All such Departmental directions, information and policy shall be considered final and not affected by the regulations under this Part.~~

(Source: Repealed at 34 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Services Delivered by the Department of Children and Family Services
- 2) Code Citation: 89 Ill. Adm. Code 302
- 3) Section Number: 302.410 Adopted Action:
New
- 4) Statutory Authority: 20 ILCS 505/5
- 5) Effective Date of Rulemaking: February 26, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted amendment, including material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Rules Published in the Illinois Register: October 16, 2009; 33 Ill. Reg. 14227
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The Department made no changes other than nonsubstantive technical and grammatical changes suggested by JCAR after initial publication.
- 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? Yes. A companion emergency amendment became effective on October 16, 2009 and was published at 33 Ill. Reg. 14310.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The Department is adding Section 302.410 to provide for the State to enter into kinship guardianship assistance agreements to provide

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kinship guardianship assistance payments on behalf of children to grandparents and other relatives who have assumed legal guardianship of the children for whom they have cared as foster parents and for whom they have committed to care on a permanent basis.

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

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65-D
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TTY: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us
Facsimile: 217/557-0692

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

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TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERYPART 302
SERVICES DELIVERED BY THE
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBPART A: GENERAL PROVISIONS

Section	Purpose
302.10	Purpose
302.20	Definitions
302.30	Introduction
302.40	Department Service Goals
302.50	Functions in Support of Services

SUBPART B: REPORTS OF SUSPECTED CHILD ABUSE OR NEGLECT (RECODIFIED)

Section	Purpose
302.100	Reporting Child Abuse or Neglect to the Department (Recodified)
302.110	Content of Child Abuse or Neglect Reports (Recodified)
302.120	Transmittal of Child Abuse or Neglect Reports (Recodified)
302.130	Special Types of Reports (Recodified)
302.140	Referrals to the Local Law Enforcement Agency and State's Attorney (Recodified)
302.150	Delegation of the Investigation (Recodified)
302.160	The Investigative Process (Recodified)
302.170	Taking Children Into Temporary Protective Custody (Recodified)
302.180	Notification of the Determination Whether Child Abuse or Neglect Occurred (Recodified)
302.190	Referral for Other Services (Recodified)

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section	Purpose
302.300	Adoptive Placement Services (Repealed)
302.305	Adoption Listing Service for Hard-to-Place Children or Children with Disabilities for Whom the Department is Not Legally Responsible

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302.310	Adoption Assistance
302.311	Nonrecurring Adoption Expenses (Repealed)
302.315	Adoption Registry (Repealed)
302.320	Counseling or Casework Services
302.330	Day Care Services
302.340	Emergency Caretaker Services
302.350	Family Planning Services
302.360	Health Care Services
302.365	Mental Health Services (Repealed)
302.370	Homemaker Services
302.380	Information and Referral Services
302.390	Behavioral Health Services
302.400	Successor Guardianship (Repealed)
302.405	Subsidized Guardianship Program
<u>302.410</u>	<u>Subsidized Guardianship Program (KinGap)</u>

SUBPART D: INTENSIVE FAMILY PRESERVATION SERVICES

Section

302.500	Purpose
302.510	Implementation of the Family Preservation Act
302.520	Types of Intensive Family Preservation Services
302.530	Phase In Plan for Statewide Family Preservation Services
302.540	Time Frames

302.APPENDIX A	Acknowledgement of Mandated Reporter Status (Recodified)
302.APPENDIX B	Calculating the Amount of Adoption Assistance (Repealed)

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg.

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5557, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1551, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified to 89 Ill. Adm. Code 300 at 11 Ill. Reg. 3492, Sections 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, Appendix A; amended at 13 Ill. Reg. 18847, effective November 15, 1989; amended at 14 Ill. Reg. 3438, effective March 1, 1990; amended at 14 Ill. Reg. 16430, effective September 25, 1990; amended at 14 Ill. Reg. 19010, effective November 15, 1990; amended at 16 Ill. Reg. 274, effective December 31, 1992; emergency amendment at 17 Ill. Reg. 2513, effective February 10, 1993, for a maximum of 150 days; emergency expired July 9, 1993; amended at 17 Ill. Reg. 13438, effective July 31, 1993; amended at 19 Ill. Reg. 9107, effective June 30, 1995; amended at 19 Ill. Reg. 9485, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10746, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; emergency amendment at 19 Ill. Reg. 16735, effective November 28, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4606, effective March 15, 1996; amended at 20 Ill. Reg. 6670, effective May 1, 1996; emergency amendment at 21 Ill. Reg. 1033, effective January 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3265, effective March 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6204, effective May 15, 1997; amended at 21 Ill. Reg. 10912, effective July 29, 1997; amended at 22 Ill. Reg. 7140, effective April 13, 1998; emergency amendment at 22 Ill. Reg. 7289, effective April 13, 1998, for a maximum of 150 days; emergency expired September 10, 1998; amended at 22 Ill. Reg. 8803, effective May 15, 1998; amended at 22 Ill. Reg. 21314, effective December 1, 1998; emergency amendment at 25 Ill. Reg. 4292, effective March 15, 2001, for a maximum of 150 days; emergency expired August 11, 2001; amended at 25 Ill. Reg. 11821, effective August 31, 2001; amended at 25 Ill. Reg. 16243, effective December 15, 2001; amended at 26 Ill. Reg. 11747, effective August 1, 2002; amended at 26 Ill. Reg. 16434, effective October 22, 2002; amended at 28 Ill. Reg. 2155, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 10405, effective July 8, 2004, for a maximum of 150 days; emergency expired December 4, 2004; amended at 29 Ill. Reg. 20354, effective November 30, 2005; amended at 30 Ill. Reg. 2323, effective February 2, 2006; amended at 32 Ill. Reg. 11611, effective July 10, 2008; emergency amendment at 33 Ill. Reg. 14310, effective October 1, 2009, for a maximum of 150 days; amended at 34 Ill. Reg. 3248, effective February 26, 2010.

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section 302.410 Subsidized Guardianship (KinGap)**a) General Provisions**

The subsidized guardianship program (KinGap) implements provisions of Public Law 110-351 that allow the State to enter into guardianship agreements to provide

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assistance payments to grandparents and other relatives who have assumed the legal guardianship of children for whom they have cared as a licensed foster parent and for whom they have committed to care on a permanent basis. The program offers a subsidized private guardianship arrangement for children for whom the permanency goals of return home and adoption have been ruled out. Guardianship is governed by the Illinois Probate Act [755 ILCS 5] and the Illinois Juvenile Court Act [705 ILCS 405]. A licensed relative foster parent caring for a child determined to be eligible for the subsidized guardianship program shall be made aware of the availability of subsidized guardianship and the types of assistance available. The subsidized guardianship agreement must be signed prior to the transfer of guardianship.

b) Subsidized Guardianship Agreement

The type, amount and duration of subsidized guardianship shall be agreed to in writing by the Department and the subsidized guardian prior to the transfer of guardianship and shall be set forth in the subsidized guardianship agreement, which shall be binding on the parties to the agreement. The agreement shall also stipulate that the agreement shall remain in effect regardless of the state where the subsidized guardian resides currently or in the future and shall contain provisions for the protection of the interests of the child in cases in which the subsidized guardian and child move to another state while the agreement is in effect. The amounts of ongoing subsidized guardianship payments are subject to change based on changes in State or federal law regarding adoption assistance payments. Subsidized guardians may refuse any or all payments offered by the Department. The child for whom guardianship is transferred and for whom the guardian is receiving a subsidy shall receive only those services and/or payments specified in the subsidized guardianship agreement. The child may require services in the future that are not currently being provided for pre-existing physical, emotional or mental health needs or risk factors. Any pre-existing conditions must be described in the subsidized guardianship agreement to be eligible for assistance through the Adoption Assistance Program at a future date. Assistance cannot be granted for services for pre-existing conditions if the conditions are not listed in the subsidized guardianship agreement. The subsidized guardianship agreement must be signed, and a copy of the signed agreement must be provided to the prospective guardian, prior to the transfer of guardianship.

c) Eligibility Criteria

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- 1) For a child to qualify for subsidized guardianship under KinGap, the following criteria must be met:
 - A) the child must have been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare and the best interest of the child; and
 - B) the child must be eligible for foster care maintenance payments while residing for at least 6 consecutive months in the home of a licensed prospective relative guardian immediately prior to the establishment of the guardianship; and
 - C) the prospective relative guardian must have been a licensed foster parent for at least the consecutive 6 month period that the child has been in his/her home immediately prior to the establishment of the guardianship; and
 - D) being returned home or adopted are not appropriate permanency options for the child; and
 - E) the child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child; and
 - F) with respect to a child who has attained 14 years of age, the child has been consulted and the child has agreed to the guardianship arrangement;
- 2) Children who meet the following criteria, outlined in this subsection (c)(2), also qualify for subsidized guardianship under KinGap:
 - A) the child is a sibling of an eligible child who is placed with the same relative under a kinship guardianship agreement, and DCFS and the relative guardian agree that the placement is appropriate. Siblings of an eligible child under subsection (c)(2)(B) are not eligible for the sibling exception; or

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- B) the child is 14 years of age or older and has lived with a licensed non-relative for at least the 6 consecutive month period prior to the establishment of the guardianship and meets the following:
- i) the child was removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare and best interest of the child; and
 - ii) the child was eligible for foster care maintenance payments while residing for at least 6 consecutive months in the licensed non-relative home immediately prior to establishing guardianship; and
 - iii) the prospective guardian has been a licensed foster parent for at least the consecutive 6 month period immediately prior to the establishment of the guardianship; and
 - iv) being returned home or adopted are not appropriate permanency options for the child; and
 - v) the child demonstrates a strong attachment to the prospective guardian and the prospective guardian has a strong commitment to caring permanently for the child; and
 - vi) the child has been consulted and has agreed to the guardianship arrangement.
- d) Determination Whether Subsidized Guardianship under the KinGap Program is in the Best Interests of the Child
- 1) Prior to approving a subsidized guardianship arrangement for a child, the Department shall determine whether subsidized guardianship is in the best interests of the child. In making this determination, the Department shall consider all relevant factors, including but not limited to:

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- A) the wishes of the child's prospective subsidized guardian and the guardian's demonstrated ability to provide care that meets the special needs of the child, if any;
 - B) the wishes of the child under the age of 14 or the consent of the child, if over age 14;
 - C) the interaction and interrelationship between the child and the prospective subsidized guardian;
 - D) the child's adjustment to the present home, school and community;
 - E) the child's need for stability and continuity of relationship with the prospective subsidized guardian; and
 - F) the mental and physical health of all individuals involved.
- 2) The Department shall ensure that the subsidized guardianship arrangement is safe and suitable placement by means of a safety checks, which shall include a CANTS/SACWIS and LEADS check.
- e) Types of Assistance
The types of assistance that a family may apply for include:
- 1) Non-recurring Expenses
Payment for non-recurring expenses for reasonable and necessary miscellaneous costs, and legal fees related to subsidy review, that are directly related to the transfer of guardianship, subject to the maximum set by the Department of up to \$500 per child.
 - 2) Ongoing Monthly Payments
 - A) An ongoing monthly payment to be determined through the discussion and negotiation process between the prospective guardian and the Department based on the needs of the child and the circumstances of the family. This payment should combine with the guardian's resources to cover the ordinary and special needs of the child. This payment shall not exceed the amount the

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child receives in his or her current foster family home upon transfer of guardianship. The ongoing monthly payment shall only be issued to one custodial caregiver identified as payee in the assistance agreement, and this person shall be the designated authority for the purpose of service provision. In the event that there is a change in the custodial status of the child, the Department shall be notified. If a change in payee is necessary, notification shall be sent to the Department in writing with the supporting legal documentation attached. The ongoing monthly payment may be adjusted for any benefits the child will continue to receive, such as Social Security, Veteran's benefits, railroad retirement or black lung benefits. Supplemental Security Income (SSI) benefits shall not be considered in determining the ongoing monthly payment amount. When the child is SSI-eligible following the transfer of guardianship, the guardian shall tell the Social Security Administration the amount of the ongoing monthly payment that they are receiving. The Social Security Administration may reduce the SSI payment dollar for dollar as the receipt of SSI is based on income.

B) Although eligibility for a subsidy under the subsidized guardianship program shall be determined regardless of the financial circumstances of the prospective subsidized guardian, the types and amounts of assistance under each subsidized guardianship agreement shall be determined by the Department in the same manner as described for adoption assistance in Section 302.310(c) of this Part.

3) A Medicaid card.

4) Needs Not Payable through Other Sources

A) Physical, emotional and mental health needs not payable through insurance or public resources (e.g., other State or community funded programs) that are associated with, or result from, a condition whose onset has been established as occurring prior to the transfer of guardianship. Payment shall not be made until the Department has been notified in writing that the services will begin and has approved the requested services, and a contract (when

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applicable) has been executed. The Department's reimbursement shall be limited to what is usual, customary and reasonable based on Medicaid-eligible service rates in the community as determined by the Department.

B) The Department will not pay for physical, emotional, medical, mental health or psychological services or treatment for a pre-existing condition or risk factors unless the pre-existing condition, service or risk factor is included in the subsidized guardianship agreement.

5) Therapeutic Day Care
Therapeutic day care is available only for children who are determined to have a disability that requires special education services through an Individualized Education Plan (IEP), an Individual Family Service Plan (IFSP), or a 504 Educational Special Needs Plan and is not fundable through another source. Specific therapeutic interventions must be provided as an integral part of the day care programming. Payment for therapeutic day care shall not be made until the Department has been notified in writing that those services will begin and has approved the requested services, and a contract has been executed (when applicable).

6) Employment Related Day Care
Payment may be made for day care for children under the age of 3 years if the guardian is employed or in a training program that will lead to employment. Payment for day care services shall end on the child's third birthday. This day care payment cannot be used in addition to therapeutic day care.

7) College Scholarships and the Education and Training Voucher Program
Children who are receiving subsidized guardianship assistance may apply for a 4-year college scholarship awarded by the Department on a competitive basis. A limited number of scholarships is awarded by the Department each year to high school or high school equivalent graduates. Youth who enter into subsidized guardianship or are adopted from foster care after attaining age 16 are eligible to enter the Education and Training Voucher (ETV) Program.

f) Responsibilities of the Subsidized Guardian

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Subsidized guardians are responsible for the following:

- 1) ensuring that parents have the opportunity to visit their children in accordance with the provisions/orders of the court; and
- 2) notifying the Department no later than 30 days after any one of the following occurrences:
 - A) the child is no longer the legal responsibility of the guardian;
 - B) the guardian no longer financially supports the child;
 - C) the child graduates from high school or equivalent;
 - D) there is a change of residential address or mailing address of the guardian or the child;
 - E) the child dies;
 - F) the child becomes an emancipated minor;
 - G) the child marries;
 - H) the child enlists in the military;
 - I) the mental or physical incapacity of the guardian prevents the guardian from discharging the responsibilities necessary to protect and care for the child;
 - J) the custodial status of the child changes; or
 - K) the guardianship is vacated.
- g) Department Responsibilities
 - 1) The Department shall ensure that members of sibling groups are placed together, unless there is an explicit determination that they should not be placed together for the reasons described in 89 Ill. Adm. Code 301 (Placement and Visitation Services).

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- 2) The Department shall explain in the child's service plan the following:
- A) the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;
 - B) the reasons for any separation of siblings during placement;
 - C) the reasons why a permanent placement with a fit and willing relative through a subsidized guardianship assistance arrangement is in the child's best interests;
 - D) the ways in which the child meets the eligibility requirements for a subsidized guardianship assistance payment;
 - E) the efforts the agency has made to discuss adoption with the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons not to pursue; and
 - F) the efforts made by the Department to discuss with the child's parent or parents the subsidized guardianship assistance arrangement, or the reasons why the efforts were not made.
- 3) The Department shall offer short-term support services for foster care and relative home providers prior to and during subsidized guardianship. Services will include preliminary screening, assessment, assistance in applying for subsidized guardianship, and payment of one time only court costs and legal fees, if required.
- 4) The Department shall ensure that an orientation is provided to the caregiver's family to ensure that all family members understand the benefits and responsibilities of all the participants in the subsidized guardianship arrangement.

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- 5) The Department shall ensure that each guardian has access to post-guardianship staff to respond to requests for information and assistance.
- 6) The Department shall ensure that all guardians are aware of their right to appeal service decisions with which they may disagree under 89 Ill. Adm. Code 337 (Service Appeal Process).
- 7) The Department shall accept custody of the child in accordance with the Abused and Neglected Child Reporting Act [325 ILCS 5] if the guardian does not care for the child to the extent the child's health or well-being is endangered.
- h) Periodic Reviews
Periodic reviews are annual re-certifications that are required for children in guardianship homes to maintain their eligibility for the Title XIX Medicaid Program. The Department shall conduct periodic reviews to confirm that the child remains eligible for a Medicaid card. The guardians will receive written notice of the review, and response from the guardians to this notice is a requirement.
- i) Termination of Payments
Payments for subsidized guardianship assistance shall terminate when the Department has determined that any one of the following has occurred:
- 1) when the terms of the subsidized guardianship agreement are fulfilled;
 - 2) the guardian has requested that the payment permanently stop;
 - 3) the guardian is no longer financially supporting the child;
 - 4) the child becomes an emancipated minor;
 - 5) the child marries;
 - 6) the child enlists in the military;
 - 7) the child reaches age 18; a child 18 years of age graduates from high school or equivalent or reaches age 19, whichever occurs first; or a child

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who has a physical, mental or emotional disability that was documented prior to the 18th birthday reaches age 21;

8) the guardian dies;

9) the guardianship is vacated; or

10) the child dies.

(Source: Added at 34 Ill. Reg. 3248, effective February 26, 2010)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Procedures Governing the Establishment of Credit, Billing, Deposits, Termination of Service and Issuance of Telephone Directories for Local Exchange Telecommunications Carriers in the State of Illinois
- 2) Code Citation: 83 Ill. Adm. Code 735
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
735.130	Amendment
735.160	Amendment
- 4) Statutory Authority: Implementing Sections 8-101 and 9-252 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/8-101, 9-252, and 10-101]
- 5) Effective Date of Amendments: March 1, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 25, 2009; at 33 Ill. Reg. 12918
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were required.
- 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: The amendments to Part 735 deal with the postmark requirements for bills and discontinuance notices. The amendments are

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prompted by the changes that have taken place in postal practices and technology since the adoption of the previous requirements.

- 16) Information and questions regarding these adopted amendments 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 Amendments begins on the next page:

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TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 735

PROCEDURES GOVERNING THE ESTABLISHMENT OF CREDIT, BILLING,
DEPOSITS, TERMINATION OF SERVICE AND ISSUANCE OF TELEPHONE
DIRECTORIES FOR LOCAL EXCHANGE TELECOMMUNICATIONS
CARRIERS IN THE STATE OF ILLINOIS

735.10	Definitions
735.20	Policy
735.30	Scope and Application
735.40	Discrimination Prohibited
735.50	Variance
735.60	Saving Clause
735.70	Customer Billings
735.80	Deferred Payment Agreements
735.90	Preferred Payment Dates
735.100	Applicants for Service
735.110	Present Customers
735.120	Deposits
735.121	Refunds of Additional Charges
735.130	Discontinuance or Refusal of Service
735.140	Illness Provision
735.150	Payment for Service
735.160	Past Due Bills
735.170	Service Restoral Charge
735.180	Directories
735.190	Dispute Procedures
735.200	Commission Complaint Procedures
735.210	Public Notice of Commission Rules
735.220	Second Language
735.230	Customer Information Booklet
735.APPENDIX A	Notice of Discontinuance of Service
735.APPENDIX B	Requirements to Avoid Shutoff of Service in the Event of Illness
735.APPENDIX C	Public Notice Concerning Availability of this Part

AUTHORITY: Implementing Sections 8-101 and 9-252 and authorized by Section 10-101 of

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the Public Utilities Act [220 ILCS 5/8-101, 9-252, and 10-101].

SOURCE: Adopted at 7 Ill. Reg. 2108, effective February 4, 1983; codified at 7 Ill. Reg. 15969; emergency amendment at 7 Ill. Reg. 16055, effective November 17, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 5161, effective April 13, 1984; amended at 18 Ill. Reg. 4146, effective March 15, 1994; amended at 18 Ill. Reg. 6164, effective May 1, 1994; amended at 18 Ill. Reg. 17981, effective December 15, 1994; emergency amendment at 25 Ill. Reg. 16552, effective December 13, 2001 for a maximum of 150 days; amended at 26 Ill. Reg. 7078, effective May 1, 2002; amended at 34 Ill. Reg. 3263, effective March 1, 2010.

Section 735.130 Discontinuance or Refusal of Service

- a) The company may discontinue or refuse service for any of the [following](#) reasons [stated below](#):
- 1) For failure to make or increase a deposit pursuant to Sections 735.100, 735.110, and 735.120;
 - 2) For failure to pay a past due bill owed to the company, including one for the same class of service furnished to the applicant or customer at the same or another location, or where the applicant or customer voluntarily assumed, in writing, responsibility for the bills of another applicant or customer. For purposes of this subsection [\(a\)\(2\)](#), a company may discontinue service if the current customer is liable for a past due bill for telephone service pursuant to Section 15 of the Rights of Married Persons Act [750 ILCS 65/15], unless the customer, at the option of the company, pays any past due bill and/or provides a deposit pursuant to Section 735.120 and/or enters into a deferred payment agreement pursuant to Section 735.80;
 - 3) For failure to provide company representatives with necessary access to company-owned service equipment, after the company has made a written request to do so;
 - 4) For failure to make payment in accordance with the terms of a deferred payment arrangement;
 - 5) When a company has reason to believe that a customer has used a device or scheme to obtain service without payment and where the company has

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so notified the customer prior to disconnection;

- 6) For violation of or noncompliance with a Commission order;
 - 7) For violation of or noncompliance with any rules of the company on file with the Commission for which the company is authorized by tariff to discontinue service for violation or noncompliance on the part of the customer or user;
 - 8) For violation of or noncompliance with municipal ordinances and/or other laws pertaining to service; or
 - 9) The customer's use of equipment adversely affects the company's service to others. This disconnection may be done without notice to the customer or user.
- b) The following shall not constitute sufficient cause for discontinuance or refusal of service:
- 1) Except as specified in subsection (a)(2)~~above~~, failure to pay the past due bill of a previous customer of the premises to be served, unless the applicant for service voluntarily signed a form agreeing to assume responsibility for the bills of the previous customer, or the previous customer is currently a member of the same household as the applicant;
 - 2) Failure to pay charges for directory advertising;
 - 3) Failure to pay the past due bill for a different class of service (residential or business); or
 - 4) Failure to pay charges for terminal equipment or other telephone equipment purchased from the company, an affiliate, or a subsidiary.
- c) Discontinuance procedures. The company may discontinue service to a customer only after it has mailed or delivered by other means a written notice of discontinuance, substantially in the form of Appendix A. Service shall not be discontinued until at least five days after the notice is delivered in person or eight days after the notice is mailed to the customer. If the notice is mailed, the company shall maintain and retain, for a two-year period, any documentation of

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the date of mailing that the US Postal Service requires for the mailing method used by the company. If the notice is mailed by the company and the envelope is postmarked by the US Postal Service, then the date of the postmark shall satisfy this documentation requirement.

- 1) The notice of discontinuance shall be delivered separately from any other written matter or bill.
 - 2) Notice of discontinuance shall not be delivered or mailed before the third business day following the due date shown on the bill.
 - ~~1) The company may discontinue service to a customer only after it has mailed or delivered by other means a written notice of discontinuance, substantially in the form of Appendix A. Service shall not be discontinued until at least five days after delivery of this notice or eight days after the postmark date on a mailed notice. The notice of discontinuance shall be delivered separately from any other written matter or bill.~~
 - ~~2) Notice of discontinuance shall not be mailed before the third business day following the due date shown on the bill.~~
- d) ~~The Said~~ notice required by subsection (c) shall remain in effect for 20 days beyond the date of discontinuance shown on the notice. The company shall not discontinue service beyond the 20 day period until at least five days after delivery of a new written notice of discontinuance or eight days after the postmark on a mailed notice.
- e) In addition to the written notice, the company shall attempt to advise the customer when service is scheduled for discontinuance. The company shall not deliver more than two consecutive notices of discontinuance for past due bill without engaging in collection activity with the customer.
- f) Timing of the discontinuance
- 1) Service shall not be discontinued for a past due bill after 12 noon on a day before or on any Saturday, Sunday, legal holiday recognized by the State of Illinois, or any day when the utility's business offices are not open for business. Services may be discontinued only between the hours of 8 a.m. and 2 p.m., unless the company is prepared to restore service within three

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hours after receipt of payment, at the standard restoral charge, if any.

- 2) Each company shall have personnel available until at least 5 p.m. on business days authorized to reconnect service if the conditions cited as grounds for discontinuance are corrected and any restoral charge specified by the company's tariff is paid.
- g) Service shall not be discontinued, and shall be restored if discontinued, ~~when~~where a present customer who is indebted to the company enters into a payment arrangement pursuant to Section 735.80; and complies with the terms ~~of the arrangement~~thereof.
- h) Service shall not be discontinued, and shall be restored if discontinued, for any reason ~~that~~which is the subject of a dispute or complaint pursuant to Section 735.190 and/or 735.200 while ~~the~~such dispute or complaint is pending and the complainant has complied with the provisions of ~~those~~these Sections.
- i) Service shall not be discontinued for an amount due the company ~~that~~which has not been included in a discontinuance notice.
- j) Nothing in this Section shall be construed to prevent immediate discontinuance of service without notice or the refusal of service for reasons of public safety or health.

(Source: Amended at 34 Ill. Reg. 3263, effective March 1, 2010)

Section 735.160 Past Due Bills

- a) Due Date.
~~The due date printed on the monthly bill may not be less than twenty-one (21) days after the date of the postmark on the bill, if mailed, or the date of delivery as shown on the bill if delivered by other means.~~
- 1) The company shall retain documentation for a period of two years of the following:
 - A) the due date of each bill; and

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- B) the date each bill was mailed, delivered, sent or made available to each customer.
- 2) The due date printed on the monthly bill may not be less than 21 days after the date upon which:
- A) the bill is mailed to the customer;
- B) the bill is delivered in person to the customer;
- C) the bill is sent electronically to the customer; or
- D) the customer is notified that the bill is available electronically.
- 3) The bill shall include a bill date, which shall not be less than 21 days prior to the due date on the bill.
- 4) If the company relies upon the US Postal Service for mailing bills to its customers, then the documentation required in subsection (a)(1)(B) may be satisfied by retention and, if necessary, production of the records created for the method of mailing required by the US Postal Service.
- 5) If the company employs a method of mailing with the US Postal Service whereby a postmark with date is applied to the mailing, then the company shall not be obliged to maintain the documentation required in subsection (a)(1)(B).
- b) Payment at Company Offices or Authorized Agents.
Payment made in person at the company's~~Company's~~ office or authorized agent shall be deemed received the date payment is made.
- c) Night Depository Payments.
Payment made in the company's~~Company's~~ night depository shall be deemed received on the next full business date.
- d) Late Payment Charges.
The company may assess a late payment charge in accordance with tariffs approved by the Commission against the amount ~~which is~~ considered past due under this Section.

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(Source: Amended at 34 Ill. Reg. 3263, effective March 1, 2010)

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- 1) Heading of the Part: Illinois Finance Authority
- 2) Code Citation: 74 Ill. Admin. Code 1100
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1100.1000	New
1100.1005	New
1100.1010	New
1100.1015	New
1100.1017	New
1100.1020	New
1100.1025	New
1100.1030	New
- 4) Statutory Authority: Implementing and authorized by the Illinois Finance Authority Act [20 ILCS 3501]
- 5) Effective Date of Amendments: February 23, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 33 Ill. Reg. 10187; July 17, 2009
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Deleted a maximum debt service coverage option for a direct property tax loan levy in Section 1100.1017(c)(3) and made various grammatical and punctuation changes.
- 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

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- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: These rules implement the Illinois Finance Authority Dormitory Sprinkler Revolving Loan Programs.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Chris Meister
Executive Director
Illinois Finance Authority
Two Prudential Plaza
180 N. Stetson, Suite 2555
Chicago, IL 60601

312/651-1310
cmeister@il-fa.com

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

ILLINOIS FINANCE AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 74: PUBLIC FINANCE
CHAPTER VIII: ILLINOIS FINANCE AUTHORITYPART 1100
ILLINOIS FINANCE AUTHORITY
SUBPART A: ILLINOIS FINANCE AUTHORITY

Section

1100.50	Definitions
1100.100	Composition, ; Appointment and ; Terms of Office
1100.105	Board Chairman Chair
1100.110	Executive Director
1100.115	Meetings
1100.120	Records and Reports
1100.125	Public Participation
1100.130	Rulemaking Procedures
1100.135	Purchasing Rules and Regulations
1100.140	Seal
1100.145	Principal Office
1100.150	Revision
1100.155	Construction; Waiver; Severability

SUBPART B: FINANCING PROGRAMS

Section

1100.200	Summary and Purpose
1100.202	Definitions
1100.204	Application Forms
1100.206	Notice to Municipalities
1100.208	Changes in Information and Additional Information
1100.210	Meetings of the Authority
1100.212	Eligible Projects
1100.215	Scheduling of Project Consideration
1100.220	Staff Review
1100.225	Authority Action
1100.230	General Criteria for Approval
1100.235	Additional Criteria for Commercial Projects
1100.240	Submission of Documents
1100.245	Public Hearing Procedures and Responsibilities

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1100.250	Final Public Approval
1100.255	Requests for Allocation
1100.260	Amendatory Resolutions
1100.265	Bond Counsel on Pooled Bond Issues
1100.270	Program Requirements; Standardized Documents
1100.275	Transcripts
1100.280	Authority Fees
1100.285	Noncompliance and Waiver

SUBPART C: GOVERNMENTAL UNIT ASSISTANCE PROGRAM

Section	
1100.300	Purposes and Objectives; Compliance with Federal Law; Forms for Program
1100.305	Applicant Eligibility
1100.310	Pre-Filing Stage
1100.315	Filing of Application
1100.320	Approval of Application
1100.325	Denial of Application
1100.330	Priority of Application
1100.335	Source of Payment and Nature of Obligation
1100.340	Fees
1100.345	Purchase of Governmental Unit Bonds

SUBPART D: ILLINOIS DEVELOPMENT ACTION GRANT PROGRAM

Section	
1100.400	Purpose; Definitions; Incorporation by Reference
1100.405	Eligible Applicants; Eligible Projects
1100.410	Municipal Approval
1100.415	Application Requirements
1100.420	Technical Assistance
1100.425	On-Site Inspection
1100.430	Selection Criteria
1100.435	Deadlines
1100.440	Funding Restrictions and Eligible Costs
1100.445	Grant Agreement
1100.450	Disbursement of Grants
1100.455	Recordkeeping and Access to Information
1100.460	Progress Reports

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- 1100.465 Audit Requirements
- 1100.470 Grant Monitoring and Recovery
- 1100.475 Project Completion Notice

SUBPART E: ILLINOIS HOUSING PARTNERSHIP PROGRAM

Section

- 1100.500 Purpose; Definitions; Incorporation by Reference
- 1100.505 Eligible Applicants; Eligible Projects
- 1100.510 Municipal Approval
- 1100.515 Application Requirements
- 1100.520 On-Site Inspection
- 1100.525 Selection Criteria
- 1100.530 Deadlines
- 1100.535 Funding Restrictions and Eligible Costs
- 1100.540 Loan Agreement
- 1100.545 Disbursement and Repayment of Loans
- 1100.550 Loan Terms
- 1100.555 Recordkeeping and Access to Information
- 1100.560 Progress Reports
- 1100.565 Audit Requirements
- 1100.570 Loan Monitoring and Recovery
- 1100.575 Project Completion Notice

SUBPART F: EDUCATIONAL FACILITIES PROGRAM

Section

- 1100.600 Introduction
- 1100.610 Who May Apply for Financing
- 1100.620 Types of Educational and Cultural Facilities that Can Be Financed
- 1100.630 Types of Costs that Can Be Financed: Outstanding Debt
- 1100.640 Application Guidelines
- 1100.650 Interest Rate on the Authority's Bonds
- 1100.660 Method of Financing
- 1100.670 Length of Bond Issue
- 1100.680 Type of Bond Issue
- 1100.690 Fees

SUBPART G: FARM DEVELOPMENT PROGRAM

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1100.700	Definitions
1100.705	Rules and Guidelines Applicable to Bond Programs under this Subpart
1100.710	Bond Programs and Rules Applicable to Each
1100.715	Rules and Guidelines Applicable to the Interest Buy Down Program
1100.720	Rules and Guidelines Applicable to the Young Farmer Guarantee Program
1100.725	Rules and Guidelines Applicable to the State Guarantee Program for Restructuring Agricultural Debt
1100.730	Rules and Guidelines Applicable to the Specialized Livestock Guarantee Program
1100.735	Rules and Guidelines Applicable to the State Guarantee Program for Agri-Industries

SUBPART H: FIRE TRUCK REVOLVING LOAN PROGRAM

Section

1100.800	Definitions
1100.805	Purpose
1100.810	Eligible Expenditures
1100.815	Loan Application Review
1100.817	Funding Criteria and Credit Review Process
1100.820	Loan Documents and Servicing
1100.825	Repayment Procedures
1100.830	Terms and Conditions of Loan Agreement

SUBPART I: AMBULANCE REVOLVING LOAN PROGRAM

Section

1100.900	Definitions
1100.905	Purpose
1100.910	Eligible Expenditures
1100.915	Loan Application Review
1100.917	Funding Criteria and Credit Review Process
1100.920	Loan Documents and Servicing
1100.925	Repayment Procedures
1100.930	Terms and Conditions of Loan Agreement

[SUBPART J: FIRE SPRINKLER DORMITORY REVOLVING LOAN PROGRAM](#)[Section](#)

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1100.1000	Definitions
1100.1005	Purpose
1100.1010	Eligible Expenditures
1100.1015	Loan Application Review
1100.1017	Funding Criteria and Credit Review Process
1100.1020	Loan Documents and Servicing
1100.1025	Repayment Procedures
1100.1030	Terms and Conditions of Loan Agreement

1100.TABLE A Income Limits

AUTHORITY: Implementing and authorized by the Illinois Finance Authority Act [20 ILCS 3501].

SOURCE: Recodified from the Illinois Farm Development Authority (8 Ill. Adm. Code 1400), the Illinois Development Finance Authority (14 Ill. Adm. Code 1200, 1210, 1220), the Illinois Educational Facilities Authority (23 Ill. Adm. Code 2310, 2320), and the Illinois Rural Bond Bank (47 Ill. Adm. 400, 410, 420) to the Illinois Finance Authority at 31 Ill. Reg. 12104; amended at 34 Ill. Reg. 497, effective December 23, 2009; amended at 34 Ill. Reg. 3272, effective February 23, 2010.

SUBPART J: FIRE SPRINKLER DORMITORY REVOLVING LOAN PROGRAMSection 1100.1000 Definitions

The following definitions apply in this Subpart:

_____ "Act" means the Fire Sprinkler Dormitory Act [110 ILCS 47].

_____ "Applicant" means a post-secondary educational institution applying to OSFM and the Authority for a low interest loan under the Program.

_____ "Authority" means the Illinois Finance Authority created by the Illinois Finance Authority Act [20 ILCS 3501] or its successor agency.

_____ "Fire Sprinkler System" means a fire sprinkler system located in an existing or newly constructed dormitory or residence hall of a post-secondary educational institution that has received the permits, certifications and inspections required by federal, State and local law, rule, guideline or ordinance.

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 "Fund" means the Fire Sprinkler Dormitory Revolving Loan Fund.

"Low Interest Loan" means a loan with a rate of interest to be charged under the Program as determined by the Board of the Authority at the time of the loan approval, at a rate lower than current market rates.

 "OSFM" means the Office of the State Fire Marshal.

"Post-Secondary Educational Institution" means an Illinois public or private college or university offering degrees and instruction above the high school level. This term does not include:

any public or private college or university that does not provide on-campus housing for its students in dormitories or equivalent facilities that are owned, operated or maintained by the public or private college or university;

any public or private junior college or community college; or

any institution offering degrees and instruction that uses correspondence as its primary mode of student instruction.

 "Program" means the Illinois Fire Sprinkler Dormitory Revolving Loan Program authorized by the Act and outlined in this Subpart.

(Source: Added at 34 Ill. Reg. 3272, effective February 23, 2010)

Section 1100.1005 Purpose

 OSFM and the Authority will jointly administer a Program to provide low interest loans to post-secondary educational institutions, the proceeds of which shall be used to pay all or any portion of the costs associated with planning, purchasing, installing, upgrading, altering, modifying, fixing or repairing a fire sprinkler system. OSFM will determine loan awards based on system needs, financial need and how recently the applicant has received a previous loan under this Program, supplemented by recommendations from the Authority based on creditworthiness. Low interest loans for the purchase of fire sprinkler systems shall not exceed \$1,000,000 in any single fiscal year to any post-secondary educational institution.

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(Source: Added at 34 Ill. Reg. 3272, effective February 23, 2010)

Section 1100.1010 Eligible Expenditures

Subject to the availability of monies in the Fund, low interest loans to post-secondary educational institutions will be available for the purpose of paying all or a portion of the costs associated with planning, purchasing, installing, upgrading, altering, modifying, fixing or repairing a fire sprinkler system.

(Source: Added at 34 Ill. Reg. 3272, effective February 23, 2010)

Section 1100.1015 Loan Application Review

- a) Applications by post-secondary educational institutions for low interest loans to be made pursuant to the Program shall be submitted to OSFM on forms provided by, and following the procedures established by, OSFM. Each application shall be reviewed by OSFM. OSFM will determine, based on system needs, financial need and how recently the applicant has received a previous loan under this Program, which eligible post-secondary educational institution will be recommended to the Authority to receive a low interest loan under this Program.
- b) Applications approved by OSFM will be forwarded to the Authority. The Authority will review the low interest loan application and any information provided in connection with the application, including, without limitation, financial statements, certifications and assurances provided by officers of the post-secondary educational institution to determine the creditworthiness of the institution.
- c) The Authority, after completion of its review of the applicant's creditworthiness, will notify OSFM of which loan applications have been approved. OSFM will notify each applicant of the approval or disapproval of its application. Applicants who are not approved may appeal the determination of OSFM by following the appeal process established by OSFM.
- d) In the event that applications for low interest loans exceed available funds, OSFM and the Authority will jointly determine criteria for the award based on the financial need of the applicant and other criteria that may be deemed appropriate by OSFM and the Authority.

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(Source: Added at 34 Ill. Reg. 3272, effective February 23, 2010)

Section 1100.1017 Funding Criteria and Credit Review Process

In addition to the criteria developed by OSFM, the credit review process and funding criteria approved by the Authority for this Program are as follows:

- a) If an applicant is delinquent on a previous loan under the Program, the applicant is automatically disqualified for an additional low interest loan from the Program until it is current on its loan repayment.
- b) Applicants are eligible for only one loan under the Program within any fiscal year.
- c) The applicant must demonstrate its ability to meet at least one of the following minimum debt service coverage requirements:
 - 1) General fund revenues or specified revenue stream: 1.25x; or
 - 2) State intercept revenues: 1.25x.
- d) Prior to funding, the applicant must submit supporting documentation for the source of repayment of the low interest loan as follows:
 - 1) For general fund or specified revenues, submit a current board-approved budget that reflects the identified revenue source and amount; or
 - 2) For direct property tax levy, submit a copy of the levy and the ordinance or resolution authorizing the levy.
- e) If the applicant's repayment source is property tax receipts, the applicant's actual property tax collections over the past three fiscal years must exceed 95% of the total possible tax collection.
- f) The applicant must provide a resolution or ordinance approved by the applicant's Board that includes the following approvals:
 - 1) Loan application, approved by OSFM and the Authority in the fiscal year in which the low interest loan is to be awarded;

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- 2) Loan Agreement;
 - 3) Source and amount of repayment; and
 - 4) State intercept agreement.
- g) Each loan must be secured by the applicant's:
- 1) General funds or, if available, a direct property tax levy; and/or
 - _____ 2) State revenue intercept agreement; and/or
 - _____ 3) A mortgage on the real property on which the fire sprinkler system is located.
- h) The Authority Board will approve loans made under the Program by resolution.

(Source: Added at 34 Ill. Reg. 3272, effective February 23, 2010)

Section 1100.1020 Loan Documents and Servicing

- _____ a) Approved loan applications will be submitted to the Authority for documentation and funding. Subject to the availability of monies in the Fund, the Authority will prepare a loan agreement, evidencing the loan to the post-secondary educational institution.
- b) The loan documents will be provided to the post-secondary educational institution for execution. Upon execution of the loan documents, subject to the availability of monies in the Fund, the Authority will execute the loan documents and cause the loan to be funded.
- _____ c) The Authority will retain the executed loan documents, as well as evidence of security supporting the loan, and will service funded loans under the Program.
- _____ d) The Authority reserves the right to charge an origination/processing fee of up to \$5,000 per applicant that receives an approved loan.

(Source: Added at 34 Ill. Reg. 3272, effective February 23, 2010)

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Section 1100.1025 Repayment Procedures

- a) The maturity date of the loans shall be determined by OSFM and the Authority, but shall not exceed 20 years.
- b) Payments of principal and interest on the loan shall be made according to the schedule determined by OSFM and the Authority. The Authority will provide invoices to loan recipients for those payments. Payments shall be made to the Illinois Finance Authority. Payments not received within 15 calendar days after the due date shall be assessed a penalty of 5 percent of the payment due; however, the late payment penalty will be waived when the postmark date on the envelope used to submit the payment is five days or more before the end of the 15-day grace period.
- c) A post-secondary educational institution may prepay the balance due on the loan in its entirety, or a portion of the balance, on any scheduled payment date, provided that the post-secondary educational institution first contacts the Authority to obtain the total amount of the principal due at that time.

(Source: Added at 34 Ill. Reg. 3272, effective February 23, 2010)

Section 1100.1030 Terms and Conditions of Loan Agreement

An approved loan is subject to the following terms:

- a) Loan proceeds under this Program shall be used exclusively for the purposes listed in Section 1100.1005 and shall be expended in accordance with the approved application and the applicant's policies and procedures related to the expenditures. In the event the loan proceeds are not expended in the manner approved, then the post-secondary educational institution, upon written notification from OSFM, shall, within 90 calendar days after the date of the notification, submit payment of the outstanding principal of the loan.
- b) Loan proceeds shall be spent no later than six months following the receipt of the loan.
- c) Use of loan proceeds shall be accounted for in accordance with standard accounting practices. Loan recipients shall submit to OSFM a report detailing

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how the loan proceeds were used. This expenditure report, to be submitted on a form supplied by OSFM, shall be due not later than nine months following receipt of the loan.

- d) In the event of default that is not cured within 90 calendar days, OSFM shall notify the Office of the Comptroller to deduct the amount owed from any payments from other State agencies, if any, and the post-secondary educational institution shall be ineligible for additional loans until good standing has been restored. In addition, OSFM and/or the Authority may avail itself of all remedies, rights and provisions of law applicable in the circumstances, and the failure to exercise or exert any rights or remedies provided by law may not be raised as defense by the post-secondary educational institution in default.

(Source: Added at 34 Ill. Reg. 3272, effective February 23, 2010)

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Riverboat Gambling
- 2) Code Citation: 86 Ill. Adm. Code 3000
- 3) Section Number: 3000.220 Adopted Action:
Amendment
- 4) Statutory Authority: Authorized by the Riverboat Gambling Act [230 ILCS 10], specifically Sections 5(c)(2), (3), and (7) of this Act [230 ILCS 10/5(c)(2), (3), and (7)]
- 5) Effective Date of Amendment: February 26, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Board's principal office and is available for public inspection.
- 9) Notice of proposal published in Illinois Register: August 7, 2009; 33 Ill. Reg. 11407
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were made.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
3000.660	Amendment	33 Ill. Reg. 11759; August 14, 2009
3000.221	Amendment	33 Ill. Reg. 12635; September 18, 2009
3000.600	Amendment	33 Ill. Reg. 13222; September 25, 2009
3000.665	Amendment	33 Ill. Reg. 13222; September 25, 2009
3000.666	Amendment	33 Ill. Reg. 13222, September 25, 2009

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- 15) Summary and Purpose of Amendment: The purpose of the rulemaking is to amend Section 3000.220 (Applications) by providing that an application for approval as a Key Person under Section 3000.222 (Identification and Requirements of Key Persons) may be withdrawn without leave of the Illinois Gaming Board, if the Board receives a written notification of withdrawal before Board action on the application, and unless the intended withdrawal is objected to by the Administrator, in which case leave of the Board will be required.

Paragraph (e) of Section 3000.220 already authorizes withdrawals of applications for owner's, supplier's or occupational licenses, if the Board receives written notification of withdrawal before it has taken action on the applications. The rule change adds parallel provisions governing withdrawal of requests for certification as Key Persons.

- 16) Information and questions regarding this adopted amendment may be addressed to:

Michael Fries
General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago, Illinois 60601

312/814-4700
Fax 312/814-4143
mfries@revenue.state.il.us

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER IV: ILLINOIS GAMING BOARDPART 3000
RIVERBOAT GAMBLING

SUBPART A: GENERAL PROVISIONS

Section	
3000.100	Definitions
3000.101	Invalidity
3000.102	Public Inquiries
3000.103	Organization of the Illinois Gaming Board
3000.104	Rulemaking Procedures
3000.105	Board Meetings
3000.110	Disciplinary Actions
3000.115	Records Retention
3000.120	Place to Submit Materials
3000.130	No Opinion or Approval of the Board
3000.140	Duty to Disclose Changes in Information
3000.141	Applicant/Licensee Disclosure of Agents
3000.150	Owner's and Supplier's Duty to Investigate
3000.155	Investigatory Proceedings
3000.160	Duty to Report Misconduct
3000.161	Communication with Other Agencies
3000.165	Participation in Games by Owners, Directors, Officers, Key Persons or Gaming Employees
3000.170	Fair Market Value of Contracts
3000.180	Weapons on Riverboat

SUBPART B: LICENSES

Section	
3000.200	Classification of Licenses
3000.210	Fees and Bonds
3000.220	Applications
3000.221	Other Required Forms
3000.222	Identification and Requirements of Key Persons
3000.223	Disclosure of Ownership and Control

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3000.224	Economic Disassociation
3000.225	Business Entity and Personal Disclosure Filings
3000.230	Owner's Licenses
3000.231	Distributions
3000.232	Undue Economic Concentration
3000.234	Acquisition of Ownership Interest By Institutional Investors
3000.235	Transferability of Ownership Interest
3000.236	Owner's License Renewal
3000.237	Renewed Owner's Licenses, Term and Restrictions
3000.238	Appointment of Receiver for an Owner's License
3000.240	Supplier's Licenses
3000.241	Renewal of Supplier's License
3000.242	Amendment to Supplier's Product List
3000.243	Bankruptcy or Change in Ownership of Supplier
3000.244	Surrender of Supplier's License
3000.245	Occupational Licenses
3000.250	Transferability of Licenses
3000.260	Waiver of Requirements
3000.270	Certification and Registration of Electronic Gaming Devices
3000.271	Analysis of Questioned Electronic Gaming Devices
3000.272	Certification of Voucher Systems
3000.280	Registration of All Gaming Devices
3000.281	Transfer of Registration (Repealed)
3000.282	Seizure of Gaming Devices (Repealed)
3000.283	Analysis of Questioned Electronic Gaming Devices (Repealed)
3000.284	Disposal of Gaming Devices
3000.285	Certification and Registration of Voucher Validation Terminals

SUBPART C: OWNER'S INTERNAL CONTROL SYSTEM

Section	
3000.300	General Requirements – Internal Control System
3000.310	Approval of Internal Control System
3000.320	Minimum Standards for Internal Control Systems
3000.330	Review of Procedures (Repealed)
3000.340	Operating Procedures (Repealed)
3000.350	Modifications (Repealed)

SUBPART D: HEARINGS ON NOTICE OF DENIAL,

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RESTRICTION OF LICENSE, PLACEMENT ON BOARD EXCLUSION LIST OR
REMOVAL FROM BOARD EXCLUSION LIST OR SELF-EXCLUSION LIST

Section	
3000.400	Coverage of Subpart
3000.405	Requests for Hearings
3000.410	Appearances
3000.415	Discovery
3000.420	Motions for Summary Judgment
3000.424	Subpoena of Witnesses
3000.425	Proceedings
3000.430	Evidence
3000.431	Prohibition on Ex Parte Communication
3000.435	Sanctions and Penalties
3000.440	Transmittal of Record and Recommendation to the Board
3000.445	Status of Applicant for Licensure or Transfer Upon Filing Request for Hearing

SUBPART E: CRUISING

Section	
3000.500	Riverboat Cruises
3000.510	Cancelled or Disrupted Cruises

SUBPART F: CONDUCT OF GAMING

Section	
3000.600	Wagering Only with Electronic Credits, Approved Chips, Tokens and Electronic Cards
3000.602	Disposition of Unauthorized Winnings
3000.605	Authorized Games
3000.606	Gaming Positions
3000.610	Publication of Rules and Payout Ratio for Live Gaming Devices
3000.614	Tournaments, Enhanced Payouts and Give-aways
3000.615	Payout Percentage for Electronic Gaming Devices
3000.616	Cashing-In
3000.620	Submission of Chips for Review and Approval
3000.625	Chip Specifications
3000.630	Primary, Secondary and Reserve Sets of Gaming Chips
3000.631	Tournament Chips

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- 3000.635 Issuance and Use of Tokens for Gaming
- 3000.636 Distribution of Coupons for Complimentary Chips, Tokens, Vouchers, and Cash
and Electronic Credits
- 3000.640 Exchange of Chips, Tokens, and Vouchers
- 3000.645 Receipt of Gaming Chips or Tokens from Manufacturer or Distributor
- 3000.650 Inventory of Chips
- 3000.655 Destruction of Chips, Tokens, and Vouchers
- 3000.660 Minimum Standards for Electronic Gaming Devices
- 3000.661 Minimum Standards for Voucher Systems
- 3000.665 Integrity of Electronic Gaming Devices
- 3000.666 Bill Validator Requirements
- 3000.667 Integrity of Voucher Systems
- 3000.670 Computer Monitoring Requirements of Electronic Gaming Devices
- 3000.671 Computer Monitoring Requirements of Voucher Systems

SUBPART G: EXCLUSION OF PERSONS

- Section
- 3000.700 Organization of Subpart
- 3000.701 Duty to Exclude
- 3000.705 Voluntary Self-Exclusion Policy (Repealed)
- 3000.710 Distribution and Availability of Board Exclusion List
- 3000.720 Criteria for Exclusion or Ejection and Placement on the Board Exclusion List
- 3000.725 Duty of Licensees
- 3000.730 Procedure for Entry of Names
- 3000.740 Petition for Removal from the Board Exclusion List
- 3000.745 Voluntary Self-Exclusion Policy
- 3000.750 Establishment of a Self-Exclusion List
- 3000.751 Locations to Execute Self-Exclusion Forms
- 3000.755 Information Required for Placement on the Self-Exclusion List
- 3000.756 Stipulated Sanctions for Failure to Adhere to Voluntary Self-Exclusion
- 3000.760 Distribution and Availability of Confidential Self-Exclusion List
- 3000.770 Duties of Licensees
- 3000.780 Request for Removal from the IGB Self-Exclusion List
- 3000.782 Required Information, Recommendations, Forms and Interviews
- 3000.785 Appeal of a Notice of Denial of Removal
- 3000.786 Duties of Owner Licensees to Persons Removed from the Self-Exclusion List
- 3000.787 Placement on the Self-Exclusion List Following Removal
- 3000.790 Duties of the Board

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SUBPART H: SURVEILLANCE AND SECURITY

Section

3000.800	Required Surveillance Equipment
3000.810	Riverboat and Board Surveillance Room Requirements
3000.820	Segregated Telephone Communication
3000.830	Surveillance Logs
3000.840	Storage and Retrieval
3000.850	Dock Site Board Facility
3000.860	Maintenance and Testing

SUBPART I: LIQUOR LICENSES

Section

3000.900	Liquor Control Commission
3000.910	Liquor Licenses
3000.920	Disciplinary Action
3000.930	Hours of Sale

SUBPART J: OWNERSHIP AND ACCOUNTING RECORDS AND PROCEDURES

Section

3000.1000	Ownership Records
3000.1010	Accounting Records
3000.1020	Standard Financial and Statistical Records
3000.1030	Annual and Special Audits and Other Reporting Requirements
3000.1040	Accounting Controls Within the Cashier's Cage
3000.1050	Procedures for Exchange of Checks Submitted by Gaming Patrons and Granting Credit
3000.1060	Handling of Cash at Gaming Tables
3000.1070	Tips or Gratuities
3000.1071	Admission Tax and Wagering Tax
3000.1072	Cash Reserve Requirements

SUBPART K: SEIZURE AND DISCIPLINARY HEARINGS

Section

3000.1100	Coverage of Subpart
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3000.1105	Duty to Maintain Suitability
3000.1110	Board Action Against License or Licensee
3000.1115	Complaint
3000.1120	Appearances
3000.1125	Answer
3000.1126	Appointment of Hearing Officer
3000.1130	Discovery
3000.1135	Motions for Summary Disposition
3000.1139	Subpoena of Witnesses
3000.1140	Proceedings
3000.1145	Evidence
3000.1146	Prohibition of Ex Parte Communication
3000.1150	Sanctions and Penalties
3000.1155	Transmittal of Record and Recommendation to the Board

AUTHORITY: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 10].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective October 31, 1996; amended at 21 Ill. Reg. 4642, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 14566, effective October 22, 1997, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 978, effective December 29, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4390, effective February 20, 1998; amended at 22 Ill. Reg. 10449, effective May 27, 1998; amended at 22 Ill. Reg. 17324, effective September 21, 1998; amended at 22 Ill. Reg. 19541, effective October 23, 1998; emergency amendment at 23 Ill. Reg. 8191, effective July 2, 1999 for a maximum of 150 days; emergency expired November 28, 1999; amended at 23 Ill. Reg. 8996, effective August 2, 1999; amended at 24 Ill. Reg. 1037, effective January 10, 2000; amended at 25 Ill. Reg. 94, effective January 8, 2001; amended at 25 Ill. Reg. 13292, effective October 5, 2001; proposed amended at 26 Ill. Reg. 9307, effective June 14, 2002; emergency amendment adopted at 26 Ill. Reg. 10984, effective July 1, 2002, for a maximum of 150 days; adopted at 26 Ill. Reg. 15296, effective October 11, 2002; amended at 26 Ill. Reg. 17408, effective November 22, 2002; emergency amendment at 27 Ill. Reg. 10503, effective June 30, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15793, effective September 25, 2003; amended at 27 Ill. Reg. 18595, effective November 25, 2003; amended at 28 Ill. Reg. 12824, effective August 31, 2004; amended at 31 Ill. Reg. 8098, effective June 14, 2007; amended at 32 Ill. Reg. 2967,

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effective February 15, 2008; amended at 32 Ill. Reg. 3275, effective February 19, 2008; amended at 32 Ill. Reg. 7357, effective April 28, 2008; amended at 32 Ill. Reg. 8592, effective May 29, 2008; amended at 32 Ill. Reg. 8931, effective June 4, 2008; amended at 32 Ill. Reg. 13200, effective July 22, 2008; amended at 32 Ill. Reg. 17418, effective October 23, 2008; amended at 32 Ill. Reg. 17759, effective October 28, 2008; amended at 32 Ill. Reg. 17946, effective November 5, 2008; amended at 34 Ill. Reg. 3285, effective February 26, 2010.

SUBPART B: LICENSES

Section 3000.220 Applications

- a) Application Forms. Application forms shall be submitted by applicants as provided in this Section.
 - 1) Owner's License. Owner's License Application Form and Business Entity Form or [Individual Key Person](#) Personal Disclosure Form⁺ for each of the applicant's Key Persons, or any other principal or investor as the Board may require.
 - 2) Supplier's License. Supplier's License Application Form and Business Entity Form or [Individual Key Person](#) Personal Disclosure Form⁺ for each of the applicant's Key Persons, or any other principal or investor as the Board may require.
 - 3) Occupation License, Level 1. Personal Disclosure Form 1. After the first year of licensure, applications for continuous renewal of Level 1 Occupational Licenses may include, in lieu of the Personal Disclosure Form 1, a disclosure affidavit, updated personal and background information, and updated tax and financial documents and information. The disclosure affidavit shall update and attest to the veracity of all required information.
 - 4) Occupation License, Level 2. Personal Disclosure Form 2.
 - 5) Occupation License, Level 3. Personal Disclosure Form 3.
- b) Additional or Different Forms or Materials. An applicant may be required to submit forms or materials in addition to those listed in subsection (a).

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- c) Application Procedures.
- 1) An applicant is seeking a privilege and assumes and accepts any and all risk of adverse publicity, notoriety, embarrassment, criticism or other action, or financial loss which may occur in connection with the application process.
 - 2) Any misrepresentation or omission made with respect to an application may be grounds for denial of the application.
 - 3) Application forms and requested materials shall be submitted in triplicate. Application forms and requested materials for Owner's and Supplier's licenses shall be submitted in bound form.
 - 4) Applicants for Occupation licenses shall be photographed and fingerprinted at the time of application at a place designated by the Administrator.
 - 5) An application shall be deemed filed when the completed application form, including all required documents and materials, and the application fee have been submitted.
- d) Amendments and Incorporation by Reference.
- 1) An application may be amended only upon leave of the Board.
 - 2) The Board may allow information, documents, or other materials submitted by an applicant to be incorporated by reference into a subsequent application.
- e) Withdrawal of Applications.
- 1) An Owner's or Supplier's application may be withdrawn only upon leave of the Board.
 - A) A request for leave to withdraw an application for an Owner's license shall not be considered by the Board unless received prior to Board action regarding a finding of preliminary suitability under Section 3000.230(c). However, applicants who have been found

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preliminarily suitable may seek leave to withdraw after such finding.

- B) A request for leave to withdraw an application for a Supplier's license shall not be considered by the Board unless received prior to Board action on licensure under Section 3000.240.
 - C) The Board may deny leave to withdraw an Owner's or Supplier's application if it determines that withdrawal of the application would not be in the best interests of the public and the Gaming industry.
- 2) If an application for an Owner's or Supplier's license is withdrawn, the applicant may not reapply for a license within one year from the date withdrawal is granted, without leave of the Board.
 - 3) Applications for Occupational licenses may be withdrawn without leave of the Board, if written notification of withdrawal is received prior to Board action on licensure under Section 3000.245 and unless the intended withdrawal is objected to by the Administrator, in which case leave of the Board is required.
 - 4) [An Individual Key Person Personal Disclosure Form or Business Entity Form, submitted in connection with a request for certification as a Key Person under Section 3000.222, may be withdrawn without leave of the Board, if written notification of withdrawal is received prior to Board action on licensure under Section 3000.245 and unless the intended withdrawal is objected to by the Administrator, in which case leave of the Board is required.](#)

(Source: Amended at 34 Ill. Reg. 3285, effective February 26, 2010)

POLLUTION CONTROL BOARD

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- 1) Heading of the Part: Standards for the Management of Used Oil
- 2) Code Citation: 35 Ill. Adm. Code 739
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
739.146	Amend
739.156	Amend
739.165	Amend
739.174	Amend
- 4) Statutory Authority: Implementing Sections 21, 22, 22.01, and 22.9, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/21, 22, 22.01, 22.9, and 27]
- 5) Effective Date of Amendments: February 25, 2010
- 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 all materials 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 there for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 11, 2009; 33 Ill. Reg. 12426.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: In proceeding from its first-notice proposal to final adoption in this docket, the Board made nonsubstantive changes proposed in first notice comments from NORA, An Association of Responsible Recyclers, formerly known as the National Oil Recycling Association (NORA) and by the Illinois Environmental Protection Agency. In addition, the Board adopted a limited number of nonsubstantive changes proposed by the Joint Committee on Administrative Rules. However, the Board did not substantively amend the language of Part 739 that it proposed for first notice.

The Board's opinion discusses changes made by the Board in response to first-notice comments. See "In the Matter of: Proposed Amendments to the Board's Special Waste

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Regulations Concerning Used Oil, 35 Ill. Adm. Code 739, 808, 809, R06-20(A), slip op. at 12-19 (February 18, 2010)". 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 R06-20A in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

- 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 rulemakings currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: For a more detailed description of this rulemaking, please see the Board's February 18, 2010, opinion and order titled "Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809, R06-20(A) (Feb. 18, 2010)". NORA initiated these amendments by filing an amended rulemaking proposal with the Board on September 22, 2008. The amendments are intended to exempt from the manifesting requirements of Parts 808 and 809 (35 Ill. Adm. Code 808, 809) used oil that is defined by, and managed in accordance with, Part 739 (35 Ill. Adm. Code 739) and also to exempt from those requirements specific mixtures of used oil and other materials. The changes also amend used oil tracking provisions in Part 739 to include in tracking documents for those mixtures the information required by a manifest.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Timothy Fox
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-6085

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 R06-20A in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 739
STANDARDS FOR THE MANAGEMENT OF USED OIL

SUBPART A: DEFINITIONS

Section
739.100 Definitions

SUBPART B: APPLICABILITY

Section
739.110 Applicability
739.111 Used Oil Specifications
739.112 Prohibitions
739.113 Electronic Reporting

SUBPART C: STANDARDS FOR USED OIL GENERATORS

Section
739.120 Applicability
739.121 Hazardous Waste Mixing
739.122 Used Oil Storage
739.123 On-Site Burning in Space Heaters
739.124 Off-Site Shipments

SUBPART D: STANDARDS FOR USED OIL COLLECTION CENTERS
AND AGGREGATION POINTS

Section
739.130 Do-It-Yourselfer Used Oil Collection Centers
739.131 Used Oil Collection Centers
739.132 Used Oil Aggregate Points Owned by the Generator

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER

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AND TRANSFER FACILITIES

Section

- 739.140 Applicability
- 739.141 Restrictions on Transporters that Are Not Also Processors
- 739.142 Notification
- 739.143 Used Oil Transportation
- 739.144 Rebuttable Presumption for Used Oil
- 739.145 Used Oil Storage at Transfer Facilities
- 739.146 Tracking
- 739.147 Management of Residues

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section

- 739.150 Applicability
- 739.151 Notification
- 739.152 General Facility Standards
- 739.153 Rebuttable Presumption for Used Oil
- 739.154 Used Oil Management
- 739.155 Analysis Plan
- 739.156 Tracking
- 739.157 Operating Record and Reporting
- 739.158 Off-Site Shipments of Used Oil
- 739.159 Management of Residues

SUBPART G: STANDARDS FOR USED OIL BURNERS THAT BURN
OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

Section

- 739.160 Applicability
- 739.161 Restriction on Burning
- 739.162 Notification
- 739.163 Rebuttable Presumption for Used Oil
- 739.164 Used Oil Storage
- 739.165 Tracking
- 739.166 Notices
- 739.167 Management of Residues

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SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

Section

739.170	Applicability
739.171	Prohibitions
739.172	On-Specification Used Oil Fuel
739.173	Notification
739.174	Tracking
739.175	Notices

SUBPART I: DISPOSAL OF USED OIL

Section

739.180	Applicability
739.181	Disposal
739.182	Use As a Dust Suppressant

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6931, effective April 26, 1994; amended in R94-17 at 18 Ill. Reg. 17616, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 10036, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 767, effective December 16, 1997; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2274, effective January 19, 1999; amended in R04-16 at 28 Ill. Reg. 10706, effective July 19, 2004; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4094, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1413, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 13047, effective July 14, 2008; amended in R06-20 at 34 Ill. Reg. 3296, effective February 25, 2010.

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER
AND TRANSFER FACILITIES**Section 739.146 Tracking**

- a) Acceptance. A used oil transporter must keep a record of each used oil shipment accepted for transport. Records for each shipment must include the following:
 - 1) The name and address of the generator, transporter, or processor that

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provided the used oil for transport;

- 2) The USEPA identification number and Illinois special waste identification number (if applicable) of the generator, transporter, or processor that provided the used oil for transport;
- 3) The quantity of used oil accepted;
- 4) The date of acceptance; ~~and~~
- 5) The signature: ~~:-~~
 - A) Except as provided in subsection (a)(5)(B) of this Section, the signature, dated upon receipt of the used oil, of a representative of the generator, transporter, or processor or re-refiner that provided the used oil for transport.
 - B) An intermediate rail transporter is not required to sign the record of acceptance; ~~and~~
- 6) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(6), the following:
 - A) Information stating when and where the special waste was generated;
 - B) The classification and quantity of the special waste delivered to the transporter;
 - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
 - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I

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certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."

- b) Deliveries. A used oil transporter must keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor, or disposal facility. Records of each delivery must include the following:
- 1) The name and address of the receiving facility or transporter;
 - 2) The USEPA identification number and Illinois special waste identification number of the receiving facility or transporter;
 - 3) The quantity of used oil delivered;
 - 4) The date of delivery;
 - 5) The signature:
 - A) Except as provided in subsection (b)(5)(B) of this Section, the signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter.
 - B) An intermediate rail transporter is not required to sign the record of acceptance.
- c) Exports of used oil. A used oil transporter must maintain the records described in subsections (b)(1) through (b)(4) of this Section for each shipment of used oil exported to any foreign country.
- d) Record retention. The records described in subsections (a), (b), and (c) of this Section must be maintained for at least three years.

(Source: Amended at 34 Ill. Reg. 3296, effective February 25, 2010)

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section 739.156 Tracking

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- a) Acceptance. A used oil processor must keep a record of each used oil shipment accepted for processing. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:
- 1) The name and address of the transporter that delivered the used oil to the processor;
 - 2) The name and address of the generator or processor from whom the used oil was sent for processing;
 - 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivered the used oil to the processor;
 - 4) The USEPA identification number and Illinois special waste identification number (if applicable) of the generator or processor from whom the used oil was sent for processing;
 - 5) The quantity of used oil accepted; ~~and~~
 - 6) The date of acceptance; ~~and~~.
 - 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(6), the following:
 - A) Information stating when and where the special waste was generated;
 - B) The classification and quantity of the special waste delivered to the transporter;
 - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
 - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary

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Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."

- b) Deliveries. A used oil processor must keep a record of each shipment of used oil that is delivered to another used oil burner, processor, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records of each delivery must include the following information:
- 1) The name and address of the transporter that delivers the used oil to the burner, processor, or disposal facility;
 - 2) The name and address of the burner, processor, or disposal facility that will receive the used oil;
 - 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivers the used oil to the burner, processor or disposal facility;
 - 4) The USEPA identification number and Illinois special waste identification number of the burner, processor, or disposal facility that will receive the used oil;
 - 5) The quantity of used oil shipped;
 - 6) The date of shipment; ~~and~~;
 - 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(6), the following:
 - A) Information stating when and where the special waste was generated;
 - B) The classification and quantity of the special waste delivered to the transporter;
 - C) Any special handling instructions pertinent to emergency personnel

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in the event of an accident; and

D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."

- c) Record retention. The records described in subsections (a) and (b) of this Section must be maintained for at least three years.

(Source: Amended at 34 Ill. Reg. 3296, effective February 25, 2010)

SUBPART G: STANDARDS FOR USED OIL BURNERS THAT BURN
OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

Section 739.165 Tracking

- a) Acceptance. A used oil burner must keep a record of each used oil shipment accepted for burning. These records may take the form of a log, invoice, manifest, bill of lading, or other shipping documents. Records for each shipment must include the following information:
- 1) The name and address of the transporter that delivered the used oil to the burner;
 - 2) The name and address of the generator or processor from whom the used oil was sent to the burner;
 - 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivered the used oil to the burner;
 - 4) The USEPA identification number and Illinois special waste identification

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number (if applicable) of the generator or processor from whom the used oil was sent to the burner;

- 5) The quantity of used oil accepted; ~~and~~
- 6) The date of acceptance; ~~and~~.
- 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(5) or (b)(6), the following:
 - A) Information stating when and where the special waste was generated;
 - B) The classification and quantity of the special waste delivered to the transporter;
 - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
 - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."

- b) Record retention. The records described in subsection (a) of this Section must be maintained for at least three years.

(Source: Amended at 34 Ill. Reg. 3296, effective February 25, 2010)

SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

Section 739.174 Tracking

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- a) Off-specification used oil delivery. Any used oil fuel marketer that directs a shipment of off-specification used oil to a burner must keep a record of each shipment of used oil to a used oil burner. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:
- 1) The name and address of the transporter that delivers the used oil to the burner;
 - 2) The name and address of the burner that will receive the used oil;
 - 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivers the used oil to the burner;
 - 4) The USEPA identification number and Illinois special waste identification number of the burner;
 - 5) The quantity of used oil shipped; ~~and~~
 - 6) The date of shipment; ~~and~~
 - 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(5) or (b)(6), the following:
 - A) Information stating when and where the special waste was generated;
 - B) The classification and quantity of the special waste delivered to the transporter;
 - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
 - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national

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governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."

- b) On-specification used oil delivery. A generator, transporter, processor or re-refiner, or burner that first claims that used oil that is to be burned for energy recovery meets the fuel specifications under Section 739.111 must keep a record of each shipment of used oil to the facility to which it delivers the used oil. Records for each shipment must include the following information:
- 1) The name and address of the facility receiving the shipment;
 - 2) The quantity of used oil fuel delivered;
 - 3) The date of shipment or delivery; and
 - 4) A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under Section 739.172(a).
- c) Record retention. The records described in subsections (a) and (b) of this Section must be maintained for at least three years.

(Source: Amended at 34 Ill. Reg. 3296, effective February 25, 2010)

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- 1) Heading of the Part: Special Waste Classifications
- 2) Code Citation: 35 Ill. Adm. Code 808
- 3) Section Number: 808.121 Adopted Action:
Amend
- 4) Statutory Authority: Implementing Sections 21, 22, 22.01, and 22.9 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/21, 22, 22.01, 22.9, and 27]
- 5) Effective Date of Amendment: February 25, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including all materials 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 there for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 11, 2009; 33 Ill. Reg. 12439
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: The Board made the following changes proposed in 1st Notice comments by the Illinois Environmental Protection Agency and agreed to by NORA, An Association of Responsible Recyclers, formerly known as the National Oil Recycling Association:

In Section 808.121(b)(6), the Board replaced the term "materials" with "used oil mixtures".

In Section 808.121(b)(6)(B), the Board changed "greater than 5,000" to "greater than 5,000 prior to being mixed with the used oil".

In Section 808.121(b)(6)(B)(i), the Board changed "the characteristic has been extinguished" to "the characteristic has been extinguished in the resultant mixture".

The Board also adopted several nonsubstantive changes proposed by JCAR.

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- 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 Amendment: For a more detailed description of this rulemaking, please see the Board's February 18, 2010, opinion and order titled "Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809, R06-20(A) (Feb. 18, 2010)". NORA initiated these amendments by filing an amended rulemaking proposal with the Board on September 22, 2008. They are intended to exempt from the manifesting requirements of Parts 808 and 809 (35 Ill. Adm. Code 808, 809) used oil that is defined by, and managed in accordance with, Part 739 (35 Ill. Adm. Code 739) and also to exempt from those requirements specific mixtures of used oil and other materials. The adopted changes also amend used oil tracking provisions in Part 739 to include in tracking documents for those mixtures the information required by a manifest.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Timothy Fox
Illinois Pollution Control Board
100 W. Randolph, Suite 11-500
Chicago, IL 60601

312/814-6085

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 R06-20A in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

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NOTICE OF ADOPTED AMENDMENT

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

PART 808
SPECIAL WASTE CLASSIFICATIONS

SUBPART A: GENERAL PROVISIONS

Section	
808.100	Purpose, Scope and Applicability
808.101	Transitional Rule
808.110	Definitions
808.111	Incorporations by Reference
808.121	Generator Obligations
808.122	Manifests
808.123	Small Quantity Generators

SUBPART B: CLASSES OF SPECIAL WASTE

Section	
808.240	Special Waste Classes
808.241	Default Classification of Special Wastes
808.242	Special Handling Waste
808.243	Wastes Categorized by Source
808.244	Wastes Categorized by Characteristics
808.245	Classification of Wastes

SUBPART C: CRITERIA AND DATA REQUIREMENTS

Section	
808.300	Introduction
808.301	Degree of Hazard Determination by Computer
808.302	Data Base and Bioassay Procedures

SUBPART D: REQUEST FOR WASTE CLASSIFICATION

Section	
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- 808.400 Introduction
- 808.401 Application Forms
- 808.402 Application for Waste Classification
- 808.410 Physical and Chemical Analysis
- 808.411 Significant Trace Constituents
- 808.412 Common Names
- 808.413 Wastestream Description
- 808.420 Quality Assurance Plan
- 808.430 Degree of Hazard Data
- 808.431 Toxicological Testing

SUBPART E: REVIEW OF CLASSIFICATION REQUESTS

- Section
- 808.501 Order of Requesting Information
- 808.502 Completeness
- 808.503 Standard for Classification

SUBPART F: WASTESTREAM CLASSIFICATION DETERMINATIONS

- Section
- 808.520 Time for Agency Action
- 808.521 Conditions of Wastestream Classification
- 808.522 Final Agency Action

SUBPART G: MODIFICATION, APPEAL AND ENFORCEMENT

- Section
- 808.541 Request for Modification
- 808.542 Appeal
- 808.543 Effect of Classification
- 808.544 Enforcement
- 808.545 Modification

SUBPART H: CATEGORICAL AND CHARACTERISTIC WASTES

- Section
- 808.600 Introduction

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808.APPENDIX A Assignment Of Special Waste To Classes
808.APPENDIX B Toxicity Hazard

AUTHORITY: Implementing Sections 21, 22, 22.01 and 22.9, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/21, 22, 22.01, 22.9, 27].

SOURCE: Adopted in R89-13A at 14 Ill. Reg. 14043, effective August 15, 1990; amended in R98-29 at 23 Ill. Reg. 6875, effective July 1, 1999; amended in R06-20 at 34 Ill. Reg. 3310, effective February 25, 2010.

SUBPART A: GENERAL PROVISIONS

Section 808.121 Generator Obligations

- a) Each person who generates waste shall determine whether the waste is a special waste.

BOARD NOTE: 35 Ill. Adm. Code 722 requires the person to also determine if the waste is a hazardous waste.

- b) No person shall deliver special waste to a transporter unless the waste is accompanied by a manifest as specified in Section 808.122, and the transporter has a special waste hauling permit issued pursuant to 35 Ill. Adm. Code 809. The following are exceptions to this prohibition:
- 1) The person is subject to the small quantity generator exemption of Section 808.123.
 - 2) The transporter and waste are subject to a transporter exemption under 35 Ill. Adm. Code 809.211.
 - 3) The Agency has determined pursuant to this Part that the waste is not a special waste.
 - 4) The waste consists of municipal water or wastewater treatment plant sludge regulated under a sludge management plan approved by the Agency pursuant to 35 Ill. Adm. Code 309.208.

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- 5) The generator is not required to complete a manifest for used oil that is defined by and managed in accordance with 35 Ill. Adm. Code 739.
 - 6) The generator is not required to complete a manifest for the following **used oil mixtures**, provided that the generator complies with the informational requirements of 35 Ill. Adm. Code 739.146(a) and 35 Ill. Adm. Code 809.501(b):
 - A) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and hazardous waste, both generated and mixed by a conditionally exempt small quantity generator of hazardous waste, provided that **the mixture contains more than 50 percent used oil by either volume or weight;**
 - B) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and characteristic hazardous waste, with a Btu per pound content greater than 5,000 **prior to being mixed with the used oil, when:**
 - i) the characteristic has been extinguished **in the resultant mixture;**
 - ii) both the used oil and the characteristic hazardous waste have been generated and mixed by the same generator; and
 - iii) the mixture contains more than 50 percent used oil by either volume or weight;
 - C) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and fuel or other fuel products; and
 - D) Used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 contaminated by or mixed with nonhazardous wastewater, **when** the used oil and the nonhazardous wastewater are generated by the same generator, and **when** the mixture results from use or unintentional contamination.
- c) No person shall cause, threaten or allow the treatment, storage or disposal of special waste in Illinois except:

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- 1) At a facility permitted or otherwise authorized to manage the special waste pursuant to 35 Ill. Adm. Code 703 or 807(~~Sections 21(d) and (e) of the Act~~); or
 - 2) At a facility owned and operated by such person and subject to the on-site disposal exemption of Section 21(d) of the Act(~~Section 21(d) of the Act~~).
- d) No person shall deliver special waste to a transporter or a permitted facility without a supplemental wastestream permit.
- e) No person shall deliver to a transporter or permitted facility special waste with a wastestream identification number unless the waste conforms with the wastestream description in the wastestream classification determination.

(Source: Amended at 34 Ill. Reg. 3310, effective February 25, 2010)

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- 1) Heading of the Part: Nonhazardous Special Waste Hauling and the Uniform Program
- 2) Code Citation: 35 Ill. Adm. Code 809
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
809.301	Amend
809.302	Amend
809.501	Amend
- 4) Statutory Authority: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22.2, and 27]
- 5) Effective Date of Amendments: February 25, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and is available there for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 11, 2009; 33 Ill. Reg. 12446
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:

The Board made the following changes proposed in 1st Notice comments by the Illinois Environmental Protection Agency, and agreed to by NORA, An Association of Responsible Recyclers, formerly known as the National Oil Recycling Association:

In Sections 809.301(b), 809.302(a)(2) and 809.501(a)(2), the Board replaced the term "materials" with "used oil mixtures".

In Sections 809.301(b)(2), 809.302(a)(2)(B) and 809.501(a)(2)(B), the Board changed "greater than 5,000" to "greater than 5,000 prior to being mixed with the used oil".

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In Sections 809.301(b)(2)(A), 809.302(a)(2)(B)(i) and 809.501(a)(2)(B)(i), the Board changed "the characteristic has been extinguished" to "the characteristic has been extinguished in the resultant mixture".

The Board also adopted several nonsubstantive changes proposed by JCAR.

- 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 these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: For a more detailed description of this rulemaking, please see the Board's February 18, 2010, opinion and order titled "Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809", R06-20A (Feb. 18, 2010). NORA initiated these amendments by filing an amended rulemaking proposal with the Board on September 22, 2008. The proposed amendments are intended to exempt from the manifesting requirements of Parts 808 and 809 (35 Ill. Adm. Code 808, 809) used oil that is defined by, and managed in accordance with, Part 739 (35 Ill. Adm. Code 739) and also to exempt from those requirements specific mixtures of used oil and other materials. The changes also amend used oil tracking provisions in Part 739 to include in tracking documents for those mixtures the information required by a manifest.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Timothy Fox
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-6085

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 R06-20A in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULINGPART 809
NONHAZARDOUS SPECIAL WASTE HAULING
AND THE UNIFORM PROGRAM

SUBPART A: GENERAL PROVISIONS

Section	
809.101	Authority, Policy and Purposes
809.102	Severability
809.103	Definitions
809.104	Incorporations by Reference
809.105	Public Records

SUBPART B: NONHAZARDOUS SPECIAL WASTE HAULING PERMITS

Section	
809.201	Nonhazardous Special Waste Hauling Permits – General
809.202	Applications for Nonhazardous Special Waste Hauling Permit – Contents
809.203	Applications for Nonhazardous Special Waste Hauling Permit – Signatures and Authorization
809.204	Applications for Nonhazardous Special Waste Hauling Permit – Filing and Final Action by the Agency
809.205	Nonhazardous Special Waste Hauling Permit Conditions
809.206	Nonhazardous Special Waste Hauling Permit Revision
809.207	Transfer of Nonhazardous Special Waste Hauling Permits
809.208	Nonhazardous Special Waste Hauling Permit Revocation
809.209	Permit No Defense
809.210	General Exemption from Nonhazardous Special Waste Hauling Permit Requirements
809.211	Exemptions for Nonhazardous Special Waste Transporters
809.212	Duration of Nonhazardous Special Waste Hauling Permits

SUBPART C: DELIVERY AND ACCEPTANCE

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- Section 809.301 Requirements for Delivery of Nonhazardous Special Waste to Transporters
- 809.302 Requirements for Acceptance of Nonhazardous Special or Hazardous Waste from Transporters

SUBPART D: PERMIT AVAILABILITY AND SYMBOLS

- Section 809.401 Permit Availability
- 809.402 Nonhazardous Special Waste Symbols

SUBPART E: MANIFESTS, RECORDS AND REPORTING

- Section 809.501 Manifests, Records, Access to Records, Reporting Requirements and Forms

SUBPART F: DURATION OF PERMITS AND TANK NUMBERS

- Section 809.601 Duration of Special Waste Hauler Permits and Tank Numbers (Repealed)

SUBPART G: EMERGENCY CONTINGENCIES FOR SPILLS

- Section 809.701 General Provision

SUBPART H: EFFECTIVE DATES

- Section 809.801 Compliance Date
- 809.802 Exceptions (Repealed)

SUBPART I: HAZARDOUS (INFECTIOUS) HOSPITAL WASTE

- Section 809.901 Definitions (Repealed)
- 809.902 Disposal Methods (Repealed)
- 809.903 Rendering Innocuous by Sterilization (Repealed)
- 809.904 Rendering Innocuous by Incineration (Repealed)

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- 809.905 Recordkeeping Requirements for Generators (Repealed)
809.906 Defense to Enforcement Action (Repealed)

SUBPART J: UNIFORM PROGRAM

Section

- 809.910 Uniform State Hazardous Waste Transportation Registration and Permit Program
809.911 Application for a Uniform Permit
809.912 Application for Uniform Registration
809.913 Payment of Processing and Audit Fees
809.914 Payment of Apportioned Mile Fees
809.915 Submittal of Fees
809.916 Previously Permitted Transporters
809.917 Uniform Registration and Uniform Permit Conditions
809.918 Uniform Registration and Uniform Permit Revision
809.919 Transfer of Uniform Registration and Uniform Permits
809.920 Audits and Uniform Registration and Uniform Permit Revocation
809.921 Permit No Defense

- 809.APPENDIX A Old Rule Numbers Referenced (Repealed)

AUTHORITY: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22.2, and 27] (see P.A. 90-219).

SOURCE: Adopted in R76-10, 33 PCB 131, at 3 Ill. Reg. 13, p. 155, effective March 31, 1979; emergency amendment in R76-10, 39 PCB 175, at 4 Ill. Reg. 34, p. 214, effective August 7, 1980, for a maximum of 150 days; emergency amendment in R80-19, 40 PCB 159, at 5 Ill. Reg. 270, effective January 1, 1981, for a maximum of 150 days; amended in R77-12(B), 41 PCB 369, at 5 Ill. Reg. 6384, effective May 28, 1981; amended in R80-19, 41 PCB 459, at 5 Ill. Reg. 6378, effective May 31, 1981; codified in R81-9, 53 PCB 269, at 7 Ill. Reg. 13640, effective September 30, 1983; recodified in R84-5, 58 PCB 267, from Subchapter h to Subchapter i at 8 Ill. Reg. 13198; amended in R89-13A at 14 Ill. Reg. 14076, effective August 15, 1990; amended in R91-18 at 16 Ill. Reg. 130, effective January 1, 1992; amended in R95-11 at 20 Ill. Reg. 5635, effective March 27, 1996; amended in R98-29 at 23 Ill. Reg. 6842, effective July 1, 1999; amended in R00-18 at 24 Ill. Reg. 14747, effective September 25, 2000; amended in R06-20 at 34 Ill. Reg. 3317, effective February 25, 2010.

SUBPART C: DELIVERY AND ACCEPTANCE

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Section 809.301 Requirements for Delivery of Nonhazardous Special Waste to Transporters

No person may deliver any special waste generated within Illinois or for disposal, storage or treatment within Illinois unless that person concurrently delivers a manifest completed in accordance with Subpart E of this Part to a special waste transporter who holds a current nonhazardous special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B or C of this Part. The following are exceptions to this requirement:

- a) The generator or transporter is not required to complete a manifest for used oil that is defined by and managed in accordance with 35 Ill. Adm. Code 739.
- b) The generator or transporter is not required to complete a manifest for the following **used oil mixtures**, provided that the generator complies with the informational requirements of 35 Ill. Adm. Code 739.146(a) and 35 Ill. Adm. Code 809.501(b):
 - 1) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and hazardous waste, both generated and mixed by **a** conditionally exempt small quantity generator of hazardous waste, provided that **the mixture contains more than 50 percent used oil by either volume or weight;**
 - 2) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and characteristic hazardous waste, with a Btu per pound content **greater than 5,000 prior to being mixed with the used oil, when:**
 - A) the characteristic has been extinguished **in the resultant mixture;**
 - B) both the used oil and the characteristic hazardous waste have been generated and mixed by the same generator; and
 - C) the mixture contains more than **50** percent used oil by either volume or weight;
 - 3) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and fuel or other fuel products; and

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- 4) Used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 contaminated by or mixed with nonhazardous wastewater, when the used oil and the nonhazardous wastewater are generated by the same generator, and when the mixture results from use or unintentional contamination.

(Source: Amended at 34 Ill. Reg. 3317, effective February 25, 2010)

Section 809.302 Requirements for Acceptance of Nonhazardous Special or Hazardous Waste from Transporters

- a) No person may accept any special waste for disposal, storage or treatment within Illinois from a special waste transporter unless the special waste transporter has a valid nonhazardous special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B or J of this Part and concurrently presents to the receiver of the special waste, or the receiver's agent, a completed, signed manifest as required by Subpart E of this Part, which manifest designates the receiver's facility as the destination for the special waste. The following are exceptions to this requirement:
 - 1) The generator or transporter is not required to complete a manifest for used oil that is defined by and managed in accordance with 35 Ill. Adm. Code 739.
 - 2) The generator or transporter is not required to complete a manifest for the following **used oil mixtures**, provided that the generator or transporter complies with the informational requirements of 35 Ill. Adm. Code 739.146(a) and 35 Ill. Adm. Code 809.501(b):
 - A) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and hazardous waste, both generated and mixed by a conditionally exempt small quantity generator of hazardous waste, provided that the mixture contains more than 50 percent used oil by either volume or weight;
 - B) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and characteristic hazardous waste,

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with a Btu per pound content greater than 5,000 prior to being mixed with the used oil, when:

- i) the characteristic has been extinguished in the resultant mixture;
 - ii) both the used oil and the characteristic hazardous waste have been generated and mixed by the same generator; and
 - iii) the mixture contains more than 50 percent used oil by either volume or weight;
- C) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and fuel or other fuel products; and
- D) Used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 contaminated by or mixed with nonhazardous wastewater, when the used oil and the nonhazardous wastewater are generated by the same generator, and when the mixture results from use or unintentional contamination.
- b) No person may deliver special waste in Illinois for disposal, storage or treatment unless the person who accepts the special waste has a current, valid operating permit issued by the Agency and the necessary supplemental permits required by 35 Ill. Adm. Code 807, as well as all other applicable permits as required by the Act and Board regulations.

(Source: Amended at 34 Ill. Reg. 3317, effective February 25, 2010)

SUBPART E: MANIFESTS, RECORDS AND REPORTING

Section 809.501 Manifests, Records, Access to Records, Reporting Requirements and Forms

- a) Any person who delivers special waste to a permitted nonhazardous special or hazardous waste transporter shall complete a uniform hazardous waste manifest to accompany the special waste from delivery to the destination of the special waste. The manifest form will be provided or prescribed by the Agency. The following are exceptions to this requirement:

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- 1) The generator or transporter is not required to complete a manifest for used oil that is defined by and managed in accordance with 35 Ill. Adm. Code 739.
- 2) The generator or transporter is not required to complete a manifest for the following **used oil mixtures**, provided that the generator or transporter complies with the informational requirements of 35 Ill. Adm. Code 739.146(a) and 35 Ill. Adm. Code 809.501(b):
 - A) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and hazardous waste, both generated and mixed by a conditionally exempt small quantity generator of hazardous waste, provided that **the mixture contains more than 50 percent used oil by either volume or weight;**
 - B) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and characteristic hazardous waste, with a Btu per pound content greater than 5,000 **prior to being mixed with the used oil**, when:
 - i) the characteristic has been extinguished **in the resultant mixture;**
 - ii) both the used oil and the characteristic hazardous waste have been generated and mixed by the same generator; and
 - iii) the mixture contains more than **50 percent used oil by either volume or weight;**
 - C) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and fuel or other fuel products; and
 - D) Used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 contaminated by or mixed with nonhazardous wastewater, **when the used oil and the nonhazardous wastewater are generated by the same generator, and when the mixture results from use or unintentional contamination.**

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- b) The transporter shall include in the manifest the following:
- 1) The name of the generator of the special waste and generator number;
 - 2) Information stating when and where the special waste was generated;
 - 3) The name of the person from whom delivery is accepted and the name of the site from which delivered;
 - 4) The name and permit number of the transporter;
 - 5) The date of delivery; and
 - 6) The classification and quantity of the special waste delivered to the transporter.
- c) Manifest copies to be sent to the Agency:
- 1) Every person who delivers RCRA hazardous waste or polychlorinated biphenyl (PCB) wastes to a transporter shall submit a copy of the Illinois manifest to the Agency within two days after the shipment. Every person who accepts RCRA hazardous waste or PCB waste from a transporter shall submit a copy of the Illinois manifest to the Agency within 30 days after receipt.
 - 2) A person who delivers RCRA hazardous waste or PCB wastes to a transporter on another state's manifest, such as where the destination state requires use of its manifest, does not have to submit manifest copies to the Agency.
 - 3) A person who delivers non-RCRA hazardous wastes or non-PCB wastes to a transporter does not have to send a copy of the manifest to the Agency. A person who accepts non-RCRA hazardous waste or non-PCB wastes from a transporter does not have to send a copy of the manifest to the Agency.
- d) The manifest will consist of at least four parts, in contrasting colors, such that an entry or signature on one part will be directly reproduced upon all underlying parts. The top part of the manifest shall be signed by the person who delivers

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special waste to a special waste transporter, acknowledging the delivery. The top part of the manifest shall also be signed by the special waste transporter, acknowledging receipt of the special waste. The person who delivers special waste to a special waste transporter shall retain the designated parts of the manifest as a record. The remaining parts of the manifest shall accompany the special waste shipment. At the destination, the manifest shall be signed by the person who accepts special waste from a special waste transporter, acknowledging receipt of the special waste.

- e) A permitted site that receives special waste for disposal, storage or treatment of special waste must be designated on the manifest as the final destination point. Any subsequent delivery of the special waste or any portion or product thereof to a special waste transporter shall be conducted under a manifest initiated by the permitted disposal, storage or treatment site.
- f) In all cases, the special waste transporter shall deliver the designated parts of the complete, signed manifest to the person who accepts delivery of special waste from the transporter. The special waste transporter shall retain the designated part of the complete, signed manifest as a record of delivery to a permitted disposal, storage or treatment site. In addition, at the end of each month, or longer if approved by the Agency, the owner and the operator of the permitted disposal, storage or treatment site who accepts special waste from a special waste transporter shall send the designated part of the completed manifest to the person who delivered the special waste to the special waste transporter.
- g) Every generator who delivers special waste to a special waste transporter, every person who accepts special waste from a special waste transporter and every special waste transporter shall retain their respective parts of the special waste manifest as a record of all special waste transactions. These parts shall be retained for three years and will be made available at reasonable times for inspection and photocopying by the Agency.

BOARD NOTE: The manifest requirements of 35 Ill. Adm. Code 722, 724 and 725 relative to RCRA hazardous wastes are not affected by this subsection. Generators and receiving facilities subject to those Parts shall continue to supply designated copies of all manifests to the Agency.

- h) Every generator who delivers nonhazardous special waste via a transporter to a facility located outside Illinois shall file a report, on forms prescribed or provided

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by the Agency, summarizing all such activity during the preceding calendar year. Such reports shall, at a minimum, include the information specified in subsection (i) of this Section and should be received by the Agency no later than February 1.

- i) Every annual report required to be filed with the Agency by a generator for waste going out of state pursuant to subsection (h) of this Section shall include the following:
 - 1) The IEPA identification number, name and address of the generator;
 - 2) The period (calendar year) covered by the report;
 - 3) The IEPA identification number, name and address for each off-site treatment, storage or disposal facility to which waste was shipped during the period;
 - 4) The name and IEPA special waste hauling number of each transporter used during the period for shipments to a treatment, storage or disposal facility;
 - 5) A description and the total quantity of each nonhazardous special waste shipped out of state, listed by IEPA identification number of each receiving site;
 - 6) The method of treatment, storage or disposal for each nonhazardous special waste; and
 - 7) A certification signed by the generator or the generator's authorized representative.
- j) Every in-State facility that accepts nonhazardous special waste from a nonhazardous special waste transporter shall file a report, on forms prescribed or provided by the Agency, summarizing all such activity during the preceding calendar year. Such reports should, at a minimum, include the information specified in subsection (k) of this Section and be received by the Agency no later than February 1. This subsection is applicable to all nonhazardous special wastes that are delivered to a nonhazardous special waste transporter on or after January 1, 1991.

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- k) Every annual report required to be filed with the Agency by a person accepting nonhazardous special waste from a nonhazardous special waste transporter pursuant to subsection (j) of this Section shall include the following information:
- 1) The IEPA identification number, name and address of the facility;
 - 2) The period (calendar year) covered by the report;
 - 3) The IEPA identification number, name and address of each nonhazardous special waste generator from which the facility received a nonhazardous special waste during the period;
 - 4) A description and the total quantity of each nonhazardous special waste the facility received from off-site during the period. This information shall be listed by IEPA identification number of each generator;
 - 5) The method of treatment, storage or disposal for each nonhazardous special waste; and
 - 6) A certification signed by the owner or operator of the facility or the owner's or operator's authorized representative.

(Source: Amended at 34 Ill. Reg. 3317, effective February 25, 2010)

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- 1) Heading of the Part: Hospital Licensing Requirements
- 2) Code Citation: 77 Ill. Adm. Code 250
- 3) Section Number: 250.1130 Adopted Action:
New
- 4) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- 5) Effective Date of Rulemaking: February 24, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 4, 2009; 33 Ill. Reg. 12347
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The following changes were made in response to comments and suggestions of JCAR:

In Section 250.1130(a), "Patient Acuity" – the complexity of patient care needs requiring the skill and care of a nurse, which is addressed when aligning nursing resources and professional practice standards as part of the patient's treatment plan." was added to the list of definitions.

In addition, various nonsubstantive 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

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- 15) Summary and Purpose of the Rulemaking: The Illinois General Assembly enacted Public Act 95-401 in 2007, which mandates that nurse staffing levels in acute care settings be based on the "complexity of patients' care needs" and available nursing skills. PA 95-401 also calls for nurses' input in establishing minimum staffing levels.

In this rulemaking, Section 250.1130 (Nurse Staffing by Patient Acuity) was added to Part 250 to implement the provisions of PA 95-401.

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

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

217/782-2043
e-mail: dph.rules@illinois.gov

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

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TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 250

HOSPITAL LICENSING REQUIREMENTS

SUBPART A: GENERAL

Section

- 250.110 Application for and Issuance of Permit to Establish a Hospital
- 250.120 Application for and Issuance of a License to Operate a Hospital
- 250.130 Administration by the Department
- 250.140 Hearings
- 250.150 Definitions
- 250.160 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION AND PLANNING

Section

- 250.210 The Governing Board
- 250.220 Accounting
- 250.230 Planning
- 250.240 Admission and Discharge
- 250.250 Visiting Rules
- 250.260 Patients' Rights
- 250.265 Language Assistance Services
- 250.270 Manuals of Procedure
- 250.280 Agreement with Designated Organ Procurement Agencies

SUBPART C: THE MEDICAL STAFF

Section

- 250.310 Organization
- 250.315 House Staff Members
- 250.320 Admission and Supervision of Patients
- 250.330 Orders for Medications and Treatments
- 250.340 Availability for Emergencies

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SUBPART D: PERSONNEL SERVICE

Section

- 250.410 Organization
- 250.420 Personnel Records
- 250.430 Duty Assignments
- 250.435 Health Care Worker Background Check
- 250.440 Education Programs
- 250.450 Personnel Health Requirements
- 250.460 Benefits

SUBPART E: LABORATORY

Section

- 250.510 Laboratory Services
- 250.520 Blood and Blood Components
- 250.525 Designated Blood Donor Program
- 250.530 Proficiency Survey Program (Repealed)
- 250.540 Laboratory Personnel (Repealed)
- 250.550 Western Blot Assay Testing Procedures (Repealed)

SUBPART F: RADIOLOGICAL SERVICES

Section

- 250.610 General Diagnostic Procedures and Treatments
- 250.620 Radioactive Isotopes
- 250.630 General Policies and Procedures Manual

SUBPART G: GENERAL HOSPITAL EMERGENCY SERVICE

Section

- 250.710 Classification of Emergency Services
- 250.720 General Requirements
- 250.725 Notification of Emergency Personnel
- 250.730 Community or Areawide Planning
- 250.740 Disaster and Mass Casualty Program
- 250.750 Emergency Services for Sexual Assault Victims

SUBPART H: RESTORATIVE AND REHABILITATION SERVICES

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Section

250.810	Applicability of Other Parts of These Requirements
250.820	General
250.830	Classifications of Restorative and Rehabilitation Services
250.840	General Requirements for all Classifications
250.850	Specific Requirements for Comprehensive Physical Rehabilitation Services
250.860	Medical Direction
250.870	Nursing Care
250.880	Additional Allied Health Services
250.890	Animal-Assisted Therapy

SUBPART I: NURSING SERVICE AND ADMINISTRATION

Section

250.910	Nursing Services
250.920	Organizational Plan
250.930	Role in hospital planning
250.940	Job descriptions
250.950	Nursing committees
250.960	Specialized nursing services
250.970	Nursing Care Plans
250.980	Nursing Records and Reports
250.990	Unusual Incidents
250.1000	Meetings
250.1010	Education Programs
250.1020	Licensure
250.1030	Policies and Procedures
250.1035	Domestic Violence Standards
250.1040	Patient Care Units
250.1050	Equipment for Bedside Care
250.1060	Drug Services on Patient Unit
250.1070	Care of Patients
250.1075	Use of Restraints
250.1080	Admission Procedures Affecting Care
250.1090	Sterilization and Processing of Supplies
250.1100	Infection Control
250.1110	Mandatory Overtime Prohibition
250.1120	Staffing Levels

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250.1130 Nurse Staffing by Patient Acuity

SUBPART J: SURGICAL AND RECOVERY ROOM SERVICES

Section

250.1210	Surgery
250.1220	Surgery Staff
250.1230	Policies & Procedures
250.1240	Surgical Privileges
250.1250	Surgical Emergency Care
250.1260	Operating Room Register and Records
250.1270	Surgical Patients
250.1280	Equipment
250.1290	Safety
250.1300	Operating Room
250.1305	Visitors in Operating Room
250.1310	Cleaning of Operating Room
250.1320	Postoperative Recovery Facilities

SUBPART K: ANESTHESIA SERVICES

Section

250.1410	Anesthesia Service
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SUBPART L: RECORDS AND REPORTS

Section

250.1510	Medical Records
250.1520	Reports

SUBPART M: FOOD SERVICE

Section

250.1610	Dietary Department Administration
250.1620	Facilities
250.1630	Menus and Nutritional Adequacy
250.1640	Diet Orders
250.1650	Frequency of Meals
250.1660	Therapeutic (Modified) Diets

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- 250.1670 Food Preparation and Service
- 250.1680 Sanitation

SUBPART N: HOUSEKEEPING AND LAUNDRY SERVICES

Section

- 250.1710 Housekeeping
- 250.1720 Garbage, Refuse and Solid Waste Handling and Disposal
- 250.1730 Insect and Rodent Control
- 250.1740 Laundry Service
- 250.1750 Soiled Linen
- 250.1760 Clean Linen

SUBPART O: MATERNITY AND NEONATAL SERVICE

Section

- 250.1810 Applicability of other Parts of these regulations
- 250.1820 Maternity and Neonatal Service (Perinatal Service)
- 250.1830 General Requirements for All Maternity Departments
- 250.1840 Discharge of Newborn Infants from Hospital
- 250.1850 Rooming-In Care of Mother and Infant
- 250.1860 Special Programs
- 250.1870 Single Room Maternity Care

SUBPART P: ENGINEERING AND MAINTENANCE OF THE PHYSICAL PLANT, SITE, EQUIPMENT, AND SYSTEMS – HEATING, COOLING, ELECTRICAL, VENTILATION, PLUMBING, WATER, SEWER, AND SOLID WASTE DISPOSAL

Section

- 250.1910 Maintenance
- 250.1920 Emergency electric service
- 250.1930 Water Supply
- 250.1940 Ventilation, Heating, Air Conditioning, and Air Changing Systems
- 250.1950 Grounds and Buildings Shall be Maintained
- 250.1960 Sewage, Garbage, Solid Waste Handling and Disposal
- 250.1970 Plumbing
- 250.1980 Fire and Safety

SUBPART Q: CHRONIC DISEASE HOSPITALS

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Section

- 250.2010 Definition
- 250.2020 Requirements

SUBPART R: PHARMACY OR DRUG AND MEDICINE SERVICE

Section

- 250.2110 Service Requirements
- 250.2120 Personnel Required
- 250.2130 Facilities for Services
- 250.2140 Pharmacy and Therapeutics Committee

SUBPART S: PSYCHIATRIC SERVICES

Section

- 250.2210 Applicability of other Parts of these Regulations
- 250.2220 Establishment of a Psychiatric Service
- 250.2230 The Medical Staff
- 250.2240 Nursing Service
- 250.2250 Allied Health Personnel
- 250.2260 Staff and Personnel Development and Training
- 250.2270 Admission, Transfer and Discharge Procedures
- 250.2280 Care of Patients
- 250.2290 Special Medical Record Requirements for Psychiatric Hospitals and Psychiatric Units of General Hospitals or General Hospitals Providing Psychiatric Care
- 250.2300 Diagnostic, Treatment and Physical Facilities and Services

SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

Section

- 250.2410 Applicability of these Standards
- 250.2420 Submission of Plans for New Construction, Alterations or Additions to Existing Facility
- 250.2430 Preparation of Drawings and Specifications – Submission Requirements
- 250.2440 General Hospital Standards
- 250.2442 Fees
- 250.2443 Advisory Committee
- 250.2450 Details

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250.2460	Finishes
250.2470	Structural
250.2480	Mechanical
250.2490	Plumbing and Other Piping Systems
250.2500	Electrical Requirements

SUBPART U: CONSTRUCTION STANDARDS FOR EXISTING HOSPITALS

Section	
250.2610	Applicability of these Standards
250.2620	Codes and Standards
250.2630	Existing General Hospital Standards
250.2640	Details
250.2650	Finishes
250.2660	Mechanical
250.2670	Plumbing and Other Piping Systems
250.2680	Electrical Requirements

SUBPART V: SPECIAL CARE AND/OR SPECIAL SERVICE UNITS

Section	
250.2710	Special Care and/or Special Service Units
250.2720	Day Care for Mildly Ill Children

SUBPART W: ALCOHOLISM AND INTOXICATION TREATMENT SERVICES

Section	
250.2810	Applicability of Other Parts of These Requirements
250.2820	Establishment of an Alcoholism and Intoxication Treatment Service
250.2830	Classification and Definitions of Service and Programs
250.2840	General Requirements for all Hospital Alcoholism Program Classifications
250.2850	The Medical and Professional Staff
250.2860	Medical Records
250.2870	Referral
250.2880	Client Legal and Human Rights
250.APPENDIX A Codes and Standards (Repealed)	
250.EXHIBIT A	Codes (Repealed)
250.EXHIBIT B	Standards (Repealed)

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250.EXHIBIT C	Addresses of Sources (Repealed)
250.ILLUSTRATION A	Seismic Zone Map
250.TABLE A	Measurements Essential for Level I, II, III Hospitals
250.TABLE B	Sound Transmission Limitations in General Hospitals
250.TABLE C	Filter Efficiencies for Central Ventilation and Air Conditioning Systems in General Hospitals (Repealed)
250.TABLE D	General Pressure Relationships and Ventilation of Certain Hospital Areas (Repealed)
250.TABLE E	Piping Locations for Oxygen, Vacuum and Medical Compressed Air
250.TABLE F	General Pressure Relationships and Ventilation of Certain Hospital Areas
250.TABLE G	Insulation/Building Perimeter

AUTHORITY: Implementing and authorized by the Hospital Licensing Act [210 ILCS 85].

SOURCE: Rules repealed and new rules adopted August 27, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 49, effective May 16, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 45, p. 85, effective November 6, 1978; amended at 3 Ill. Reg. 17, p. 88, effective April 22, 1979; amended at 4 Ill. Reg. 22, p. 233, effective May 20, 1980; amended at 4 Ill. Reg. 25, p. 138, effective June 6, 1980; amended at 5 Ill. Reg. 507, effective December 29, 1980; amended at 6 Ill. Reg. 575, effective December 30, 1981; amended at 6 Ill. Reg. 1655, effective January 27, 1982; amended at 6 Ill. Reg. 3296, effective March 15, 1982; amended at 6 Ill. Reg. 7835 and 7838, effective June 17, 1982; amended at 7 Ill. Reg. 962, effective January 6, 1983; amended at 7 Ill. Reg. 5218 and 5221, effective April 4, 1983 and April 5, 1983; amended at 7 Ill. Reg. 6964, effective May 17, 1983; amended at 7 Ill. Reg. 8546, effective July 12, 1983; amended at 7 Ill. Reg. 9610, effective August 2, 1983; codified at 8 Ill. Reg. 19752; amended at 8 Ill. Reg. 24148, effective November 29, 1984; amended at 9 Ill. Reg. 4802, effective April 1, 1985; amended at 10 Ill. Reg. 11931, effective September 1, 1986; amended at 11 Ill. Reg. 10283, effective July 1, 1987; amended at 11 Ill. Reg. 10642, effective July 1, 1987; amended at 12 Ill. Reg. 15080, effective October 1, 1988; amended at 12 Ill. Reg. 16760, effective October 1, 1988; amended at 13 Ill. Reg. 13232, effective September 1, 1989; amended at 14 Ill. Reg. 2342, effective February 15, 1990; amended at 14 Ill. Reg. 13824, effective September 1, 1990; amended at 15 Ill. Reg. 5328, effective May 1, 1991; amended at 15 Ill. Reg. 13811, effective October 1, 1991; amended at 17 Ill. Reg. 1614, effective January 25, 1993; amended at 17 Ill. Reg. 17225, effective October 1, 1993; amended at 18 Ill. Reg. 11945, effective July 22, 1994; amended at 18 Ill. Reg. 15390, effective October 10, 1994; amended at 19 Ill. Reg. 13355, effective September 15, 1995; emergency amendment at 20 Ill. Reg. 474, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3234, effective February 15,

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1996; amended at 20 Ill. Reg. 10009, effective July 15, 1996; amended at 22 Ill. Reg. 3932, effective February 13, 1998; amended at 22 Ill. Reg. 9342, effective May 20, 1998; amended at 23 Ill. Reg. 1007, effective January 15, 1999; emergency amendment at 23 Ill. Reg. 3508, effective March 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9513, effective August 1, 1999; amended at 23 Ill. Reg. 13913, effective November 15, 1999; amended at 24 Ill. Reg. 6572, effective April 11, 2000; amended at 24 Ill. Reg. 17196, effective November 1, 2000; amended at 25 Ill. Reg. 3241, effective February 15, 2001; amended at 27 Ill. Reg. 1547, effective January 15, 2003; amended at 27 Ill. Reg. 13467, effective July 25, 2003; amended at 28 Ill. Reg. 5880, effective March 29, 2004; amended at 28 Ill. Reg. 6579, effective April 15, 2004; amended at 29 Ill. Reg. 12489, effective July 27, 2005; amended at 31 Ill. Reg. 4245, effective February 20, 2007; amended at 31 Ill. Reg. 14530, effective October 3, 2007; amended at 32 Ill. Reg. 3756, effective February 27, 2008; amended at 32 Ill. Reg. 4213, effective March 10, 2008; amended at 32 Ill. Reg. 7932, effective May 12, 2008; amended at 32 Ill. Reg. 14336, effective August 12, 2008; amended at 33 Ill. Reg. 8306, effective June 2, 2009; amended at 34 Ill. Reg. 3331, effective February 24, 2010.

SUBPART I: NURSING SERVICE AND ADMINISTRATION

Section 250.1130 Nurse Staffing by Patient Acuitya) As used in this Section, the following definitions apply:

"Acuity Model" – an assessment tool selected and implemented by a hospital, as recommended by a nursing care committee, that assesses the complexity of patient care needs requiring professional nursing care and skills and aligns patient care needs and nursing skills consistent with professional nursing standards.

"Direct Patient Care" – care provided by a registered professional nurse with direct responsibility to oversee or carry out medical regimens or nursing care for one or more patients.

"Nursing-sensitive Care Performance Measure" – data that examine nursing contributions to inpatient hospital care, including, but not limited to, the data collected and analyzed under the Hospital Report Card Act [210 ILCS 86], the Illinois Adverse Health Care Events Reporting Law of 2005 [410 ILCS 522], and the American Nurses' Association's National Database for Nursing Quality Indicators. The National Database for

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Nursing Quality Indicators may be accessed at www.nursingquality.org. Hospitals are not required to subscribe to the database.

"Nursing Care Committee" – an existing or newly created hospital-wide committee or committees of nurses whose functions, in part or in whole, contribute to the development, recommendation, and review of the hospital's nurse staffing plan established pursuant to subsection (b). (Section 10.10(b) of the Act)

"Patient Acuity" – the complexity of patient care needs requiring the skill and care of a nurse, which is addressed when aligning nursing resources and professional practice standards as part of the patient's treatment plan.

"Registered Professional Nurse" – a person licensed as a Registered Nurse under the Nurse Practice Act.

"Written Staffing Plan for Nursing Care Services" – a written plan for guiding the assignment of patient care nursing staff based on multiple nurse and patient considerations that yield minimum staffing levels for inpatient care units and the adopted acuity model aligning patient care needs with nursing skills required for quality patient care consistent with professional nursing standards. (Section 10.10(b) of the Act)

b) *Written Staffing Plan*

1) *Every hospital shall implement a written hospital-wide staffing plan, recommended by a nursing care committee or committees, that provides for minimum direct care professional registered nurse-to-patient staffing needs for each inpatient care unit. The written hospital-wide staffing plan shall include, but need not be limited to, the following considerations:*

A) *The complexity of complete care, assessment on patient admission, volume of patient admissions, discharges and transfers, evaluation of the progress of a patient's problems, ongoing physical assessments, planning for a patient's discharge, assessment after a change in patient condition, and assessment of the need for patient referrals;*

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- B) *The complexity of clinical professional nursing judgment needed to design and implement a patient's nursing care plan, the need for specialized equipment and technology, the skill mix of other personnel providing or supporting direct patient care, and involvement in quality improvement activities, professional preparation, and experience;*
 - C) *Patient acuity and the number of patients for whom care is being provided;*
 - D) *The ongoing assessments of a unit's patient acuity levels and nursing staff needed, routinely made by the unit nurse manager or his or her designee; and*
 - E) *The identification of additional registered nurses available for direct patient care when patients' unexpected needs exceed the planned workload for direct care staff. (Section 10.10(c) of the Act)*
- 2) *A written staffing plan shall consider the time required for nursing staff documentation of patient care.*
 - 3) *In order to provide staffing flexibility to meet patient needs, every hospital shall identify an acuity model for adjusting the staffing plan for each inpatient care unit.*
 - 4) *The written staffing plan shall be posted in a conspicuous and accessible location for both patients and direct care staff, as required under the Hospital Report Card Act. (Section 10.10(c) of the Act)*
- c) *Nursing Care Committee*
- 1) *Every hospital shall have a nursing care committee. A hospital shall appoint members of a committee of which at least 50% of the members are registered professional nurses providing direct patient care. (Section 10.10(d) of the Act)*

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- A) The registered professional nurses on the nursing care committee shall be as broadly representative of the clinical service areas as practically reasonable; e.g., surgery, critical care and pediatrics.
 - B) When committee or nurse staff volume is not practically reasonable to include representatives from each clinical service area at any one time, the hospital may schedule for rotating representation of the hospital's clinical service areas over a defined timeframe to achieve input from all clinical service areas every three years.
 - C) Minutes for the nursing care committee meetings, summarizing key issues, discussions and recommendations, shall be recorded and maintained for five years.
- 2) A nursing care committee's recommendations must be given significant regard and weight in the hospital's adoption and implementation of a written staffing plan. (Section 10.10(d) of the Act)
- A) The process for submitting the committee's recommendations to hospital administration shall be outlined in the written staffing plan.
 - B) The process for providing feedback to the nursing care committee from the hospital administration regarding unresolved or ongoing issues shall be outlined in the written staffing plan.
- 3) A nursing care committee or committees shall recommend a written staffing plan for the hospital based on the principles from the staffing components set forth in subsection (b). In particular, a committee or committees shall provide input and feedback on the following:
- A) Selection, implementation, and evaluation of minimum staffing levels for inpatient care units.
 - B) Selection, implementation, and evaluation of an acuity model to provide staffing flexibility that aligns changing patient acuity with nursing skills required.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

- C) *Selection, implementation, and evaluation of a written staffing plan incorporating the items described in subsections (b)(1) and (b)(3) of this Section. (Section 10.10(d) of the Act)*
- i) *The process for review and evaluation of the written staffing plan shall take into consideration nursing-sensitive care performance measures.*
- ii) *The process for review and evaluation of the written staffing plan shall consider the National Quality Forum's Safe Practices for Better Healthcare.*
- 4) *The committee or committees shall review the following: nurse-to-patient staffing guidelines for all inpatient areas and current acuity tools and measures in use.*
- 5) *System-related or clinical service area nurse staffing or patient issues identified between meetings shall be shared, reviewed and addressed at the next nurse care committee meeting.*
- 6) *A nursing care committee must address the items described in **this** subsection (c)(3) semi-annually. (Section 10.10(d) of the Act)*
- d) *Nothing in this Section shall be construed to limit, alter, or modify any of the terms, conditions, or provisions of a collective bargaining agreement entered into by the hospital. (Section 10.10(e) of the Act)*

(Source: Added at 34 Ill. Reg. 3331, effective February 24, 2010)

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 February 23, 2010 through March 1, 2010 and have been scheduled for review by the Committee at its March 9, 2010 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>
4/7/10	<u>Department of Natural Resources</u> , White-Tailed Deer Hunting by Use of Firearms (17 Ill. Adm. Code 650)	12/28/09 33 Ill. Reg. 17226	3/9/10
4/7/10	<u>Department of Natural Resources</u> , White-Tailed Deer Hunting by Use of Muzzleloading Rifles (17 Ill. Adm. Code 660)	12/28/09 33 Ill. Reg. 17247	3/9/10
4/7/10	<u>Department of Natural Resources</u> , White-Tailed Deer Hunting by Use of Bow and Arrow (17 Ill. Adm. Code 670)	12/28/09 33 Ill. Reg. 17260	3/9/10
4/7/10	<u>Department of Natural Resources</u> , Youth Hunting Seasons (17 Ill. Adm. Code 685)	12/28/09 33 Ill. Reg. 17284	3/9/10
4/9/10	<u>Teachers' Retirement System of the State of Illinois</u> , The Administration and Operation of the Teachers' Retirement System (80 Ill. Adm. Code 1650)	12/18/09 33 Ill. Reg. 17053	3/9/10

ILLINOIS ADMINISTRATIVE CODE
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