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RULES OF GOVERNMENTAL AGENCIES

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TABLE OF CONTENTS

November 12, 2010 Volume 34, Issue 46

PROPOSED RULES
CORRECTIONS, DEPARTMENT OF
Rights and Privileges
20 Ill. Adm. Code 525.....17015
EMERGENCY MANAGEMENT AGENCY, ILLINOIS
Licensing of Radioactive Material
32 Ill. Adm. Code 330.....17022
FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF
Non-Binding, Advisory Opinions on Criminal Convictions
68 Ill. Adm. Code 1130.....17126
HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF
Long Term Care Reimbursement Changes
89 Ill. Adm. Code 153.....17132
Child Support Services
89 Ill. Adm. Code 160.....17134
HUMAN RIGHTS, DEPARTMENT OF
Procedures Applicable to All Agencies
44 Ill. Adm. Code 750.....17170
STATE BOARD OF EDUCATION
Transitional Bilingual Education
23 Ill. Adm. Code 228.....17180
Early Childhood Block Grant
23 Ill. Adm. Code 235.....17187
School Technology Program
23 Ill. Adm. Code 575.....17213
TRANSPORTATION, DEPARTMENT OF
Airport Hazard Zoning
92 Ill. Adm. Code 16.....17224
Bloomington-Normal Airport Hazard Zoning Regulations (Repealer)
92 Ill. Adm. Code 24.....17234
Freeport Albertus Airport Hazard Zoning Regulations (Repealer)
92 Ill. Adm. Code 44.....17254
Litchfield Municipal Airport Hazard Zoning Regulations (Repealer)
92 Ill. Adm. Code 58.....17273
Pekin Airport Hazard Zoning Regulations (Repealer)
92 Ill. Adm. Code 73.....17293
Stransky Memorial Airport Hazard Zoning Regulations (Repealer)
92 Ill. Adm. Code 84.....17319
ADOPTED RULES
FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF

Residential Mortgage License Act of 1987
38 Ill. Adm. Code 1050.....17339
POLLUTION CONTROL BOARD
Standards for the Management of Used Oil
35 Ill. Adm. Code 739.....17381
Special Waste Classifications
35 Ill. Adm. Code 808.....17390
Nonhazardous Special Waste Hauling and the Uniform Program
35 Ill. Adm. Code 809.....17398
STATE BOARD OF EDUCATION
Public Schools Evaluation, Recognition and Supervision
23 Ill. Adm. Code 1.....17411
Code of Ethics for Illinois Educators
23 Ill. Adm. Code 22.....17427
Special Education
23 Ill. Adm. Code 226.....17433
EMERGENCY RULES
HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF
Long Term Care Reimbursement Changes
89 Ill. Adm. Code 153.....17462
NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT
ILLINOIS WORKERS' COMPENSATION COMMISSION
Miscellaneous
50 Ill. Adm. Code 7110.....17471
NOTICE OF WITHDRAWAL TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS WORKERS' COMPENSATION COMMISSION
Miscellaneous
50 Ill. Adm. Code 7110.....17489
OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER
ENVIRONMENTAL PROTECTION AGENCY
Listing of Derived Water Quality Criteria.....17490
ILLINOIS ATTORNEY GENERAL
Notice of Public Information.....17503
JOINT COMMITTEE ON ADMINISTRATIVE RULES AGENDA
JOINT COMMITTEE ON ADMINISTRATIVE RULES
November Agenda.....17504
SECOND NOTICES RECEIVED
JOINT COMMITTEE ON ADMINISTRATIVE RULES
Second Notices Received.....17511

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

Issue #	Rules Due Date	Date of Issue
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
9	February 16, 2010	February 26, 2010
10	February 22, 2010	March 5, 2010
11	March 1, 2010	March 12, 20101
12	March 8, 2010	March 19, 2010
13	March 15, 2010	March 26, 2010
14	March 22, 2010	April 2, 2010
15	March 29, 2010	April 9, 2010
16	April 5, 2010	April 16, 2010
17	April 12, 2010	April 23, 2010
18	April 19, 2010	April 30, 2010
19	April 26, 2010	May 7, 2010
20	May 3, 2010	May 14, 2010
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

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 15, 2010 to January 3, 2011.

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Rights and Privileges

2) Code Citation: 20 Ill. Adm. Code 525

3) Section Number: 525.110 — Proposed Action: Amend

4) The specific statutory citation upon which the Part is based and authorized: Implementing and authorized by Sections 3-2-2, 3-7-1, 3-7-2, 3-8-7, 3-8-8, 3-10-8, and 3-10-9 of the Unified Code of Corrections [730 ILCS 5/3-2-2, 3-7-1, 3-7-2, 3-8-7, 3-8-8, 3-10-8, and 3-10-9] and Section 1-3 of the Juvenile Court Act of 1987 [730 ILCS 405/1-3] and authorized by Sections 3-2-2 and 3-7-1 of the Unified Code of Corrections [730 ILCS 5/3-2-2 and 3-7-1]

5) A complete description of the subjects and issues involved: Amendments to this Part provide that the definition of "Legal Mail" includes State's Attorneys and clarifies that registered attorneys are those attorneys that provide direct legal representation to offenders.

6) Any published studies or reports, along with the sources of underlying data, that were used when composing 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 any incorporation by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State mandate.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments during the 45-day First Notice Period, which commences on the issue date of this publication of the *Illinois Register* to:

Beth Kiel, Rules Coordinator

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield, Illinois 62794-9277

Phone: 217/558-2200, extension 6511
beth.kiel@doc.illinois.gov

All written comments received after 45 days from the date of this publication will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: It was not included in previous Regulatory Agendas as it was not anticipated.

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

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER I: DEPARTMENT OF CORRECTIONS
SUBCHAPTER e: OPERATIONS

PART 525
RIGHTS AND PRIVILEGES

SUBPART A: VISITATION

Section
525.10 Applicability
525.12 Definitions
525.15 Responsibilities
525.20 Visiting Privileges
525.30 Clergy Visitation
525.40 Attorney Visitation − Adult Division
525.50 Attorney Visitation − Juvenile Division (Court Agreement)
525.60 Restriction of Visitors

SUBPART B: MAIL AND TELEPHONE CALLS

Section
525.100 Applicability
525.110 Definitions
525.115 Responsibilities
525.120 Processing of Mail
525.130 Outgoing Mail
525.140 Incoming Mail
525.150 Telephone Privileges

SUBPART C: PUBLICATIONS

Section
525.200 Applicability
525.202 Definitions
525.205 Responsibilities
525.210 General Guidelines
525.220 Publication Review Officer
525.230 Procedure for Review of Publications

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

SUBPART D: MARRIAGE OF OFFENDERS

Section
525.300 Applicability
525.302 Definitions
525.305 Responsibilities
525.310 Request for Permission to Marry

AUTHORITY: Implementing Sections 3-2-2, 3-7-1, 3-7-2, 3-8-7, 3-8-8, 3-10-8, and 3-10-9 of the Unified Code of Corrections [730 ILCS 5/3-2-2, 3-7-1, 3-7-2, 3-8-7, 3-8-8, 3-10-8, and 3-10-9] and Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] and authorized by Sections 3-2-2 and 3-7-1 of the Unified Code of Corrections [730 ILCS 5/3-2-2 and 3-7-1]. Subpart A is also implementing a Consent Decree (Tillman vs. Rowe, #77 C 1008, N.D. Ill., 1977). Subpart C is also implementing a Court Agreement (Ryan vs. Walker, #04 C 4635, N.D. Ill., 2006).

SOURCE: Adopted at 8 Ill. Reg. 14598, effective August 1, 1984; amended at 9 Ill. Reg. 10728, effective August 1, 1985; amended at 11 Ill. Reg. 16134, effective November 1, 1987; amended at 12 Ill. Reg. 9664, effective July 1, 1988; amended at 14 Ill. Reg. 5114, effective April 1, 1990; amended at 14 Ill. Reg. 19875, effective December 1, 1990; emergency amendment at 16 Ill. Reg. 3583, effective February 20, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10439, effective July 1, 1992; peremptory amendment at 17 Ill. Reg. 1666, effective January 22, 1993; expedited correction at 17 Ill. Reg. 11903, effective January 22, 1993; peremptory amendment at 17 Ill. Reg. 8069, effective May 27, 1993; amended at 20 Ill. Reg. 15960, effective January 1, 1997; emergency amendment at 21 Ill. Reg. 641, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7139, effective May 31, 1997; amended at 27 Ill. Reg. 8039, effective July 1, 2003; amended at 30 Ill. Reg. 14843, effective September 1, 2006; amended at 35 Ill. Reg. _____, effective _____.

SUBPART B: MAIL AND TELEPHONE CALLS

Section 525.110 Definitions

a) "Assistant Director" means the second highest ranking official of the Department.

b) "Chief" or "Deputy Director" means the highest ranking official of a district or division within the Department.

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

c) "Chief Administrative Officer" means the highest ranking official of a correctional facility.

d) "Department" means the Department of Corrections.

e) "Director" means the Director of the Department.

f) "Incoming privileged mail" means mail from the following:

1) The Director;

2) Assistant Director, Chiefs, and Deputy Directors of the Department;

3) Department attorneys and State's Attorneys;

4) Members of the Administrative Review Board;

5) Members of the Prisoner Review Board;

6) The Governor of Illinois;

7) Federal or Illinois legislators;

8) Chief Executive Officers of the Federal Bureau of Investigation, the Drug Enforcement Administration, the Criminal Division of the Department of Justice, the United States Customs Service, the Secret Service, the Illinois State Police, and Sheriff's Offices and Police Departments in the State of Illinois;

9) Illinois Inspector General;

10) John Howard Association; and

11) Legal mail.

g) "Outgoing privileged mail" means mail to the following:

1) The Director;

2) Assistant Director, Chiefs, and Deputy Directors of the Department;

3) Department attorneys and State's Attorneys;

4) Members of the Administrative Review Board;

5) Members of the Prisoner Review Board;

6) The Governor of Illinois;

7) Federal or Illinois legislators;

8) Chief Executive Officers of the Federal Bureau of Investigation, the Drug Enforcement Administration, the Criminal Division of the Department of Justice, the United States Customs Service, the Secret Service, the Illinois State Police, and Sheriff's Offices and Police Departments in the State of Illinois;

9) Illinois Inspector General;

10) John Howard Association;

11) Clerks of courts or of the Illinois Court of Claims; and

12) Legal mail.

h) "Legal mail" means mail to and from the following:

1) Registered Attorneys who provide direct legal representation to offenders~~, except Department attorneys and State's Attorneys~~;

2) State's Attorneys;

3) The Illinois Attorney General;

4~~3~~) Judges or magistrates of any court or the Illinois Court of Claims Judges; and

5~~4~~) Any organization that provides direct legal representation to offenders, but

not including organizations that provide referrals to attorneys, such as bar associations.

i) "Offender" means a person committed to the Department or to the custody of the Department.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Licensing of Radioactive Material

2) Code Citation: 32 Ill. Adm. Code 330

3)

Section Number:	Proposed Action:
330.20	Amendment
330.40	Amendment
330.220	Amendment
330.240	Amendment
330.260	Amendment
330.270	Amendment
330.280	Amendment
330.320	Amendment
330.330	Repealed
330.400	Amendment
330.APPENDIX A	Amendment
330.APPENDIX C	Amendment

4) Statutory Authority: Implementing and authorized by Section 10 of the Radiation Protection Act of 1990 [420 ILCS 40/10]

5) A Complete Description of the Subjects and Issues Involved: This proposed amendment will clarify the documentation required by the Agency for approval of an authorized nuclear pharmacist. It will also update and clarify general licenses and license exemptions and requirements for manufacture and distribution of radioactive material. In addition, it will clarify standards for regulation of discrete sources of radium-226, accelerator-produced radioactive material, and discrete sources of naturally occurring radioactive material as required by the Energy Policy Act of 2005 (EPAct), which was signed into law on August 8, 2005. The EPAct expanded the Atomic Energy Act of 1954 definition of *Byproduct material* to include any discrete source of radium-226, any material made radioactive by use of a particle accelerator, or any discrete source of naturally occurring radioactive material other than source material.

These proposed amendments will ensure compatibility with the U.S. Nuclear Regulatory Commission's 10 CFR 30, 32, and 35 regulations currently in place for use of radioactive materials. Agreement States such as Illinois are required to have these changes in place by October 29, 2010. NRC has assigned this rulemaking a compatibility category of B. This means that the Illinois rule must have language essentially identical to NRC's because of transboundary considerations.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

Section 31 of the Radiation Protection Act of 1990 [420 ILCS 40/31] provides that the Agency is exempt from rulemaking procedures in the Illinois Administrative Procedure Act when regulations that are identical in substance are necessary to implement, secure, or maintain federal authorization for a program. After consideration of comments from the appropriate federal agency, the Agency may adopt the verbatim text of the laws, regulations, or orders as necessary and appropriate for authorization or maintenance of the program. The NRC has reviewed the proposed amendments and has indicated that these amendments are needed to ensure compatibility with 10 CFR 30, 32, and 35. Because this rulemaking is not subject to the Illinois Administrative Procedure Act, and in accordance with Section 31, this rulemaking will become effective following the first notice period immediately upon filing for adoption with the Secretary of State or at a date required or authorized by the relevant federal laws, regulations, or orders as stated in the notice of the rulemaking, and shall be published in the Illinois Register.

6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking: No

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 proposed amendment contain incorporations by reference? Yes, includes references to federal regulations for specifications for manufacturing of products and devices containing radioactive material.

10) Are there any other proposed amendments pending on this Part? Yes, a proposed amendment to 32 Ill. Adm. Code 330.40 was filed on August 28, 2009; however, the Joint Committee on Administrative Rules filed a prohibition on August 13, 2010 pending further action by the Agency.

11) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand or modify their activities in such a way as to necessitate additional expenditures from local revenues.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. The Agency will consider fully

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Maureen Cunningham
Chief Legal Counsel
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, Illinois 62704

217/524-0770 (voice)
217/782-6133 (TDD)

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities or not for profit corporations affected: This proposed rulemaking may affect small businesses. The rulemaking includes additional requirements for converting general licenses to specific licenses (Section 330.220(b)(O)) and notification and disposal restrictions on persons who possess antiquities also added (Section 330.220(h)).

B) Reporting, bookkeeping or other procedures required for compliance: Notification requirements and disposal restrictions on persons who possess antiquities were added (Section 330.220(h)).

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

TITLE 32: ENERGY
CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER b: RADIATION PROTECTION

PART 330
LICENSING OF RADIOACTIVE MATERIAL

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: TYPES OF LICENSES

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

SUBPART C: SPECIFIC AND GENERAL LICENSES

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

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

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

SUBPART D: TRANSPORTATION

Section
330.1000 Transportation of Radioactive Materials (Repealed)

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

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

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Filed April 20, 1974, by the Department of Public Health; transferred to the Department of Nuclear Safety by P.A. 81-1516, effective December 3, 1980; amended at 5 Ill. Reg. 9586, effective September 10, 1981; codified at 7 Ill. Reg. 17492; recodified at 10 Ill. Reg. 11268; amended at 10 Ill. Reg. 17315, effective September 25, 1986; amended at 15 Ill. Reg. 10632, effective July 15, 1991; amended at 18 Ill. Reg. 5553, effective March 29, 1994; emergency amendment at 22 Ill. Reg. 6242, effective March 18, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14459, effective July 27, 1998; amended at 24 Ill. Reg. 8042, effective June 1, 2000; amended at 27 Ill. Reg. 5426, effective March 17, 2003; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; amended at 30 Ill. Reg. 8928, effective April 28, 2006; amended at 32 Ill. Reg. 6462, effective April 7, 2008; amended at 32 Ill. Reg. 9199, effective June 13, 2008; amended at 33 Ill. Reg. 4918, effective March 23, 2009; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 330.20 Definitions

"Authorized nuclear pharmacist" means a pharmacist who:

Meets the requirements in Section 330.260(c)(18), ~~(c)~~(19) and ~~(c)~~(21)~~ of this Part~~; or

Is identified as an authorized nuclear pharmacist on:

A specific license issued by the Nuclear Regulatory Commission or Agreement State that authorizes medical use or the practice of nuclear pharmacy; or

A permit issued by a Nuclear Regulatory Commission master material licensee that authorizes medical use or the practice of nuclear pharmacy; or

A permit issued by a Nuclear Regulatory Commission or Agreement State broad scope medical use licensee that authorizes medical use or the practice of nuclear pharmacy; or

A permit issued by a Nuclear Regulatory Commission master material license broad scope medical use permittee that authorizes medical use or the practice of nuclear pharmacy; or

Is identified as an authorized nuclear pharmacist by a commercial nuclear pharmacy that has been authorized to identify authorized nuclear pharmacists; or

Is designated as an authorized nuclear pharmacist in accordance with Section 330.260(c)(16)~~ of this Part~~.

"Consortium" means an association of medical use licensees and a PET radionuclide production facility in the same geographical area that jointly own or share in the operation and maintenance cost of the PET radionuclide production facility that produces PET radionuclides for use in producing radioactive drugs within the consortium for noncommercial distributions among its associated members for medical use. The PET radionuclide production facility within the consortium must be located at an educational institution or a medical facility.

"General license" *means a license*, as set forth in this Part and 32 Ill. Adm. Code 341, which is *effective without the filing of an application to transfer, acquire, own, possess or use quantities of, or devices or equipment utilizing, radioactive material* [420 ILCS 40/4(d)], although the filing of a certificate with the Agency may be required by the particular general license. The general licensee is subject to all other applicable portions of 32 Ill. Adm. Code: Chapter II and any limitations of the general license.

"Nationally tracked source" is a sealed source containing a quantity equal to or greater than Category 1 or Category 2 levels of any radioactive material listed in Appendix F. In this context a sealed source is defined as radioactive material that is sealed in a capsule or closely bonded in a solid form and is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold.

"Protective actions" means actions taken by members of the public to protect themselves from radiation from an incident involving radioactive material, which may include sheltering, evacuation, relocation, control of access, administration

of radiation-protective drugs, decontamination of persons, decontamination of land or property, or control of food or water.

"Specific license" means a license, issued after application, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing, radioactive materials [420 ILCS 40/4(m)]. The licensee is subject to all applicable portions of 32 Ill. Adm. Code: Chapter II, as well as any limitations specified in the licensing document.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 330.40 License Exemption − Radioactive Materials Other Than Source Material

a) Exempt Concentrations

1) Any person is exempt from this Part to the extent that such person receives, possesses, uses, transfers, owns or acquires products containing radioactive material introduced in concentrations not in excess of those listed in Appendix A of this Part provided they have been introduced or transferred~~distributed pursuant to a license~~ as described in subsection (a)(2) or (3)~~of this Section~~. This Section shall not be deemed to authorize the import of radioactive materials or products containing radioactive materials.

2) No person may introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under subsection (a)(1) ~~of this Section~~ or equivalent regulations of the U.S. Nuclear Regulatory Commission (10 CFR 30.14) or~~,~~ an Agreement State~~ or a Licensing State~~, except in accordance with a specific license issued pursuant to Section 330.280(a). ~~of this Part or the general license provided in Section 330.900 of this Part.~~

3) A manufacturer, processor or producer of a product or material is exempt from the requirements for a license set forth in this Part to the extent that person transfers radioactive material contained in a product or material in concentrations not in excess of those specified in Appendix A and introduced into the product or material by a licensee holding a specific license issued by the Agency expressly authorizing that introduction. This exemption does not apply to the transfer of radioactive material contained

in any food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

b) Exempt Quantities

1) Except as restricted by subsections (b)(2) through (4), any~~Any~~ person is exempt from this Part to the extent that ~~such~~ person receives, possesses, uses, transfers, owns or acquires radioactive material in individual quantities each of which does not exceed the applicable quantity set forth in Appendix B~~ of this Part provided they have been distributed pursuant to a license as described in subsection (b)(3) of this Section~~. Furthermore, any person is exempt from this Part to the extent that person possesses, uses, transfers or owns radioactive material that was received or acquired before September 25, 1971, under the general license then provided by the regulations of the U.S. Atomic Energy Commission (10 CFR 31.4) or the equivalent regulations of an Agreement State.

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

2) This subsection (b) does not authorize the production, packaging or repackaging of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.

3) No person may, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in Appendix B of this Part, knowing or having reason to believe that such quantities of radioactive material will be transferred to persons exempt under this subsection (b) or equivalent regulations of the U.S. Nuclear Regulatory Commission, or an Agreement State~~ or a Licensing State~~, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR 32.18 or 32.21, or by the Agency pursuant to Section 330.280(b)~~ of this Part~~, which states that the

radioactive material may be transferred by the licensee to persons exempt under this subsection (b) or the equivalent regulations of the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~.

4) No person shall, for purposes of producing an increased radiation level, combine quantities of radioactive material covered by the exemption in subsection (b)(1) so that the aggregate quantity exceeds the limits set forth in Appendix B, except for radioactive material combined within a device placed in use before May 3, 1999, or as otherwise permitted by this Part.

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

c) Exempt Items

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

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

A) Timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified radiation dose rate:

i) 925 MBq (25 mCi) of tritium per timepiece;

ii) 185 MBq (5 mCi) of tritium per hand;

iii) 555 MBq (15 mCi) of tritium per dial (bezels when used shall be considered as part of the dial);

iv) 3.7 MBq (100 µ~~micro~~Ci) of promethium-147 per watch or 7.4 MBq (200 µ~~micro~~Ci) of promethium-147 per any other timepiece;

v) 740 kBq (20 µ~~micro~~Ci) of promethium-147 per watch hand or 1.48 MBq (40 µ~~micro~~Ci) of promethium-147 per other timepiece hand;

vi) 2.22 MBq (60 µ~~micro~~Ci) of promethium-147 per watch dial or 4.44 MBq 1(20 µ~~micro~~Ci) of promethium-147 per other timepiece dial (bezels when used shall be considered as part of the dial);

vii) The radiation dose rate from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber: for wrist watches, 1 µ~~micro~~Gy (100 microrad) per hour at 10 centimeters from any surface; for pocket watches, 1 µ~~micro~~Gy (100 microrad) per hour at 1 centimeter from any surface; for any other timepiece, 2 µ~~micro~~Gy (200 microrad) per hour at 10 centimeters from any surface; or

viii) 37 kBq (1 µ~~micro~~Ci) of radium-226 per timepiece in intact timepieces manufactured prior to November 30, 2007~~acquired prior to May 1, 1974~~.

~~B)~~ ~~Lock illuminators containing not more than 555 MBq (15 mCi) of tritium or not more than74 MBq (2 mCi) of promethium-147 installed in automobile locks. The radiation dose rate from each lock illuminator containing promethium-147 will not exceed 10 microGy (1 mrad) per hour at 1 centimeter from any surface when measured through 50 milligrams per square centimeter of absorber.~~

B~~C~~) Precision balances containing not more than 37 MBq (1 mCi) of

tritium per balance or not more than 18.5 MBq (500 µ~~micro~~Ci) of tritium per balance part manufactured before December 17, 2007.

~~D)~~ ~~Automobile shift quadrants containing not more than 925 MBq (25 mCi) of tritium.~~

C~~E~~) Marine compasses containing not more than 27.8 GBq (750 mCi) of tritium gas and other marine navigational instruments containing not more than 9.25 GBq (250 mCi) of tritium gas manufactured before December 17, 2007.

~~F)~~ ~~Thermostat dials and pointers containing not more than 925 MBq (25 mCi) of tritium per thermostat.~~

D~~G~~) Electron tubes; provided that each tube does not contain more than one of the following specified quantities of radioactive material:

i) 5.55 GBq (150 mCi) of tritium per microwave receiver protector tube or 370 MBq (10 mCi) of tritium per any other electron tube;

ii) 37 kBq (1 µ~~micro~~Ci) of cobalt-60;

iii) 185 kBq (5 µ~~micro~~Ci) of nickel-63;

iv) 1.11 MBq (30 µ~~micro~~Ci) of krypton-85;

v) 185 kBq (5 µ~~micro~~Ci) of cesium-137; or

vi) 1.11 MBq (30 µ~~micro~~Ci) of promethium-147;

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

AGENCY NOTE: For purposes of subsection (c)(1)(D)~~(c)(1)(G) of this Section~~, "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave

tubes, indicator tubes, pick-up tubes, radiation detection tubes and any other completely sealed tube that is designed to conduct or control electrical currents.

E~~H~~) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material, provided that:

i) Each source contains no more than one exempt quantity set forth in Appendix B~~ of this Part~~; and

ii) Each instrument contains no more than ten exempt quantities. For purposes of this requirement, an instrument's sources may contain one or more radionuclides and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in Appendix B~~ of this Part~~, provided that the sum of such fractions shall not exceed unity.

AGENCY NOTE: For purposes of subsection (c)(1)(E) ~~(c)(1)(H) of this Section~~, 1.85 kBq (50 nCi) of americium-241 is considered an exempt quantity.

~~I) Spark gap irradiators containing not more than 37 kBq (1 microCi) of cobalt-60 per spark gap irradiator for use in electrically-ignited fuel oil burners having a firing rate of at least 11.4 liters (3 gallons) per hour.~~

2) Self-Luminous Products Containing Radioactive Material

A) Tritium, Krypton-85 or Promethium-147. Except for persons who manufacture, process or produce self-luminous products containing tritium, krypton-85 or promethium-147, any person is exempt from this Part to the extent that such person receives, possesses, uses, transfers, owns or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported or transferred in accordance with a specific license, issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR 32.22, which authorizes the transfer of the product to persons

who are exempt from regulatory requirements. The exemption in this subsection (c)(2)(A) does not apply to tritium, krypton-85 or promethium-147 used in products for frivolous purposes or in toys or adornments. The U. S. Nuclear Regulatory Commission shall make this determination of exemption.

B) Radium-226. Any person is exempt from this Part to the extent that such person receives, possesses, uses, transfers or owns articles containing less than 3.7 kBq (100 nCi) of radium-226 which were acquired prior to May 1, 1974.

3) Gas and Aerosol Detectors Containing Radioactive Material

A) Except for persons who manufacture, process, produce or initially transfer for sale and distribution gas and aerosol detectors containing radioactive material, any person is exempt from 32 Ill. Adm. Code: Chapter II, Subchapters b and d to the extent that such person receives, possesses, uses, transfers, owns or acquires ionization chamber smoke detectors containing not more than 37 kBq (1 µCi) of americium-241 per detector in the form of a foil and designed to protect life and property from fires. The detectors ~~radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards provided that detectors containing radioactive material~~ shall have been manufactured, imported or initially transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR 32.26 that~~or a Licensing State pursuant to Section 330.280(c) of this Part, which~~ authorizes ~~the~~ transfer of the detectors to persons who are exempt from regulatory requirements.

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

B) Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State or a former Licensing State shall be considered exempt under subsection (c)(3)(A)~~ of this Section~~, provided that the device is labeled in accordance with the specific license ~~authorizing distribution of the generally licensed device~~ and provided further that it meets~~they meet~~ the requirements of 10 CFR 32.26 in effect at the time of distribution.~~Section 330.280(c) of this Part.~~

~~C) Gas and aerosol detectors containing naturally-occurring or accelerator-produced radioactive material (NARM) previously manufactured and distributed in accordance with a specific license issued by a Licensing State shall be considered exempt under subsection (c)(3)(A) of this Section, provided that the device is labeled in accordance with the specific license authorizing distribution and provided further that they meet the requirements of Section 330.280(c) of this Part.~~

~~4) Resins Containing Scandium-46 and Designed for Sand Consolidation in Oil Wells. Any person is exempt from this Part to the extent that such person receives, possesses, uses, transfers, owns or acquires synthetic plastic resins containing scandium-46 which are designed for sand consolidation in oil wells. Such resins shall have been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or shall have been manufactured in accordance with the specifications contained in a specific license issued by the Department or an Agreement State to the manufacturer of such resins pursuant to licensing requirements equivalent to those in 10 CFR 32.17 published January 1, 1997, exclusive of subsequent amendments or editions. This exemption does not authorize the manufacture of any resins containing scandium-46.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART B: TYPES OF LICENSES

Section 330.220 General Licenses − Radioactive Material Other Than Source Material

a) Certain Devices and Equipment

1) A general license is hereby issued to transfer, receive, acquire, possess and use radioactive material incorporated in the following devices or equipment that has been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission for use pursuant to 10 CFR 31.3. This general license is subject to the provisions of 32 Ill. Adm. Code 310.40 through 310.90, 340, 341 and~~,~~ 400 and Sections 330.40(a)(2), 330.310, 330.400 and 330.500 of this Part.

AGENCY NOTE: Attention is directed particularly to the provisions of 32 Ill. Adm. Code 340 that relate to the labeling of containers.

2) Static Elimination Device. Devices designed for use as static eliminators that contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 MBq (500 µ~~micro~~Ci) of polonium-210 per device.

b) Certain Measuring, Gauging or Controlling Devices and Certain Devices for Producing Light or an Ionized Atmosphere

1) A general license is hereby issued to commercial and industrial firms and to research, educational and medical institutions, individuals in the conduct of their business and State or local government agencies to receive, acquire, possess, use or transfer, in accordance with the provisions of subsections (b)(2) through (9)~~ of this Section~~, radioactive material, excluding special nuclear material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

2) The general license provided by subsection (b)(1) ~~of this Section~~ applies only to radioactive material contained in devices that have been manufactured or initially transferred and labeled in accordance with the specifications contained in a specific license issued by the Agency pursuant to Section 330.280(d)~~ of this Part~~ or in accordance with the specifications contained in an equivalent specific license issued by the

U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State that authorizes distribution of devices to persons generally licensed by the U.S. Nuclear Regulatory Commission, an Agreement State or a former Licensing State. The devices shall have been received from a specific licensee described in this subsection (b)(2) or through a transfer made under subsection (b)(3)(L)~~ of this Section~~.

AGENCY NOTE: Regulations under the Federal Food, Drug and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling that is found in 21 CFR 179.21.

3) Any person who receives, acquires, possesses, uses or transfers radioactive material in a device pursuant to the general license described in subsection (b)(1) of this Section:

A) Shall assure that all labels affixed to the device at the time of receipt, and bearing a statement that removal of the label is prohibited, are maintained on the device and shall comply with all instructions and precautions provided by such labels;

B) Shall assure that the device is tested for leakage of, or contamination by, radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than 6-month intervals or at such other intervals as are specified on the device labels; however:

i) A device containing only krypton need not be tested for leakage of, or contamination by, radioactive material; and

ii) A device containing only tritium or not more than 3.7 MBq (100 µ~~micro~~Ci) of other beta and/or gamma emitting material or 370 kBq (10 µ~~micro~~Ci) of alpha emitting material or a device held in storage in the original shipping container prior to initial installation need not be tested for any purpose;

C) Shall assure that testing (including testing required by subsection (b)(3)(B)~~ of this Section~~), installation, servicing and removal from

installation involving the radioactive material, its shielding or containment is performed:

i) In accordance with the instructions provided by the labels; or

ii) By a person holding an applicable specific license from the Agency, the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~ to perform such activities;

D) Shall maintain records showing compliance with the requirements of subsections (b)(3)(B), (C) and (H) and (b)(6)(B) ~~of this Section~~. The records shall show the results of tests. The records shall also show the dates of performance of, and the names of persons performing, physical inventories, testing, installation, servicing and removal from installation of radioactive material or its shielding or containment. Any person who receives, acquires, possesses, uses or transfers radioactive material in a device pursuant to the general license provided by subsection (b)(1) ~~of this Section~~ shall retain these records as follows:

i) A record of a test of an on-off mechanism and indicator or a test for leakage or contamination performed in accordance with subsection (b)(3)(B) ~~of this Section~~ shall be retained for 5 years after the next required test is performed or until the device is transferred or disposed of; and

ii) A record of testing, installation, servicing or removal from installation performed in accordance with subsection (b)(3)(C) ~~of this Section~~ shall be retained for 5 years from the date of the recorded event or until the device is transferred or disposed of; and

iii) A record of transfer or disposal of a device in accordance with subsection (b)(3)(H) ~~of this Section~~ shall be retained for 5 years from the date of the recorded event; and

AGENCY NOTE: Note that this record must be retained after transfer of the device.

iv) A record of a quarterly physical inventory performed in accordance with subsection (b)(6)(B) ~~of this Section~~ shall be retained for 5 years after the next required test is performed or until the device is transferred or disposed of;

E) Shall immediately suspend operation of the device if there is a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 185 Bq (5 µCi) or more removable radioactive material. The device shall not be operated until it has been repaired by the manufacturer or other person holding an applicable specific license from the Agency, the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~ to repair such devices. The device and any radioactive material from the device shall be disposed of only by transfer to a person authorized by an applicable specific license to receive the radioactive material in the device or as otherwise approved by the Agency. A report containing a brief description of the event and the remedial action taken shall be furnished to the Agency within 30 days. As applicable, the following shall also be furnished to the Agency:

i) A report within 5 days (as required by 32 Ill. Adm. Code 340.1260) if detection of 185 Bq (5 µCi) or more removable radioactive material indicates that a sealed source is leaking or contaminated; and

ii) A plan within 30 days for ensuring that the person's premises and environs are acceptable for unrestricted use if 185 Bq (5 µCi) or more removable radioactive material is detected on the device or failure of or damage to a source is likely to result in contamination of the premises or the environs;

F) Shall not abandon the device containing radioactive material;

G) Shall not export the device containing radioactive material except in accordance with 10 CFR 110, published at 73 Fed. Reg. 78615, December 23, 2008~~as applicable, effective July 21, 2005~~, exclusive of subsequent amendments or editions;

H) Shall transfer or dispose of the device containing radioactive material only:

i) By export as provided by subsection (b)(3)(G)~~ of this Section~~;

ii) By transfer to another general licensee as provided by subsection (b)(3)(L)~~ of this Section~~;

iii) By transfer to a person authorized to receive the device by a specific license issued by the Agency pursuant to Section 330.280(d)~~ of this Part~~ or an equivalent specific license issued by the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State~~ or a Licensing State~~;

iv) By transfer to a person authorized to perform waste collection by a specific license issued by the Agency, the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State~~ or a Licensing State~~; or

v) As approved under subsection (b)(3)(K)~~ of this Section~~;

I) Shall furnish a written report to the Agency within 30 days after transferring,~~ or~~ disposing of or redesignating the device containing radioactive material. The~~Such~~ notification shall include:

i) The identification of the device by manufacturer's (or initial transferor's) name, model and serial number;

ii) The name, address and license number of the transferee (license number not applicable if exported);

iii) A receipt from the transferee showing the serial number of the device and the date that it was received (not applicable

if exported or redesignated);

AGENCY NOTE: Subsection (b)(3)(O) of this Section provides information about redesignation of administrative control over a device.

J) Shall maintain a record of the transfer or disposal of the device as required by subsection (b)(3)(D)(iii) ~~of this Section~~;

K) Shall obtain written approval from the Agency before transferring the device to a transferee not identified in subsections (b)(3)(H)(i) through (iv) ~~of this Section~~;

L) Shall transfer the device to another general licensee only if:

i) The device remains in use at a particular location. In such case the transferor shall give the transferee a copy of subsection (b) ~~of this Section~~, a copy of 32 Ill. Adm. Code 310.40, 310.80, 330.310, 330.500, 340.1210, 340.1220, 340.1260 and any safety documents identified in the device labels; or

ii) The device is held in storage by an intermediate person in the original shipping container at its intended location of use prior to initial use;

M) Shall furnish a report to the Agency within 30 days after transferring a device containing radioactive material as provided by subsection (b)(3)(L)(i) ~~of this Section~~. The~~Such~~ notification shall include:

i) The identification of the device by manufacturer's (or initial transferor's) name, model and serial number;

ii) The transferee's name and mailing address;

iii) The address of the transferee's location of use or storage of the device; and

iv) The name, title and phone number of the responsible individual identified by the transferee in accordance with subsection (b)(3)(N) ~~of this Section~~ to have knowledge of, and authority to take actions to ensure compliance with, the appropriate regulations and requirements;

N) Shall appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, shall ensure day-to-day compliance with appropriate regulations and requirements. This appointment does not relieve the general licensee of any of its responsibility in this regard;~~.~~

O) May redesignate a device to be possessed and used under its own specific license without prior approval if the person:

i) Verifies that the specific license authorizes possession and use of the device or applies for and obtains an amendment to the license authorizing the possession and use;

ii) Removes, alters, covers or clearly and unambiguously augments the existing label required by subsection (b)(3)(A) so that the device is labeled in compliance with 32 Ill. Adm. Code 340.910; however, the manufacturer, model number and serial number shall be retained;

iii) Obtains the manufacturer's or initial transferor's information concerning maintenance that would be applicable under the specific license (such as leak testing procedures); and

iv) Reports the new designation as required by subsection (b)(3)(I).

4) Any person who receives, acquires, possesses or uses a device identified in subsection (b)(4)(A) ~~of this Section~~ shall register with the Agency in accordance with subsection (b)(4)(B) ~~of this Section~~:

A) A person shall register with the Agency if the person receives, acquires, possesses or uses any of the following devices pursuant to the general license described in subsection (b)(1) ~~of this Section~~:

i) An electron capture detector, gauge or x-ray fluorescence analyzer containing a sealed source equal to or greater than 37 MBq (1 mCi) of radioactive material;

ii) A device containing a sealed source equal to or greater than 3.7 MBq (100 µCi) of strontium-90 or radium-226; or

iii) A static control or measuring device containing a sealed source equal to or greater than 37 MBq (1 mCi) of radioactive material other than polonium-210 or radium-226;

B) A person shall register with the Agency no later than 30 days after receiving a device identified in subsection (b)(4)(A) ~~of this Section~~. Registration information shall be in a format prescribed by the Agency and furnished in accordance with subsection (b)(4)(C) ~~of this Section~~;

C) When registering with the Agency, a person shall furnish the following and any other information requested by the Agency to track the location and use of a device:

i) The name and mailing address of the person;

ii) The name, title and phone number of the responsible individual designated by the person in accordance with subsection (b)(3)(N) ~~of this Section~~ as having knowledge of and authority to take actions to ensure compliance with the appropriate regulations and requirements;

iii) Information about each device meeting the criteria of subsection (b)(4)(A) ~~of this Section~~. This information shall include the manufacturer (or initial transferor), model, serial number, radionuclide and activity as indicated on the labels, the location of the device within the radiation

installation, and the calendar quarter and year the person received the device;

iv) The addresses of the locations of use or storage of the devices reported under subsection (b)(4)(C)(iii) ~~of this Section~~;

AGENCY NOTE: For portable devices, these are the addresses of the primary places of storage.

v) Certification by the responsible individual that the information about devices was verified through a physical inventory and examination of label information; and

vi) Certification by the responsible individual that the general licensee is aware of the requirements of the general license;

AGENCY NOTE: Fee requirements for general licenses are in 32 Ill. Adm. Code 331. Reporting requirements are in Section 330.310(b) ~~of this Part~~, and bankruptcy notification requirements are in Section 330.310(j) ~~of this Part~~.

D) Any person who is required by subsection (b)(4) ~~of this Section~~ to register with the Agency shall report a change in mailing address or address of location of use or storage. This report shall be furnished to the Agency within 30 days after the change.

AGENCY NOTE: For portable devices, this is the address of the primary place of storage.

5) A person from out of state who is generally licensed by the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~ with respect to a device identified in subsection (b)(4)(A) ~~of this Section~~ is exempt from the registration requirement in subsection (b)(4) ~~of this Section~~ if the device is used in areas subject to Agency jurisdiction for a period less than 180 days in any calendar year.

6) Any person who receives, acquires, possesses or uses radioactive material in a device under the general license described in subsection (b)(1) ~~of this~~

~~Section~~ shall limit storage of a device that is not in use to a maximum of 2 years.

A) If a device with a shutter is not being used, the shutter shall be locked in the closed position. Testing for proper operation of the on-off mechanism and indicator is not required during the storage period. However, the on-off mechanism and indicator shall be checked before the device is returned to service if the device has not been tested within the required test interval. Tests for leakage of, or contamination by, radioactive material shall be conducted during the storage interval as required by subsection (b)(3)(B) ~~of this Section~~.

B) A device kept in standby for future use is exempt from the 2-year storage limit if the person performs a quarterly physical inventory of the device while it is in standby. The requirements and exemption of subsection (b)(6)(A) ~~of this Section~~ shall apply.

AGENCY NOTE: Record keeping requirements are contained in subsection (b)(3)(D) ~~of this Section~~.

7) Failure of any person to comply with the requirements of this subsection (b) ~~of this Section~~ may cause the Agency to impose civil penalties in accordance with 420 ILCS 40/36 and 32 Ill. Adm. Code 200.

8) The general license described in subsection (b)(1) ~~of this Section~~ does not authorize the manufacture of devices containing radioactive material.

9) The general license described in subsection (b)(1) ~~of this Section~~ is subject to the provisions of 32 Ill. Adm. Code 310.40 through 310.90, 326, 331, 340.1210, 340.1220, 340.1260, and 341 and Sections 330.310 and 330.500 of this Part. Any person who receives, acquires, possesses, uses or transfers radioactive material in a device pursuant to the general license described in subsection (b)(1) of this Section is exempt from the requirements of 32 Ill. Adm. Code 400 and 340 except for the Sections of 32 Ill. Adm. Code 340 specifically identified in subsections (b)(3)(E) and (b)(9) of this Section.

c) Luminous Safety Devices for Aircraft

1) A general license is hereby issued to receive, acquire, possess and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided:

A) Each device contains not more than 370 GBq (10 Ci) of tritium or 11.1 GBq (300 mCi) of promethium-147; and

B) Each device has been manufactured, assembled or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the Department or an Agreement State to the manufacturer or assembler of such device pursuant to licensing requirements equivalent to those in 10 CFR 32.53, published at 43 FR 6923, February 17, 1978~~January 1, 1998~~, exclusive of subsequent amendments or editions.

2) Persons who receive, acquire, possess or use luminous safety devices pursuant to the general license in subsection (c)(1) of this Section are exempt from the requirements of 32 Ill. Adm. Code 340 and 400, except that they shall comply with the provisions of 32 Ill. Adm. Code 340.1210 and 340.1220.

3) This general license does not authorize the manufacture, assembly or repair of luminous safety devices containing tritium or promethium-147.

4) This general license does not authorize the receipt, acquisition, possession or use of promethium-147 contained in instrument dials.

5) This general license is subject to the provisions of 32 Ill. Adm. Code 310.40 through 310.90 and~~,~~ 341 and Sections 330.310, 330.400 and 330.500 of this Part.

d) Ownership of Radioactive Material. A general license is hereby issued to own radioactive material without regard to quantity. Notwithstanding any other provisions of this Part, this general license does not authorize the manufacture, production, transfer, receipt, possession or use of radioactive material.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

e) Calibration and References Sources

1) A general license is hereby issued to those persons listed below to receive, acquire, possess, use and transfer, in accordance with the provisions of subsections (e)(4) and (5)~~ of this Section~~, americium-241 in the form of calibration or reference sources:

A) Any person who holds a specific license issued by the Agency that authorizes the licensee to receive, possess, use and transfer radioactive material; and

B) Any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission that authorizes the licensee to receive, possess, use and transfer special nuclear material.

2) A general license is hereby issued to receive, possess, use and transfer plutonium in the form of calibration or reference sources in accordance with the provisions of subsections (e)(4) and (5) ~~of this Section~~ to any person who holds a specific license issued by the Agency that authorizes the licensee to receive, possess, use and transfer radioactive material.

3) A general license is hereby issued to receive, possess, use and transfer radium-226 in the form of calibration or reference sources in accordance with the provisions of subsections (e)(4) and (5) ~~of this Section~~ to any person who holds a specific license issued by the Agency that authorizes the licensee to receive, possess, use and transfer radioactive material.

4) The general licenses in subsections (e)(1) through (3) ~~of this Section~~ apply only to calibration or reference sources that have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR 32.57, published at 73 Fed. Reg. 42674, July 23, 2008, exclusive of subsequent amendments or additions, or 70.39, published at 43 Fed. Reg. 6925, February 17, 1978, exclusive of subsequent amendments or additions, or that have been manufactured in accordance with the specifications contained in a specific license issued by the Agency, an Agreement State or a former Licensing State pursuant to licensing requirements equivalent to those contained in 10 CFR 32.57, published at 73 Fed. Reg. 42674, July 23, 2008, exclusive

of subsequent amendments or additions, or 70.39, published at 43 Fed. Reg. 6925, February 17, 1978~~published January 1, 1998~~, exclusive of subsequent amendments or editions.

5) The general licenses provided in subsections (e)(1) through (3) ~~of this Section~~ are subject to the provisions of 32 Ill. Adm. Code 310.40 through 310.90, 340, 341 and~~,~~ 400 and Sections 330.310, 330.400 and 330.500 of this Part. In addition, persons who receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to these general licenses:

A) Shall not possess at any one time, at any one location of storage or use, more than 185 kBq (5 µCi) of americium-241, 185 kBq (5 µCi) of plutonium or 185 kBq (5 µCi) of radium-226 in such sources;

B) Shall not receive, possess, use or transfer such source unless the source~~,~~ or the storage container~~,~~ bears a label that includes ~~one of~~ the following statement~~statements, as appropriate,~~ or a statement that contains the information called for in this ~~one of the~~ statement~~following statements, as appropriate~~:

~~i)~~ The receipt, possession, use and transfer of this source, Model ___ , Serial No. _____, are subject to a general license and the regulations of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION – RADIOACTIVE MATERIAL – THIS SOURCE CONTAINS (AMERICIUM-241) (PLUTONIUM) (RADIUM-226). DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

_____
Name of Manufacturer or Importer

AGENCY NOTE: Showing only the name of the appropriate material.

~~ii) The receipt, possession, use and transfer of this source, Model ___, Serial No. _____, are subject to a general license and the regulations of a Licensing State. Do not remove this label.~~

~~CAUTION – RADIOACTIVE MATERIAL – THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.~~

_____

~~Name of Manufacturer or Importer~~

C) Shall not transfer, abandon or dispose of the source except by transfer to a person authorized by a license from the Agency, the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~ to receive the source;

D) Shall store the source, except when the source is being used, in a closed container adequately designed and constructed to contain americium-241, plutonium or radium-226 that might otherwise escape during storage; and

E) Shall not use the source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

6) These general licenses do not authorize the manufacture of calibration or reference sources containing americium-241, plutonium or radium-226.

f) General License for Use of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing

AGENCY NOTE: The New Drug provisions of the Federal Food, Drug and Cosmetic Act also govern the availability and use of any specific diagnostic drugs in interstate commerce.

1) A general license is hereby issued to any physician, veterinarian, clinical laboratory or hospital to receive, acquire, possess, transfer or use, for any of the following stated tests, in accordance with the provisions of

subsections (f)(2) through (6)~~ of this Section~~, the following radioactive materials in prepackaged units for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals:

A) Carbon-14, in units not exceeding 370 kBq (10 µCi) each.

B) Cobalt-57, in units not exceeding 370 kBq (10 µCi) each.

C) Hydrogen-3 (tritium), in units not exceeding 1.85 MBq (50 µCi) each.

D) Iodine-125, in units not exceeding 370 kBq (10 µCi) each.

E) Mock iodine-125 reference or calibration sources, in units not exceeding 1.85 kBq (50 nCi) of iodine-129 and 185 Bq (5 nCi) of americium-241 each.

F) Iodine-131, in units not exceeding 370 kBq (10 µCi) each.

G) Iron-59, in units not exceeding 740 kBq (20 µCi) each.

H) Selenium-75, in units not exceeding 370 kBq (10 µCi) each.

2) No person shall receive, acquire, possess, use or transfer radioactive material pursuant to the general license established by subsection (f)(1) ~~of this Section~~ until he or she has filed the Agency form entitled "Certificate – In Vitro Testing with Radioactive Material Under General License", with the Agency and received from the Agency a validated copy of the form with certification number assigned. No person shall transfer a validated copy of the form to another person without prior written consent of the Agency. The following information shall be furnished to the Agency on the form entitled "Certificate – In Vitro Testing with Radioactive Material Under General License":

A) Name and address of the physician, veterinarian, clinical laboratory or hospital;

B) The location of use; and

C) A statement that the physician, veterinarian, clinical laboratory or hospital has appropriate radiation measuring instruments to carry out in vitro clinical or laboratory tests with radioactive material as authorized under the general license in subsection (f)(1) ~~of this Section~~ and that the~~such~~ tests will be performed only by personnel competent in the use of such instruments and in the handling of the radioactive material.

3) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by subsection (f)(1) ~~of this Section~~ shall comply with the following:

A) The general licensee shall not possess at any one time, pursuant to the general license in subsection (f)(1) ~~of this Section~~, at any one location of storage, or use a total amount of iodine-125, iodine-131, selenium-75, iron-59 and/or cobalt-57 in excess of 7.4 MBq (200 µCi).

B) The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection.

C) The general licensee shall use the radioactive material only for the uses authorized by subsection (f)(1) ~~of this Section~~.

D) The general licensee shall not transfer the radioactive material to a person who is not authorized to receive it pursuant to a license issued by the Agency, the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~, nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.

E) The general licensee shall dispose of the mock iodine-125 reference or calibration sources described in subsection (f)(1)(E) ~~of this Section~~ as required by 32 Ill. Adm. Code 340.1010(a).

4) The general licensee shall not receive, acquire, possess or use radioactive material pursuant to subsection (f)(1) ~~of this Section~~:

A) Except as prepackaged units that are labeled in accordance with the provisions of an applicable specific license issued pursuant to Section 330.280(g)~~ of this Part~~ or in accordance with the provisions of a specific license issued by the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~ that authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3 (tritium), iron-59, selenium-75, cobalt-57 or mock iodine-125 to persons generally licensed under subsection (f) ~~of this Section~~ or its equivalent; and

B) Unless one of the following statements, as appropriate, or a statement that contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure that accompanies the package:

~~i)~~ This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

_____

Name of Manufacturer or Importer

~~ii)~~ ~~This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations~~

~~and a general license of a Licensing State.~~

_____

~~Name of Manufacturer or Importer~~

5) The physician, veterinarian, clinical laboratory or hospital possessing or using radioactive material under the general license of subsection (f)(1) ~~of this Section~~ shall report in writing to the Agency, any changes in the information furnished by the licensee in the "Certificate – In Vitro Testing with Radioactive Material Under General License", Agency Form KLM.006. The report shall be furnished within 30 days after the effective date of the change.

6) This general license is subject to the provisions of 32 Ill. Adm. Code 310 and 331.

g) Ice Detection Devices

1) A general license is hereby issued to receive, acquire, possess, use and transfer strontium-90 contained in ice detection devices, provided each device contains not more than 1.85 MBq (50 µCi) of strontium-90 and each device has been manufactured or initially transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission or each device has been manufactured or initially transferred in accordance with the specifications contained in a specific license issued by the Agency or an Agreement State to the manufacturer of the device pursuant to licensing requirements equivalent to those in 10 CFR 32.61.

2) Persons who receive, acquire, possess, use or transfer strontium-90 contained in ice detection devices pursuant to the general license in subsection (g)(1) ~~of this Section~~:

A) Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating to the device, discontinue use of the device until it has been inspected, tested for leakage or contamination and repaired by a person holding a specific license from the U.S. Nuclear Regulatory Commission or an Agreement State to manufacture or service those devices; or shall dispose of the device pursuant to the provisions of 32 Ill.

Adm. Code 340.1010(a);

B) Shall assure that all labels affixed to the device at the time of receipt, and that bear a statement that prohibits removal of the labels, are maintained on the device; and

C) Are exempt from the requirements of 32 Ill. Adm. Code 340 and 400 except that such persons shall comply with the provisions of 32 Ill. Adm. Code 340.1010(a), 340.1210, 340.1220 and 340.1260.

3) This general license does not authorize the manufacture, assembly, disassembly or repair of strontium-90 in ice detection devices.

4) This general license is subject to the provisions of 32 Ill. Adm. Code 310.40 through 310.90 and~~,~~ 341 and Sections 330.310, 330.400 and 330.500 of this Part.

h) Certain Items and Self-Luminous Products Containing Radium-226

1) A general license is hereby issued to any person to acquire, receive, possess, use or transfer, in accordance with the provisions of this subsection (h), radium-226 contained in the following products manufactured prior to November 30, 2007:

A) Antiquities originally intended for use by the general public. For the purposes of this subsection (h)(1)(A), antiquities means products originally intended for use by the general public and distributed in the late 19th and early 20th centuries, such as radium emanator jars, revigators, radium water jars, radon generators, refrigerator cards, radium bath salts and healing pads;

B) Intact timepieces containing greater than 37 kBq (1 µCi), nonintact timepieces and timepiece hands and dials no longer installed in timepieces;

C) Luminous items installed in air, marine or land vehicles;

D) All other luminous products, provided that no more than 100 items are used or stored at the same location at any one time; and

E) Small radium sources containing no more than 37 kBq (1µCi) of radium-226. For the purposes of this subsection (h)(1)(E), "small radium sources" means discrete survey instrument check sources, sources contained in radiation measuring instruments, sources such as cloud chambers and spinthariscopes used in educational demonstrations, electron tubes, lightning rods, ionization sources, static eliminators or sources otherwise designated by the Agency.

2) Any person who acquires, receives, possesses, uses or transfers radioactive material under the general license in subsection (h)(1) is exempt from the provisions of 32 Ill. Adm. Code 340 and 400 to the extent that the receipt, possession, use or transfer of radioactive material is within the terms of the general license. This exemption does not apply to any person specifically licensed under this Part.

3) Any person who acquires, receives, possesses, uses or transfers radioactive material in accordance with the general license in subsection (h)(1):

A) Shall notify the Agency within 30 days if there is any indication of possible damage to a product that could result in loss of radioactive material. The report shall provide a brief description of the event and the remedial action taken;

B) Shall not abandon a product containing radium-226. The product and any radioactive material from the product shall only be disposed of in accordance with subsection (h)(3)(D);

C) Shall not export a product containing radium-226, except in accordance with 10 CFR 110, published at 73 Fed. Reg. 78615, December 23, 2008, exclusive of subsequent amendments or editions; and

D) Shall dispose of a product containing radium-226 only in accordance with 32 Ill. Adm. Code 340.1080, or by transfer to a person specifically licensed under this Part to receive the radium-226 in the product, or as otherwise approved by the Agency in writing.

4) The general license in subsection (h)(1) does not authorize the manufacture, assembly, disassembly, repair or import of a product containing radium-226, except that timepieces may be disassembled and repaired.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART C: SPECIFIC AND GENERAL LICENSES

Section 330.240 Filing Applications for Specific Licenses

a) Application requirements:

1) Applications for the issuance, renewal or amendment of specific licenses shall be filed in duplicate and in English.

AGENCY NOTE: Applications involving Agency evaluation of a sealed source or device containing radioactive material shall be in accordance with the requirements of this Section.

2) Applications for initial issuance, amendment and renewal of specific licenses shall be in the format prescribed by the Agency. Each application filed shall be complete with all requested information submitted, including all applicable attachments. The Agency may at any time after the filing of the original application, and before the expiration or termination of the license, require further statements from the applicant or licensee to enable the Agency to determine whether the application should be granted or denied or whether an existing license should be modified or revoked in accordance with Section 330.500 ~~of this Part~~.

3) Each application shall include all information required by this Part and any other Parts of 32 Ill. Adm. Code: Chapter II, Subchapters b and d, applicable to the requested authorizations.

4) An application may incorporate by reference information contained in previous applications, statements or reports filed with the Agency, provided such references are clear and specific.

5) Each application and each request for amendment shall be signed by the applicant, licensee, or a person duly authorized in writing to act for and on the licensee or applicant's behalf.

6) Each application shall identify the radiation safety officer. The proposed activities shall be under the same administrative control for radiation safety purposes and the same radiation protection program.

7) An application may request authority to receive, possess, utilize, manufacture, distribute, transfer, own or acquire radioactive material or devices or equipment utilizing or producing radioactive materials. The request can include one or more of these activities.

8) An application for a specific license to authorize receipt, possession or use of radioactive material in the form of a sealed source or in a device that contains a sealed source shall either:

A) Identify the sealed source or device that contains a sealed source by manufacturer and model as registered with the U.S. Nuclear Regulatory Commission under 10 CFR 32.210, or with an Agreement State or, for a source or device containing naturally occurring or accelerator-produced material, with a state under provisions comparable to 10 CFR 32.210;~~filed in an evaluation sheet in the "Registry of Radioactive Sealed Sources and Devices" maintained by the U.S. Nuclear Regulatory Commission;~~ or

B) Contain the information identified in Section 330.280(m); or~~of this Part.~~

C) Describe, for a sealed source or device containing naturally occurring or accelerator-produced radioactive material manufactured prior to November 30, 2007, that is not registered with the U.S. Nuclear Regulatory Commission in accordance with 10 CFR 32.210 or with an Agreement State or a former Licensing State and for which the applicant is unable to provide the information described in Section 330.280(m)(2)(B) or (C):

i) The information required by Section 330.280(m)(2) concerning the source and, if applicable, the device; and

ii) Sufficient additional information to demonstrate that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. The information shall include a description of the source or device, a description of radiation safety features, the intended use and associated operating experience, and the results of a recent leak test.

9) For each location to be listed on the license as an authorized use location, the applicant shall submit:

A) A statement that the applicant owns the facility where radioactive material is used or stored; or

B) A copy of a certified letter sent to the facility owner or authorized representative of the owner informing the owner that radioactive material is being or will be used or stored at the facility; or

C) A copy of a letter or statement from the facility owner or authorized representative of the owner indicating that the owner is aware that radioactive material is being used or will be used or stored at the facility.

AGENCY NOTE: The Radiation Protection Act requires the Agency to provide written notice to a municipality of an application for a new license for a fixed location facility or a license amendment for a new location for a facility.

10) The applicant shall ensure that all applicable fees specified in 32 Ill. Adm. Code 331 are paid in full when due.

11) The applicant shall address the Emergency Plan requirements of Section 330.250(e) ~~of this Part~~, when applicable.

b) Review of application. When evaluating an application or request for amendment, the Agency shall consider:

1) The completeness of the application;

2) The complexity, similarity and proximity of the proposed activities;

3) The radiation protection program proposed by the applicant to ensure the protection of the licensee's personnel, the public and the environment;

4) The qualifications and experience of the applicant's proposed Radiation Safety Officer and authorized users; ~~and~~

5) The applicant's history of compliance; and~~.~~

c) Public access to information. Public inspection of applications and other documents submitted to the Agency pursuant to this Section shall be in accordance with 2 Ill. Adm. Code 1076 and the requirements of the Freedom of Information Act [5 ILCS 140].

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 330.260 Special Requirements for Issuance of Certain Specific Licenses for Radioactive Materials

a) Specific Licenses to Medical Institutions for Human Use of Radioactive Material. A specific license allowing a medical institution to use radioactive material for medical diagnosis, medical therapy, or medical research involving humans shall be issued only if the applicant has met the requirements of this Part and 32 Ill. Adm. Code 335.

b) Specific Licenses to Individual Physicians for Human Use of Radioactive Material. An application by an individual physician or group of physicians for a specific license for human use of radioactive material shall be approved only if:

1) The applicant satisfies the general requirements specified in this Part;

2) The application is for use in the applicant's practice in an office outside a medical institution; and

3) The applicant has met the requirements of 32 Ill. Adm. Code 335.

c) Specific Licenses for Distribution or Transfer of Radiopharmaceuticals. In

addition to the requirements set forth in this Part, persons licensed by the Agency for manufacture, preparation, or transfer for commercial distribution of radiopharmaceuticals containing radioactive material for medical use under 32 Ill. Adm. Code 335 shall meet the following additional requirements:

1) The applicant satisfies the general requirements specified in Section 330.250 ~~of this Part~~;

2) The applicant submits evidence that the applicant is at least one of the following:

A) Registered with the U.S. Food and Drug Administration (FDA) as the owner or operator of a drug establishment that engages in the manufacture, preparation, propagation, compounding or processing of a drug under 21 CFR 207.20(a);

B) Registered or licensed with a state agency as a drug manufacturer;

C) Licensed as a pharmacy by a state Board of Pharmacy; ~~or~~

D) Operating as a nuclear pharmacy within a Federal medical institution; or

E) A PET drug production facility registered with a state agency;

3) The applicant submits information showing that:

A) The radiopharmaceutical containing radioactive material will be manufactured, labeled and packaged in accordance with the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act; or

B) The manufacture and distribution of the radiopharmaceutical containing radioactive material is not subject to the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act;

4) The applicant submits information on the radionuclide; the chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radioactive drug; and the shielding provided by the

packaging to show it is appropriate for the safe handling and storage of the radioactive drugs by medical use licensees;

5) The applicant satisfies the following labeling requirements:

A) A label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radioactive drug to be transferred for commercial distribution. The label shall~~must~~ include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL"; the name of the radioactive drug or its abbreviation; and the quantity of radioactivity at a specified date and time. For radioactive drugs with a half life greater than 100 days, the time may be omitted.

B) A label is affixed to each syringe, vial, or other container used to hold a radioactive drug to be transferred for commercial distribution. The label shall~~must~~ include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL" and an identifier that ensures that the syringe, vial, or other container can be correlated with the information on the transport radiation shield label;

6) A licensee described by subsection (c)(2)(C) or (D)~~ of this Section~~:

A) May prepare radioactive drugs for medical use, as defined in 32 Ill. Adm. Code 335.20, provided that the radioactive drug is prepared by either an authorized nuclear pharmacist, as specified in subsections (c)(6)(B) and (C)~~ of this Section~~, or an individual under the supervision of an authorized nuclear pharmacist as specified in subsection (c)(15).~~ Actions authorized in this subsection (c)(6)(A) are permitted in spite of more restrictive language in license conditions.~~

B) May allow a pharmacist to work as an authorized nuclear pharmacist if the following conditions ~~of subsections (c)(6)(B)(i) through (iii)~~ are met:~~.~~ ~~Actions authorized in this subsection (c)(6)(A) are permitted in spite of more restrictive language in license conditions.~~

i) The~~This~~ individual qualifies as an authorized nuclear pharmacist as defined in Section 330.20;

ii) The~~This~~ individual meets the requirements specified in subsections (c)(18)(B) and (c)(21), and the licensee has received an approved license amendment identifying the~~this~~ individual as an authorized nuclear pharmacist; or

iii) The~~This~~ individual is designated as an authorized nuclear pharmacist in accordance with subsection (c)(6)(C).

C) May designate a pharmacist (as defined in Section 330.20) as an authorized nuclear pharmacist if:

i) The individual was a nuclear pharmacist preparing only radioactive drugs containing accelerator-produced radioactive material; and

ii) The individual practiced at a pharmacy at a government agency or federally recognized Indian Tribe before November 30, 2007 or at all other pharmacies before August 8, 2009, or an earlier date as noticed by the U.S. Nuclear Regulatory Commission~~NRC~~.

D) Prior to allowing the individual to work as an authorized nuclear pharmacist under subsections (c)(6)(B)(i) and (iii), shall~~Shall~~ provide to the Agency a copy of the individual's State of Illinois pharmacist license~~pharmacy licensure prior to allowing, under subsections (c)(6)(B)(i) and (iii), the individual to work as an authorized nuclear pharmacist~~ and:

i) A copy of the~~each~~ individual's certification by a specialty board whose certification process has been recognized by the U.S. Nuclear Regulatory Commission~~NRC~~ or an Agreement State as specified in subsection (c)(18)(A) with the written attestation signed by a preceptor as required by subsection (c)(18)(B)(iii); or

ii) U.S. Nuclear Regulatory Commission~~An NRC~~ or Agreement State license listing the individual as an authorized nuclear pharmacist; or

iii) A U.S. Nuclear Regulatory Commission~~NRC~~ master materials licensee permit listing the individual as an authorized nuclear pharmacist; or

iv) A~~The~~ permit issued by a licensee or U.S. Nuclear Regulatory Commission~~NRC~~ master material~~materials~~ permittee of broad scope or ~~the~~ authorization from a commercial nuclear pharmacy authorized to list its own authorized nuclear pharmacist; or

v) Documentation that only accelerator-produced radioactive materials were used in the practice of nuclear pharmacy at a government agency or federally recognized Indian Tribe before November 30, 2007 or at all other locations of use before August 8, 2009, or an earlier date as noticed by the U.S. Nuclear Regulatory Commission~~NRC~~;

7) A licensee shall possess and use instrumentation to measure the radioactivity of radioactive drugs. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radioactive drugs prior to transfer for commercial distribution. In addition, the licensee shall:

A) Perform tests, before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and geometry dependence~~,~~ as appropriate for the use of the instrument and make adjustments when necessary; and

B) Check each instrument for constancy and proper operation at the beginning of each day of use;

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

8) Nothing in this Section relieves the licensee from complying with applicable FDA or~~,~~ other Federal or~~and~~ State requirements governing radioactive drugs;

9) Radiopharmaceuticals dispensed, distributed or transferred for human use shall be either:

A) Repackaged from prepared radiopharmaceuticals that have been approved by the FDA for medical use as defined in 32 Ill. Adm. Code 335.20; or

B) Prepared from generators and reagent kits that have been approved by the FDA for medical use, or are subject to the Illinois Food, Drug and Cosmetic Act [410 ILCS 620] or the Pharmacy Practice Act of 1987 [225 ILCS 85];

10) The licensee shall adhere to the concentration limits and other~~perform radiometric tests for molybdenum breakthrough for the first elute of a molybdenum-99/technetium-99m generator following transfer in accordance with the~~ requirements of 32 Ill. Adm. Code 335.4020;

11) The licensee may distribute in vitro test kits to customers but shall neither remove any package insert nor violate the packaging;

12) The licensee shall report to the Agency, within 10 days after occurrence, any irregularities pertaining to identification, labeling, quality or assay of any radiopharmaceuticals received under the authority of this license;

13) A licensee such as a nuclear pharmacy that is~~For licensees~~ authorized to dispense radiopharmaceuticals ~~(such as nuclear pharmacies), the licensee~~ shall ensure that radiopharmaceuticals are dispensed only under the prescription of a physician who is authorized in a specific license to use the radiopharmaceuticals. The licensee shall maintain a copy of the recipient's radioactive material license and shall verify that the physician is authorized to receive the prescribed radiopharmaceutical prior to transfer;

14) A licensee shall apply for and shall~~must~~ receive a license amendment before it receives, prepares~~,~~ or uses radioactive material for a type of use

that is permitted under this Part~~,~~ but that is not authorized on the licensee's current license issued under this Part;

15) Individuals Under Supervision of an Authorized Nuclear Pharmacist

A) A licensee that permits the preparation of radioactive material for medical use by an individual under the supervision of an authorized nuclear pharmacist who is an authorized user shall:

i) In addition to the requirements in 32 Ill. Adm. Code 400.120, instruct the supervised individual in the preparation of radiopharmaceutical material for medical use~~,~~ as appropriate to that individual's involvement with radioactive material; and

ii) Require the supervised individual to follow the instructions of the supervising authorized nuclear pharmacist regarding the preparation of radioactive material for medical use, written radiation protection procedures established by the licensee, the regulations of this Section, and license conditions.

B) A licensee that permits supervised activities under ~~of~~ this subsection (c)(15) is responsible for the acts and omissions of the supervised individual;

16) A licensee shall apply for and shall~~must~~ receive a license amendment identifying an authorized nuclear pharmacist as defined in Section 330.20 of this Part~~, and the invididual meets the requirements in subsections (c)(18) and (c)(21) or, for an experienced nuclear pharmacist, subsection (c)(20),~~ before it allows the~~this~~ individual to work as an authorized nuclear pharmacist. The individual shall meet the requirements in subsections (c)(18) and (21). An experienced nuclear pharmacist shall meet the requirements in subsection (c)(20);

17) The licensee shall require an individual fulfilling the responsibilities of Radiation Safety Officer at a nuclear pharmacy to be an individual ~~who~~:

A) Who:

i) Is certified by a specialty board whose certification has been recognized by the Agency, the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State~~ or a Licensing State~~ and who meets the requirements in subsections (c)(17)(B)(i) and (ii)~~(D) and (E)~~. To be recognized, a specialty board shall require all candidates for certification to meet the following requirements:

•~~i)~~ Hold a bachelor's or graduate degree from an accredited college or university in physical science, ~~or~~ engineering or biological science with a minimum of 20 college credits in physical science;

•~~ii)~~ Have 5 or more years of professional experience in health physics (graduate training may be substituted for no more than 2 years of the required experience), including at least 3 years in applied health physics; and

•~~iii)~~ Pass an examination administered by diplomate~~diplomats~~ of the specialty board that~~, which~~ evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology and radiation dosimetry; or

ii)~~B)~~ Has met the requirements of subsections (c~~e~~)(17)(B)(i) and (ii)~~(D) and (E)~~ and completed a structured educational program consisting of:

•~~i)~~ 200 hours of didactic training in the following areas: radiation physics and instrumentation,~~;~~ radiation protection,~~;~~ mathematics pertaining to the use and measurement of radioactivity,~~;~~ radiation biology and~~;~~ radiation dosimetry;

•~~ii)~~ 1 year of full-time radiation safety experience under the supervision of the individual identified as the Radiation Safety Officer on an Agency, U.S. Nuclear Regulatory Commission, Agreement State or former Licensing State license or a permit issued by a~~the~~ U.S. Nuclear Regulatory Commission master material licensee that authorizes similar types and uses of radioactive material involving shipping, receiving and performing related radiation monitoring;

•~~iii)~~ Using and performing checks for proper operation of instruments used to determine the activity of dosages, instruments used to measure radionuclides and survey meters;

•~~iv)~~ Securing and controlling radioactive material;

•~~v)~~ Using administrative controls to avoid mistakes in the administration of radioactive material;

•~~vi)~~ Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;

•~~vii)~~ Using emergency procedures to control radioactive material; and

•~~viii)~~ Disposing of radioactive material; or

iii)~~C)~~ Is an authorized nuclear pharmacist identified on the licensee's license, meets the requirements of subsections (c)(17)(B)(i) and (ii)~~(D) and (E)~~ and has experience with the radiation safety aspects of similar types of use of radioactive material for which the individual has Radiation Safety Officer responsibilities; and

B) Has:

i)~~D)~~ Obtained~~Has obtained~~ written attestation, signed by a preceptor authorized nuclear pharmacist Radiation Safety Officer, that the individual has satisfactorily completed the requirements in subsections (c)(17)(B)(ii)~~(E)~~ and (c)(17)(A)(i) first and second points~~and (ii)~~ or subsection (c)(17)(A)(ii) or (iii)~~(B) or (C)~~ and has achieved a level of radiation safety knowledge sufficient to function independently as an authorized nuclear pharmacist Radiation Safety Officer; and

ii)~~E)~~ Trained~~Has training~~ in the radiation safety, regulatory issues and emergency procedures for the types of use for which a licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by a Radiation Safety Officer or authorized nuclear pharmacist, as appropriate, who is authorized for the types of use for which the licensee is seeking approval;

18) Before a licensee permits an individual~~anyone~~ to work as an authorized nuclear pharmacist under his or her license, ~~except for subsection (c)(19),~~ the licensee shall require the individual~~authorized nuclear pharmacist~~ to be a State of Illinois licensed pharmacist who:

A) Is certified as a nuclear pharmacist by a specialty board whose certification process has been recognized by the U.S. Nuclear Regulatory Commission or an~~,~~ Agreement State ~~or Licensing State~~ and who meets the requirements in subsection (c)(18)(B)(iii). To be recognized, a specialty board shall require a candidate~~all candidates~~ for certification to~~ meet the following requirements~~:

i) Graduate~~Has graduated~~ from a pharmacy program accredited by the American Council of Pharmaceutical Education (ACPE) or pass~~have passed~~ the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination;

ii) Hold a current, active license to practice pharmacy;

iii) Provide evidence of having acquired at least 4000 hours of training/experience in nuclear pharmacy practice. Academic training may be substituted for no more than 2000 hours of the required training and experience; and

iv) Pass an examination in nuclear pharmacy, administered by diplomate~~the diplomats~~ of the specialty board, that evaluates~~assessed~~ knowledge and competency in ~~the~~ procurement, compounding, quality assurance, dispensing, distribution, health and safety, radiation safety, provision of information and consultation, monitoring patient outcomes~~,~~ and research and development; or

B) Has completed 700 hours in a structured educational program consisting of both didactic training in radiation physics and instrumentation or radiation protection with:

i) 200 hours of didactic training in radiation physics and instrumentation,~~;~~ radiation protection,~~;~~ mathematics pertaining to the use and measurement of radioactivity,~~;~~ chemistry of radioactive material for medical use and,~~;~~ radiation biology; and

ii) Supervised practical experience in a nuclear pharmacy involving shipping, receiving~~,~~ and performing related radiation surveys; using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters~~,~~ and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides; calculating, assaying~~,~~ and safely preparing dosages for patients or human research subjects; use of administrative controls to avoid medical events in the administration of radioactive~~byproduct~~ material; use of procedures to prevent or minimize radioactive contamination and use of proper decontamination procedures; and

iii) Written~~Has obtained written~~ attestation, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in subsection

(c)(18)(B) or subsections (c)(18)(A)(i) through (iii) ~~(c)(18)(A)(i) (iii) or (B)~~ and has achieved a level of competency sufficient to function independently as an authorized nuclear pharmacist;

AGENCY NOTE: The requirements in this subsection (c)(18) do not apply to an individual who meets the requirements of subsection (c)(19).

19) An individual identified as an authorized nuclear pharmacist on an Agency, U.S. Nuclear Regulatory Commission, Agreement State or former Licensing State license or a permit issued by an Agency, U.S. Nuclear Regulatory Commission or~~,~~ Agreement State broad scope licensee or master materials license permit or by a master materials license permittee of broad scope;

20) Training for Experienced Nuclear Pharmacist. A State of Illinois licensed pharmacist who has completed a structured educational program as specified in subsection (c)(18)(B) before October 24, 2007 and who is working in a nuclear pharmacy would qualify as an experienced nuclear pharmacist. An experienced nuclear pharmacist need not comply with the requirements for a preceptor statement and recentness of training to qualify as an authorized nuclear pharmacist;

21) Recentness of Training. The training and experience specified in subsection (c)(18) shall~~must~~ have been obtained within the 7 years preceding the date of application or the individual shall~~must~~ have had related continuing education and experience since the required training and experience was completed;

22) Resolution of Conflicting Requirements During Transition Period. If this Part conflicts with the licensee's radiation safety program as identified in its license, this Part shall apply~~,~~ unless the statements, representations, conditions and procedures in the license are more restrictive. However, if the licensee exercises its privilege to amend its license, the portion amended must comply with the requirements of this Part.

23) Licensing the production of PET radioactive drugs for noncommercial distribution within a consortium. An application from a medical facility or

educational institution to produce PET radioactive drugs for noncommercial distribution within its consortium for use under 32 Ill. Adm. Code 335 or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State shall include:

A) A request for authorization to produce PET radionuclides or evidence of an existing license issued under this Part or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State; and

B) Evidence that the applicant is qualified to produce radioactive drugs for medical use by meeting one of the criteria in subsection (c)(2); and

C) If the applicant is a nuclear pharmacy:

i) Verification that the applicant satisfies the requirements of this Section that apply to nuclear pharmacies; and

ii) Identification of each individual authorized to prepare the PET radioactive drugs and documentation that each meets the requirements of an authorized nuclear pharmacist; and

D) The information required by subsection (c)(3) for each PET radioactive drug to be noncommercially distributed within the consortium; and

E) Verification that the applicant is in compliance with:

i) Applicable FDA and other Federal and State requirements governing radioactive drugs; and

ii) The labeling requirements of subsection (c)(5) for each PET radioactive drug transport radiation shield and each syringe, vial or other container used to hold a PET radioactive drug intended for noncommercial distribution to members of its consortium; and

iii) The requirements of subsections (c)(7), (12), (13), (14), (17) and (22).

AGENCY NOTE: Subsection (c)(7) contains requirements for measuring the radioactivity of radioactive drugs.

d) Use of Sealed Sources in Industrial Radiography. A specific license for use of sealed sources in industrial radiography shall be issued only if the applicant has met the requirements of this Part and 32 Ill. Adm. Code 350 and 405.

e) Use of Radioactive Materials in Wireline Service Operations and Subsurface Tracer Studies. A specific license for use of radioactive material in wireline operations shall be issued only if the applicant has met the requirements of this Part and 32 Ill. Adm. Code 351.

AGENCY NOTE: Specialty boards~~Boards~~ whose certification processes have been recognized by the Agency, the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~ will be posted on ~~the~~ NRC's website~~Web page~~.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 330.270 Special Requirements for Specific Licenses of Broad Scope

This Section prescribes requirements for the issuance of specific licenses of broad scope for radioactive material and certain regulations governing holders of those licenses.

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

a) The different types of broad scope licenses are:

1) A "Type A specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of the radioactive material specified in the license, but not exceeding quantities specified in the license, for any authorized purpose. The quantities specified are usually in multiples of

gigabecquerels or curies.

2) A "Type B specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in Appendix D, for any authorized purpose. The possession limit for a Type B license of broad scope, if only one radionuclide is possessed thereunder, is the quantity specified for that radionuclide in Column I of Appendix D. If two or more radionuclides are possessed thereunder, the possession limit for each is determined as follows: For each radionuclide, determine the ratio of the quantity possessed to the applicable quantity specified in Column I of Appendix D for that radionuclide. The sum of the ratios for all radionuclides possessed under the license shall not exceed unity.

3) A "Type C specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in Appendix D, for any authorized purpose. The possession limit for a Type C license of broad scope, if only one radionuclide is possessed thereunder, is the quantity specified for that radionuclide in Column II of Appendix D. If two or more radionuclides are possessed thereunder, the possession limit is determined for each as follows: For each radionuclide, determine the ratio of the quantity possessed to the applicable quantity specified in Column II of Appendix D for that radionuclide. The sum of the ratios for all radionuclides possessed under the license shall not exceed unity.

b) An application for a Type A specific license of broad scope will be approved if:

1) The applicant satisfies the general requirements specified in Section 330.250;

2) The applicant has engaged in a reasonable number of activities involving the use of radioactive material;

3) The applicant has established administrative controls and provisions relating to organization and management, procedures, recordkeeping, material control and accounting and management review that are necessary to assure safe operations, including:

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

A) The establishment of a Radiation Safety Committee composed of such persons as a Radiation Safety Officer, a representative of management and persons trained and experienced in the safe use of radioactive material;

i) The Committee shall meet at least once each calendar quarter.

ii) To establish a quorum and to conduct business, at least one-half of the Committee membership must be in attendance and shall include, at a minimum, the management's representative, an authorized user and the Radiation Safety Officer. However, no more than once per year, the Radiation Safety Officer's designee may substitute for the Radiation Safety Officer, provided the designee has been given a written report. The report shall include all information necessary for that meeting, such as the minutes of the previous Committee meeting and reports by the Radiation Safety Officer. Reports by the Radiation Safety Officer shall include reports of investigations and information necessary for the reviews. To maintain membership on the Committee, a member must attend at least one-half of the meetings held in any year.

iii) The minutes of each Radiation Safety Committee meeting shall include:

- The date of the meeting;
- Members in attendance;
- Members absent;
- Summary of deliberations and discussions;
- Recommended actions and the results of all votes; and
- Documentation of the radiation protection program review required by 32 Ill. Adm. Code 340.110(c).

iv) The Committee shall provide each member with a copy of the meeting minutes before the next meeting and retain one copy for 5 years from the meeting date.

B) The appointment of a Radiation Safety Officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters.

C) The establishment of appropriate administrative procedures to assure:

i) Control of procurement and use of radioactive material;

ii) Completion of safety evaluations of proposed uses of radioactive material that take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user and the operating or handling procedures; and

iii) Review, approval and recording by the Radiation Safety Committee of safety evaluations of proposed uses prepared in accordance with subsection (b)(3)(C)(ii) prior to use of the radioactive material; and

4) The applicant or its predecessor has been a specific licensee of the Agency for 5 years.

c) An application for a Type B specific license of broad scope will be approved if:

1) The applicant satisfies the general requirements specified in Section 330.250; and

2) The applicant has established administrative controls and provisions relating to organization and management, procedures, recordkeeping, material control and accounting and management review that are necessary to assure safe operations, including:

A) The nomination of a Radiation Safety Officer who is qualified by

training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and

B) The establishment of appropriate administrative procedures to assure:

i) Control of procurement and use of radioactive material;

ii) Completion of safety evaluations of proposed uses of radioactive material that take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user and the operating or handling procedures; and

iii) Review, approval and recording by the Radiation Safety Officer of safety evaluations of proposed uses prepared in accordance with subsection (c)(2)(B)(ii) prior to use of the radioactive material.

d) An application for a Type C specific license of broad scope will be approved if:

1) The applicant satisfies the general requirements specified in Section 330.250;

2) The applicant submits a statement that radioactive material will be used only by, or under the direct supervision of, individuals who have received:

A) A college degree at the bachelor level, or equivalent training and experience, in the physical, or biological sciences or in engineering; and

B) At least 40 hours of training and experience in the safe handling of radioactive material, and in the characteristics of ionizing radiation, units of radiation dose and quantities, radiation detection instrumentation and biological hazards of exposure to radiation pertinent to the type and forms of radioactive material to be used; and

3) The applicant has established administrative controls and provisions

relating to procurement of radioactive material, procedures, recordkeeping, material control and accounting and management review necessary to assure safe operations.

e) Specific licenses of broad scope are subject to the following conditions:

1) Unless specifically authorized, persons licensed pursuant to this Section shall not:

A) Conduct tracer studies in the environment involving direct release of radioactive material;

B) Receive, acquire, own, possess, use or transfer devices containing 3.7 PBq (100 kCi) or more of radioactive material in sealed sources used for irradiation of materials;

C) Conduct activities for which a specific license issued by the Agency under Section 330.260 or 330.280 is required; or

D) Add or cause the addition of radioactive material to any food, beverage, cosmetic, drug or other product designed for ingestion or inhalation by, or application to, a human being.

2) Each Type A specific license of broad scope issued under this Part shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's Radiation Safety Committee.

3) Each Type B specific license of broad scope issued under this Part shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's Radiation Safety Officer.

4) Each Type C specific license of broad scope issued under this Part shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals who satisfy the requirements of subsection (d)(2).

(Source: Amended at 35 Ill. Reg. _____, effective _____)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

Section 330.280 Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material

a) Licensing the Introduction of Radioactive Material into Products in Exempt Concentrations

1) In addition to the requirements set forth in Section 330.250, a specific license authorizing the introduction of radioactive material into a product or material owned by or in the possession of the licensee or another and the transfer of ownership or possession of the product or material containing the radioactive material to persons exempted from this Part pursuant to Section 330.30 or 330.40(a) will be issued if:

A) The applicant submits a description of the product or material into which the radioactive material will be introduced, intended use of the radioactive material and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material and estimated concentration of the radioactive material in the product or material at the time of transfer; and

B) The applicant provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in Appendix A, that reconcentration of the radioactive material in concentrations exceeding those in Appendix A is not likely, that use of lower concentrations is not feasible and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

2) Each person licensed under this subsection (a) is required to maintain records of transfer of material and shall file a report with the Agency that shall identify the following:

A) Type and quantity of each product or material into which radioactive material has been introduced during the reporting period;

B) Name and address of the person who owned or possessed the product or material, into which radioactive material has been introduced, at the time of introduction;

C) The radionuclide, activity and activity assay date of radioactive material introduced into each product or material; and

D) The initial concentrations of the radionuclide in the product or material at time of transfer of the radioactive material by the licensee.

3) The licensee shall file the report within 30 days after any of the following events:

A) 5 years have passed since~~after filing~~ the preceding report was filed; or

B) The licensee has:~~Filing an application for renewal of the license under Section 330.330; or~~

i) Filed an application for renewal of the license under Section 330.320; or

ii) Notified the Agency under Section 330.325(c) that the licensee has ended activities authorized under the license issued under this subsection (a).

~~C) Notifying the Agency under Section 330.320(b) of the licensee's decision to permanently discontinue activities authorized under the license issued under this subsection (a).~~

4) The report shall cover the period between the filing of the preceding report and an occurrence specified in subsection (a)(3). If no transfers of

radioactive material have been made under this subsection (a) during the reporting period, the report shall so indicate.

5) The licensee shall maintain the record of a transfer for a period of 1 year after the event has been included in a report to the Agency.

6) No person may introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under Section 330.30 or 330.40(a) or the equivalent regulations of the U.S. Nuclear Regulatory Commission (10 CFR 30.14) or of an Agreement State, except in accordance with a specific license issued pursuant to this subsection (a).

b) Licensing the Distribution of Radioactive Material in Exempt Quantities

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

~~1) An application for a specific license to distribute NARM to persons exempted, pursuant to Section 330.40(b) of this Part, will be approved if:~~

~~A) The radioactive material is not contained in any food, beverage, cosmetic, drug or other commodity designed for ingestion or inhalation by, or application to, a human being;~~

~~B) The radioactive material is in the form of processed chemical elements, compounds, or mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources or similar substances, identified as radioactive and to be used for its radioactive properties, but is not incorporated into any manufactured or assembled commodity, product or device intended for commercial distribution; and~~

~~C) The applicant submits copies of prototype labels and brochures and the Agency approves such labels and brochures.~~

~~2) The license issued under subsection (b)(1) of this Section is subject to the following conditions:~~

~~A) No more than ten exempt quantities shall be sold or transferred in any single transaction. However, an exempt quantity may be composed of fractional parts of one or more of the exempt quantities provided the sum of the fractions shall not exceed unity.~~

~~B) Each exempt quantity shall be separately and individually packaged. No more than ten such packaged exempt quantities shall be contained in any outer package for transfer to persons exempt pursuant to Section 330.40(b). The outer package shall be such that the dose rate at the external surface of the package does not exceed 5 microSv (500 microrem) per hour.~~

~~C) The immediate container of each quantity or separately packaged fractional quantity of radioactive material shall bear a durable, legible label that:~~

~~i) Identifies the radionuclide and activity; and~~

~~ii) Bears the words "Radioactive Material".~~

~~D) In addition to the labeling information required by subsection (b)(2)(C) of this Section, the label affixed to the immediate container, or an accompanying brochure, shall:~~

~~i) State that the contents are exempt from Licensing State requirements;~~

~~ii) Bear the words "Radioactive Material – Not for Human Use – Introduction into Foods, Beverages, Cosmetics, Drugs, or Medicinals or into Products Manufactured for Commercial Distribution is Prohibited – Exempt Quantities Should Not Be Combined"; and~~

~~iii) Set forth appropriate additional radiation safety precautions and instructions relating to the handling, use, storage and disposal of the radioactive material.~~

~~3) Each person licensed under this subsection (b) is required to maintain records and file reports as follows:~~

~~A) Records of transfer of material identifying, by name and address, each person to whom radioactive material is transferred for use under Section 330.40(b) of this Part or the equivalent regulations of an Agreement State, or a Licensing State and stating the kinds and quantities of radioactive material transferred. The licensee shall maintain the record of a transfer for a period of 1 year after the event is included in a summary report to the Agency.~~

~~B) The licensee shall file a summary report stating the total activity of each radioisotope transferred under the specific license with the Agency.~~

~~C) The licensee shall file the summary report within 30 days following:~~

~~i) 5 years after filing the preceding report; or~~

~~ii) Filing an application for renewal of the license under Section 330.330 of this Part; or~~

~~iii) Notifying the Agency under Section 330.320(b) of this Part of the licensee's decision to permanently discontinue activities authorized under the license issued under subsection (b) of this Section.~~

~~D) The report shall cover the period between the filing of the preceding report and an occurrence specified in subsection (b)(3)(C) of this Section. If no transfers of radioactive material have been made under subsection (b) of this Section during the reporting period, the report shall so indicate.~~

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

c) Licensing the Incorporation of Naturally Occurring and Accelerator-Produced Radioactive Material into Gas and Aerosol Detectors. ~~An application for a specific license authorizing the incorporation of NARM into gas and aerosol detectors to be distributed to persons exempt under Section 330.40(c)(3) of this Part will be approved if the application satisfies requirements equivalent to those contained in 10 CFR 32.26, published January 1, 1993, exclusive of subsequent amendments or editions. The maximum activity of radium-226 in each device shall not exceed 3.7 kBq (100 nCi).~~

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

d) Licensing the Manufacture and Distribution of Devices to Persons Generally Licensed Under Section 330.220(b). ~~of this Part~~

AGENCY NOTE: Subsection (o) describes~~Section 330.280(n) of this Part contains~~ requirements for radioactive material transfer reports and records.

1) An application for a specific license to manufacture or distribute devices containing radioactive material, excluding special nuclear material, to persons generally licensed under Section 330.220(b) ~~of this Part~~ or equivalent regulations of the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~ will be approved if:

A) The applicant satisfies the general requirements of Section 330.250 ~~of this Part~~.

B) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions and potential hazards of the device to provide reasonable assurance that:

i) The device can be safely operated by persons not having training in radiological protection;

ii) Under ordinary conditions of handling, storage and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device and it is unlikely that any person will receive in 1 year a dose in excess of 10 percent of the annual limits specified in 32 Ill. Adm. Code 340.210(a); and

iii) Under accident conditions such as fire and explosion associated with handling, storage and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:

Whole body; head and trunk; active blood-forming organs; gonads or lens of eye ..... 150 mSv (15 rem)

Hands and forearms; feet and ankles or localized areas of skin averaged over areas no larger than 1 square centimeter..... 2 Sv (200 rem)

Other organs ..... 500 mSv (50 rem).

C) Each device bears a durable, legible, clearly visible label or labels approved by the Agency, that contain in a clearly identified and separate statement:

i) Instructions and precautions necessary to assure safe installation, operation and servicing of the device. Documents such as operating and service manuals may be identified in the label and used to provide this information;

ii) The requirement, or lack of requirement, for testing for leakage or contamination, or for testing any on-off mechanism and indicator, including the maximum time interval for such testing, and the identification of

radioactive material by radionuclide, activity and activity assay date; and

iii) The information called for in one of the following statements, as appropriate, in the same or substantially similar form:

~~Devices Containing Radioactive Material Other Than Naturally Occurring Radioactive Material~~

The receipt, possession, use and transfer of this device, Model___, Serial No.~~9199~~____, are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or a State with which the U.S. Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION – RADIOACTIVE MATERIAL
Name of Manufacturer or Distributor

AGENCY NOTE: The model, serial number and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

~~Devices Containing Naturally-Occurring Radioactive Material~~

~~The receipt, possession, use and transfer of this device, Model4918____, Serial No. _____are subject to a general license or the equivalent and the regulations of a Licensing State. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.~~

~~CAUTION – RADIOACTIVE MATERIAL~~

~~AGENCY NOTE: The model, serial number and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.~~

D) Each device having a separable source housing that provides the primary shielding for the source also bears on the source housing a durable label displaying the device model and serial number, the radionuclide and activity, the words "Caution – Radioactive Material", the radiation symbol described in 32 Ill. Adm. Code 340.Illustration A and the name of the manufacturer or distributor.

E) Each device meeting the criteria of 10 CFR 31.5(c)(13)(i), published at 73 Fed. Reg. 42673, July 23, 2008, exclusive of subsequent amendments or editions ~~(2005)~~ bears a permanent (e.g., embossed, etched, stamped or engraved) label affixed to the source housing, if separable, or the device, if the source housing is not separable, that includes the words "Caution – Radioactive Material", and, if practicable, the radiation symbol described in 32 Ill. Adm. Code 340.Illustration A.

2) Except as provided in this subsection (d)(2), the interval between tests for proper operation of the on-off mechanism and indicator, if any, shall not exceed 6 months. The interval between tests for contamination of the device or for leakage of radioactive material from the device or for both shall not exceed 3 months for devices containing sources designed to emit alpha particles and 6 months for all other devices. In the event the applicant desires that the device be required to be tested at intervals longer than the above, the applicant shall include in the application sufficient information to demonstrate that such longer intervals are justified. The information shall include a description of the performance characteristics of the device or similar devices and of design features that have a significant bearing on the probability or consequences of contamination of the device or leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material or contamination of the device, the Agency will consider information that includes, but is not limited to:

A) Primary containment or source capsule;

B) Protection of primary containment;

C) Method of sealing containment;

D) Containment construction materials;

E) Form of contained radioactive material;

F) Maximum temperature withstood during prototype tests;

G) Maximum pressure withstood during prototype tests;

H) Maximum activity of contained radioactive material;

I) Radiotoxicity of contained radioactive material; and

J) Operating experience with identical devices or similarly designed and constructed devices.

3) In the event the applicant desires that the general licensee under subsection~~Section~~ 330.220(b)~~ of this Part~~, or under equivalent regulations of the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State~~ or a Licensing State~~, be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of, or contamination by, radioactive material, service the device, test the on-off mechanism and indicator or remove the device from installation, the applicant shall include in the application written instructions to be followed by the general licensee, estimated annual doses associated with such activity or activities and bases for such estimates. The submitted information shall demonstrate that performance of such activity or activities by an individual untrained in radiological protection, in addition to other handling, storage and use of devices under the general license, is unlikely to cause that individual to receive an annual dose in excess of 10 percent of the limits specified in 32 Ill. Adm. Code 340.210(a).

4) A person licensed under this subsection (d)~~ of this Section~~ to distribute devices to generally licensed persons shall provide the information in this

subsection (d)(4) ~~of this Section~~ to each person to whom a device is to be transferred for possession and use under the general license in Section 330.220(b) ~~of this Part~~. This information shall be provided before a device is transferred. In the case of a transfer through an intermediate person, the information shall be provided to the intended user prior to transfer to the intermediate person. The required information is:

A) A copy of Section 330.220(b) ~~of this Part~~;

AGENCY NOTE: If certain provisions of Section 330.220(b) ~~of this Part~~ do not apply to a particular device, they may be omitted; e.g., tests for leakage or contamination or proper operation of an on-off mechanism and indicator.

B) A copy of 32 Ill. Adm. Code 310.40, 330.310 and 340.1210, 1220 and 1260;

C) A list of the services that may only be performed by a specific licensee;

D) Information on acceptable disposal options, including estimated costs of disposal; and

E) A statement of the Agency's policy to take escalated enforcement action for improper disposal.

5) A person licensed under this subsection (d) to distribute devices to generally licensed persons shall provide the information in this subsection (d)(5) to each person to whom a device is to be transferred for possession and use under a general license equivalent to Section 330.220(b) ~~of this Part~~ in the regulations of the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~. This information shall be provided before a device is transferred. In the case of a transfer through an intermediate person, the information shall be provided to the intended user prior to transfer to the intermediate person. The required information is:

A) A copy of the following regulations of the U.S. Nuclear Regulatory Commission, exclusive of subsequent amendments or editions, ~~10 CFR 31.5, 31.2, 30.51, 20.2201 and 20.2202 (2005)~~ or the

equivalent regulations of an Agreement State~~ or Licensing State~~. The U.S. Nuclear Regulatory Commission regulations are 10 CFR 31.5, published at 73 Fed. Reg. 42673, July 23, 2008, 10 CFR 31.2, published at 65 Fed. Reg. 79187, December 18, 2000, 10 CFR 30.51, published at 61 Fed. Reg. 24673, May 16, 1996, 10 CFR 20.2201, published at 67 Fed. Reg. 3585, January 25, 2002 and 10 CFR 20.2202, published at 63 Fed. Reg. 39483, July 23, 1998. If ~~a copy of~~ the U.S. Nuclear Regulatory Commission~~NRC~~ regulations are~~is~~ provided to a prospective general licensee in lieu of ~~the~~ applicable Agreement State ~~or Licensing State~~ regulations, they~~it~~ shall be accompanied by a note explaining that use of the device is regulated by the Agreement State~~ or Licensing State~~;

AGENCY NOTE: If certain provisions of the regulations do not apply to a particular device, they may be omitted; e.g., tests for leakage or contamination or proper operation of an on-off mechanism and indicator.

B) A list of the services that may only be performed by a specific licensee;

C) Information on acceptable disposal options, including estimated costs of disposal;

D) A statement of the policies of the U.S. Nuclear Regulatory Commission and most Agreement States ~~and Licensing States~~ to take escalated enforcement action for improper disposal; and

E) The name or title, address and phone number of the contact at the U.S. Nuclear Regulatory Commission or~~,~~ Agreement State ~~or Licensing State~~ regulatory agency from whom additional information may be obtained.

6) A person licensed under this subsection (d) may propose, for approval by the Agency, an alternative method of informing customers.

7) Each device transferred after February 19, 2002, shall meet the labeling requirements of subsections (d)(1)(C), (D) and (E) of this Section.

8) If a license is to be terminated or if notification of bankruptcy is required by Section~~subsection~~ 330.310(j)~~ of this Section~~, a person licensed under this subsection (d) shall, upon request, provide to the Agency, the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~ the records of final disposition required by subsection (o)(8) of this Section.

e) Special Requirements for the Manufacture, Assembly or Repair of Luminous Safety Devices for Use in Aircraft

1) An application for a specific license to manufacture, assemble or repair luminous safety devices containing tritium or promethium-147 for use in aircraft, for distribution to persons generally licensed under Section 330.220(c) ~~of this Part~~ will be approved if:

A) The applicant satisfies the general requirements specified in Section 330.250~~ of this Part~~; and

B) The applicant satisfies the requirements of the following regulations of the U.S. Nuclear Regulatory Commission, exclusive of subsequent amendments or editions,~~10 CFR 32.53-32.55 and 32.101, published January 1, 1993, exclusive of subsequent amendments or editions,~~ or their equivalent. The regulations are 10 CFR 32.53, published at 43 Fed. Reg. 6923, February 17, 1978, 10 CFR 32.54, published at 63 Fed. Reg. 39483, July 23, 1998, 10 CFR 32.55, published at 39 Fed. Reg. 26397, July 19, 1974 and 10 CFR 32.101, published at 30 Fed. Reg. 8192, June 26, 1965.

2) Each person licensed under this subsection (e) shall file an annual report with the Agency that shall state the total activity of tritium or promethium-147 transferred to persons generally licensed under Section 330.220(c) ~~of this Part~~ or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. The report shall identify each general licensee by name and address, state the kinds and numbers of luminous devices transferred and specify the activity of tritium or promethium-147 in each kind of device. Each report shall cover the year ending June 30 and shall be filed within 30 days thereafter.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

f) Special Requirements for License to Manufacture Calibration Sources Containing Americium-241, Plutonium or Radium-226 for Distribution to Persons Generally Licensed Under Section 330.220(e)~~ of this Part~~. An application for a specific license to manufacture calibration and reference sources containing americium-241, plutonium or radium-226 for distribution to persons generally licensed under Section 330.220(e) ~~of this Part~~ will be approved if:

1) The applicant satisfies the general requirements of Section 330.250~~ of this Part~~; and

2) The applicant satisfies the requirements of 10 CFR 32.57, published at 73 Fed. Reg. 42674, July 23, 2008, and 10 CFR 70.39, published at 43 Fed. Reg. 6925, February 17, 1978. The applicant shall also certify that it~~January 1, 1993 and certifies that the applicant~~ will satisfy, and subsequently satisfies, the requirements of 10 CFR 32.58, 32.59 and 32.102, published at 72 Fed. Reg. 55929, October 1, 2007,~~January 1, 1993,~~ exclusive of subsequent amendments or editions.

g) Manufacture and Distribution of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing Under General License. An application for a specific license to manufacture or distribute radioactive material for use under the general license of Section 330.220(f)~~ of this Part~~, or equivalent regulations of the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State~~ or a Licensing State~~, will be approved if:

1) The applicant satisfies the general requirements specified in Section 330.250~~ of this Part~~.

2) The radioactive material is to be prepared for distribution in prepackaged units of:

A) Carbon-14 in units not exceeding 370 kBq (10 µCi) each.

B) Cobalt-57 in units not exceeding 370 kBq (10 µCi) each.

C) Hydrogen-3 (tritium) in units not exceeding 1.85 MBq (50 µCi) each.

D) Iodine-125 in units not exceeding 370 kBq (10 µCi) each.

E) Mock iodine-125 in units not exceeding 1.85 kBq (50 nCi) of iodine-129 and 185 Bq (5 nCi) of americium-241 each.

F) Iodine-131 in units not exceeding 370 kBq (10 µCi) each.

G) Iron-59 in units not exceeding 740 kBq (20 µCi) each.

H) Selenium-75 in units not exceeding 370 kBq (10 µCi) each.

3) Each prepackaged unit bears a durable, clearly visible label:

A) Identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 370 kBq (10 µCi) of iodine-125, iodine-131, carbon-14, cobalt-57 or selenium-75; 1.85 MBq (50 µCi) of hydrogen-3 (tritium); 740 kBq (20 µCi) of iron-59; or mock iodine-125 in units not exceeding 1.85 kBq (50 nCi) of iodine-129 and 185 Bq (5 nCi) of americium-241 each; and

B) Displaying the radiation caution symbol described in 32 Ill. Adm. Code 340.910(a) and the words, "CAUTION – RADIOACTIVE MATERIAL", and "Not for Internal or External Use in Humans or Animals".

4) The~~One of the~~ following statement~~statements, as appropriate~~, or a statement that contains the information called for in ~~one of~~ the following statement~~statements~~, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure that accompanies the package:

~~A)~~ This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

~~B) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.~~

5) The label affixed to the unit, or the leaflet or brochure that accompanies the package, contains information about the precautions to be followed in handling and storing such radioactive material. In the case of the mock iodine-125 reference or calibration source, the manufacturer shall state in the directions that this item shall be disposed of in compliance with 32 Ill. Adm. Code 340.1010(a) or the equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State.

h) Licensing the Manufacture and Distribution of Ice Detection Devices. An application for a specific license to manufacture and distribute ice detection devices to persons generally licensed under Section 330.220(g) ~~of this Part,~~ will be approved if:

1) The applicant satisfies the general requirements of Section 330.250; and

2) The criteria of 10 CFR 32.61, published at 58 Fed. Reg. 67660, December 22, 1993, 32.62, published at 43 Fed. Reg. 6923, February 17, 1978, and 32.103, published at 30 Fed. Reg. 9906, August 10, 1965~~January 1, 1993~~, exclusive of subsequent amendments or editions, are met.

i) Manufacture and Distribution of Radiopharmaceuticals Containing Radioactive Material for Medical Use Under Specific Licenses. An application for a specific license to manufacture and distribute radiopharmaceuticals~~radiopharmeceuticals~~ containing radioactive material for use by persons licensed pursuant to Section 330.260(a), (b) or (c) for the uses described in 32 Ill. Adm. Code 335.3010, 335.4010 or 335.5010 will be approved if:

1) The applicant satisfies the general requirements specified in Section 330.250 ~~of this Part~~;

2) The applicant submits information showing that:

A) The radiopharmaceutical containing radioactive material will be manufactured, labeled and packaged in accordance with the Federal Food, Drug, and Cosmetic Act (21 USC 301)or the Public Health Service Act (42 USC 201 et seq.); or

B) The manufacture and distribution of the radiopharmaceutical containing radioactive material is not subject to the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act;

3) The applicant submits information on the radionuclide, chemical and physical form, packaging including maximum activity per package and shielding provided by the packaging of the radioactive material that~~which~~ is appropriate for safe handling and storage of radiopharmaceuticals by specific licensees; and

4) The label affixed to each package of the radiopharmaceutical contains information on the radionuclide, activity and activity assay date and the label affixed to each package, or the leaflet or brochure which accompanies each package, contains a statement that the radiopharmaceutical is licensed by the Agency for distribution to persons licensed pursuant to Section 330.260(a), (b) or (c) for radioactive material specified in 32 Ill. Adm. Code 335.3010, 335.4010 or 335.5010, as appropriate, or under equivalent licenses of the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State~~ or a Licensing State~~. The labels, leaflets or brochures required by this subsection (i) are in addition to the labeling required by the FDA and may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.

j) Manufacture and Distribution of Generators or Reagent Kits for Preparation of Radiopharmaceuticals Containing Radioactive Material

AGENCY NOTE: Although the Agency does not regulate the manufacture and distribution of reagent kits that do not contain radioactive material, it does regulate the use of such reagent kits for the preparation of radiopharmaceuticals containing radioactive material as part of its licensing and regulation of the users of radioactive material. Any manufacturer of reagent kits that do not contain radioactive material who desires to have such reagent kits approved by the

Agency for use by persons licensed pursuant to Section 330.260(a), (b) or (c) ~~of this Part~~ for generators or reagent kits specified in 32 Ill. Adm. Code 335.4010 may submit the pertinent information specified in this subsection (j).

An application for a specific license to manufacture and distribute generators or reagent kits containing radioactive material for preparation of radiopharmaceuticals by persons licensed pursuant to Section 330.260(a), (b) or (c) ~~of this Part~~ for the uses specified in 32 Ill. Adm. Code 335.4010 will be approved if:

1) The applicant satisfies the general requirements specified in Section 330.250 ~~of this Part~~;

2) The applicant submits evidence that:

   A) The generator or reagent kit is to be manufactured, labeled and packaged in accordance with the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act; or

   B) The manufacture and distribution of the generator or reagent kit are not subject to the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act;

3) The applicant submits information on the radionuclide, chemical and physical form, packaging, including maximum activity per package, and shielding provided by the packaging of the radioactive material contained in the generator or reagent kit;

4) The label affixed to the generator or reagent kit contains information on the radionuclide, activity and activity assay date; and

5) The label affixed to the generator or reagent kit, or the leaflet or brochure that accompanies the generator or reagent kit, contains:

   A) Adequate information, from a radiation safety standpoint, on the procedures to be followed and the equipment and shielding to be used in eluting the generator or processing radioactive material with the reagent kit; and

B) A statement that the generator or reagent kit, as appropriate, is approved for use by persons licensed by the Agency pursuant to Section 330.260(a), (b) or (c) ~~of this Part~~ and 32 Ill. Adm. Code 335.4010 or under equivalent licenses of the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~. The labels, leaflets or brochures required by this subsection (j) are in addition to the labeling required by the FDA and they may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.

k) Manufacture and Distribution of Sources or Devices Containing Radioactive Material for Medical Use. An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed pursuant to Section 330.260(a) or (b) ~~of this Part~~ for use as a calibration, transmission or reference source in 32 Ill. Adm. Code 335.2040 or for the uses listed in 32 Ill. Adm. Code 335.2140, 335.6010, 335.7010 and 335.8010 will be approved if:

1) The applicant satisfies the general requirements in Section 330.250 ~~of this Part~~;

2) The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

A) The radioactive material contained, its chemical and physical form and activity;

B) Details of design and construction of the source or device;

C) Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;

D) For devices containing radioactive material, the radiation profile of a prototype device;

E) Details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;

F) Procedures and standards for calibrating sources and devices;

G) Legend and methods for labeling sources and devices as to their radioactive content; and

H) Instructions for handling and storing sources or devices from the radiation safety standpoint. These instructions shall be included on a durable label attached to each source or device or attached to a permanent storage container for the source or device; provided, that instructions which are too lengthy for such label may be summarized on the label and printed in detail on a brochure that is referenced on the label;

3) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, activity and activity assay date, radiation symbol and/or "Caution Radioactive Material", serial number, model, manufacturer name or logo, and a statement that the source or device is licensed by the Agency for distribution to persons licensed pursuant to Section 330.260(a), ~~or~~ (b) or (c)~~of this Part~~ and 32 Ill. Adm. Code 335.2040, 335.2140, 335.6010, 335.7010 and 335.8010 or under equivalent licenses of the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~, provided that the labeling for sources that do not require long-term storage may be on a leaflet or brochure that accompanies the source;

4) In the event the applicant desires that the source or device be required to be tested for leakage of, or contamination by, radioactive material at intervals longer than 6 months, the applicant shall include in the application sufficient information to demonstrate that the longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of radioactive contamination or leakage of radioactive material from the source; and

5) In determining the acceptable interval for tests of leakage of, or contamination by, radioactive material, the Agency will consider information that includes, but is not limited to:

A) Primary containment or source capsule;

B) Protection of primary containment;

C) Method of sealing containment;

D) Containment construction materials;

E) Form of contained radioactive material;

F) Maximum temperature withstood during prototype tests;

G) Maximum pressure withstood during prototype tests;

H) Maximum activity of contained radioactive material;

I) Radiotoxicity of contained radioactive material;

J) Operating experience with identical sources or devices or similarly designed and constructed sources or devices; and

K) Proposed use of source.

l) Requirements for License to Manufacture and Distribute Industrial Products Containing Depleted Uranium for Mass-Volume Applications.
An application for a specific license to manufacture industrial products and devices containing depleted uranium for use pursuant to Section 330.210(d) ~~of this Part~~ or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State will be approved if:

1) The applicant satisfies the general requirements specified in Section 330.250~~ of this Part~~.

2) The applicant submits sufficient information relating to the design (including blueprints), manufacture (construction materials and methods), prototype testing (description of testing that will be done and the acceptance criteria), quality control procedures, labeling or marking, proposed uses and potential hazards of the industrial product or device to

assure that possession, use or transfer of the depleted uranium in the product or device will not cause any individual to receive in any period of 1 year a radiation dose in excess of 10 percent of the limits specified in 32 Ill. Adm. Code 340.210(a).

3) The applicant submits information assuring that the presence of depleted uranium for a mass-volume application in the product or device will provide a unique benefit~~benefits~~ to the public, i.e., a benefit that could not be achieved but for the use of depleted uranium. The applicant's methods for use and handling of the product or device will not result in uncontrolled disposal or dispersal of depleted uranium into the environment.

4) The Agency will deny any application for a specific license under this subsection (l) if the end uses of the industrial product or device cannot be reasonably foreseen.

5) Each person licensed pursuant to this subsection (l) shall:

A) Maintain the level of quality control required by the license in the manufacture of the industrial product or device, and in the installation of the depleted uranium into the product or device;

B) Label or mark each unit to:

i) Identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium and the activity of depleted uranium in each product or device; and

ii) State that the receipt, possession, use and transfer of the product or device are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State;

C) Assure that the depleted uranium before being installed in each product or device has been impressed with the following legend

clearly legible through any plating or other covering: "Depleted Uranium";

D) Furnish:

i) A copy of the general license contained in Section 330.210(d) ~~of this Part~~ and a copy of the form "Registration Certificate – Use of Depleted Uranium Under General License", to each person to whom the licensee transfers depleted uranium in a product or device for use pursuant to the general license contained in Section 330.210(d) ~~of this Part~~; or

ii) A copy of the general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to Section 330.210(d) ~~of this Part~~ and a copy of the U.S. Nuclear Regulatory Commission's or Agreement State's certificate, or alternatively, furnish a copy of the general license contained in Section 330.210(d) ~~of this Part~~ and a copy of the form "Registration Certificate – Use of Depleted Uranium Under General License", to each person to whom he transfers depleted uranium in a product or device for use pursuant to the general license of the U.S. Nuclear Regulatory Commission or an Agreement State, with a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or an Agreement State under requirements substantially the same as those in Section 330.210(d) ~~of this Part~~;

E) Report to the Agency all transfers of industrial products or devices to persons for use under the general license in Section 330.210(d) ~~of this Part~~. The~~Such~~ report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Agency and the general licensee, the type and model number of device transferred and the activity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which the~~such a~~ product or device is transferred to the generally licensed person. If no transfers have been made to

persons generally licensed under Section 330.210(d) during the reporting period, the report shall so indicate;

F) File a report that identifies each general licensee by name and address, an individual by name and/or position who constitutes a point of contact between the Agency and the general licensee, the type and model number of the device transferred and the activity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such product or device is transferred to the generally licensed person. The licensee shall report:

i) To the U.S. Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the U.S. Nuclear Regulatory Commission general license in 10 CFR 40.25;

ii) To the responsible state agency all transfers of devices manufactured and distributed pursuant to this subsection (l) for use under a general license in that state's regulations equivalent to Section 330.210(d) ~~of this Part~~;

iii) To the U.S. Nuclear Regulatory Commission if no transfers have been made by the licensees during the reporting period;

iv) To the responsible Agreement State agency upon the request of that agency if no transfers have been made to general licensees within a particular Agreement State during the reporting period; and

G) Keep records showing the name, address and point of contact for each general licensee to whom he transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in Section 330.210(d) ~~of this Part~~ or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. The records shall be maintained for a period of 2 years and shall show the date of each transfer, the activity of depleted uranium in each product or device transferred and

compliance with the report requirements of this subsection (l)~~Section~~.

m) Special Requirements for License to Manufacture, Import or Initially Distribute Sealed Sources or Devices Containing Sealed Sources to Persons Having a Specific License.

1) An application for license to manufacture, import or initially distribute sealed sources or devices containing sealed sources for initial transfer to persons having a specific license to receive such sealed sources or devices will be approved subject to the following conditions:

A) The applicant satisfies the general requirements specified in Section 330.250~~ of this Part~~;

B) The licensee subject to this subsection (m) shall not transfer a sealed source or device containing a sealed source to any person except in accordance with the requirements of Section 330.400~~ of this Part~~.

2) Any manufacturer, importer or initial distributor of a sealed source or device containing a sealed source whose product is intended for use under a specific license may submit a request to the Agency for evaluation of radiation safety information about its product and for filing an evaluation sheet in the U.S. Nuclear Regulatory Commission "Registry of Radioactive Sealed Sources and Devices".

A) A request for evaluation of a sealed source or device containing a sealed source shall be submitted in English and in duplicate. The request~~ and~~ shall include information required by subsection (m)(2)(B) or (C)~~ of this Section~~, as applicable, demonstrating that the radiation safety properties of the source or device will not endanger public health and safety or property.

B) A request for evaluation of a sealed source shall include the following radiation safety information:

i) Proposed uses for the sealed source;

ii) Chemical and physical form and maximum quantity of radioactive material in the sealed source;

iii) Details of design of the sealed source, including blueprints, engineering drawings or annotated drawings;

iv) Details of construction of the sealed source, including a description of materials used in construction;

v) Radiation profile of a prototype sealed source;

vi) Procedures for and results of prototype testing;

vii) Details of quality control procedures to be followed in manufacture;

viii) A description or facsimile of labeling to be affixed to the sealed source;

ix) Leak testing procedures; and

x) Any additional information, including experimental studies and tests, required by the Agency to facilitate a determination of the safety of the sealed source, as required by Section 330.250~~ of this Part~~.

C) A request for evaluation of a device containing a sealed source shall include the following radiation safety information:

i) Proposed uses for the device;

ii) Manufacturer, model number, chemical and physical form and maximum quantity of radioactivity in the sealed source or sources to be used in the device;

iii) Details of design of the sealed source, including blueprints, engineering drawings or annotated drawings;

iv) Details of construction of the sealed source, including a description of materials used in construction;

v) Radiation profile of a prototype device;

vi) Procedures for and results of prototype testing;

vii) Details of quality control procedures to be followed in manufacture;

viii) A description or facsimile of labeling to be affixed to the device;

ix) Leak testing procedures;

x) A description of potential hazards in installation, service, maintenance, handling, use and operation of the device;

xi) Information about installation, service and maintenance procedures;

xii) Handling, operating and safety instructions; and

xiii) Any additional information, including experimental studies and tests, required by the Agency to facilitate a determination of the safety of the device as required by Section 330.250~~ of this Part~~.

D) When evaluating a sealed source or device, the Agency will apply the radiation safety criteria described in 10 CFR 32.210(d), published at 73 Fed. Reg. 5719, January 31, 2008~~January 1, 1993~~, exclusive of subsequent amendments or editions.

E) The person submitting a request for evaluation of a product shall manufacture and distribute the product in accordance with:

i) The statements and representations, including the quality control program, described in the request; and

ii) The provisions of the evaluation sheet prepared by the Agency and submitted to the ~~U.S. Department of Health and Human Services for filing in the "Radioactive Material Reference Manual", or to the~~ U.S. Nuclear Regulatory Commission for filing in the "Registry of Radioactive Sealed Sources and Devices".

n) Manufacture and Distribution of Radioactive Material for Medical Use Under General License. A specific license authorizing the distribution of radioactive materials for diagnostic medical use by a physician under a general license shall be issued only if the applicant for the specific license satisfies the requirements of Section 330.250 ~~of this Part~~ and:

1) The applicant submits evidence that the radioactive material is to be manufactured, labeled and packaged in accordance with an approval by the commissioner of Food and Drugs, U.S. Food and Drug Administration, or in accordance with an approval for a biologic product issued by the Secretary, U.S. Department of Health and Human Services; and

2) The~~One of the~~ following statement~~statements, as appropriate~~, or a statement that~~statement which~~ contains the information called for in ~~one of~~ the following statement~~statements~~, appears on the label affixed to the container or appears in the leaflet or brochure that accompanies the package:

~~A)~~ This radiopharmaceutical may be received, possessed and used only by physicians licensed to dispense drugs in the practice of medicine. Its receipt, possession, use and transfer are subject to the regulations and a general license or its equivalent of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

~~B) This radiopharmaceutical may be received, possessed and used only by physicians licensed to dispense drugs in the practice of medicine. Its receipt, possession, use and transfer are subject to the regulations and a general license or its equivalent of a Licensing State.~~

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

o) Material Transfer Reports and Records
Each person licensed under subsection (d)~~ of this Section~~ to distribute devices to generally licensed persons shall comply with the requirements of this subsection (o)~~subsection (n) of this Section~~.

1) The person shall report:

A) To the Agency and to the responsible regulatory agency all transfers of devices to persons for use under the general license in Section 330.220(b) ~~of this Part~~ or the equivalent regulations of the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State~~ or a Licensing State~~;

B) To the Agency and to the responsible regulatory agency all receipts of devices from persons generally licensed under Section 330.220(b) ~~of this Part~~ or the equivalent regulations of the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State~~ or a Licensing State~~;

C) To the Agency if no transfers were made to or from general licensees during the reporting period; and

D) To the responsible regulatory agency upon the request of the agency if no transfers during the reporting period were made to or from general licensees in the agency's area of jurisdiction.

2) The report shall be on NRC Form 653, "Transfers of Industrial Devices Report" or in a clear and legible format containing all of the information required by the form. The report shall cover each calendar quarter, shall be filed within 30 days after the end of the calendar quarter and shall clearly indicate the period covered.

3) For a transfer to a general licensee, the report shall provide:

A) The identity of the general licensee by name and mailing address for the location of use. If there is no mailing address for the location of use, an alternate address for the general licensee shall be submitted, along with information on the actual location of use;

B) The name, title~~,~~ and phone number of the individual identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

C) The date of transfer;

D) The type, model and serial number of the device transferred; and

E) The radionuclide and activity contained in the device.

4) If one or more intermediate persons will temporarily possess a device at the intended place of use before its possession by the user, the report shall include the same information for both the intended user and each intermediate person and shall clearly designate all intermediate persons.

5) For a device received from a general licensee, the report shall provide the name and address of the general licensee and the type, model and serial number of the device and the date of receipt. For a device not initially transferred by the reporting person, the report shall provide the name of the manufacturer or distributor.

6) If the person makes a change to a device possessed by a general licensee that necessitates a change in the label, the report shall identify the general licensee, the device and the changes to information on the device label.

7) The report shall clearly identify the person licensed under subsection (d) ~~of this Section~~ that is furnishing the report and shall include the person's specific license number.

8) The person shall maintain all information concerning transfers and receipts of devices that supports the reports required by this subsection (o). These records shall be maintained for 5 years following the recorded event.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 330.320 Renewal Requirements for Specific Licenses

a) Each licensee issued a specific license shall maintain a valid specific license until the licensee completes the license termination requirements of Section 330.325 ~~of this Part~~ and the Agency has notified the licensee in writing that the specific license is terminated. Each specific license and any amendment to the license issued by the Agency contains an expiration date. Unless the specific license has been terminated in accordance with Section 330.325 ~~of this Part~~, the licensee shall, 30 days prior to the expiration date of the license, file with the Agency:

1) A complete application, in proper format, for license renewal as provided in Section 330.240 ~~of this Part~~; or

2) A complete application, in proper format, for a license authorizing, at a minimum, continued possession and storage of any radioactive materials possessed under the expiring specific license.

b) In any case in which a licensee, not less than 30 days prior to expiration of an existing license, has filed an application in proper form for renewal or for a new license authorizing the same activities, the existing license shall not expire until final action has been taken by the Agency. ~~files an application in accordance with subsection (a) of this Section before the expiration date of the specific license, the existing license shall not be terminated until the Agency renews the license or denies the application. An Agency denial of an application can be appealed pursuant to the procedures in 32 Ill. Adm. Code 200.~~

AGENCY NOTE: Nothing in this subsection (b) is intended to limit the Agency's authority, if circumstances warrant, to take emergency action in accordance with the Act [420 ILCS 40], or other appropriate action in regard to a specific license in accordance with procedures in 32 Ill. Adm. Code 200.

c) A licensee who fails to comply with the requirements of subsection (a) ~~of this Section~~ shall be subject to such civil penalties and sanctions as may be appropriate to the circumstances, in accordance with the Radiation Protection Act and 32 Ill. Adm. Code 310. In addition, if the expiration date passes without license termination requirements having been met by the licensee and without a timely renewal application having been filed by the licensee before the expiration date, the authority of the licensee to engage in licensed activities as specified in the specific license shall expire at the end of the specified expiration date. The passing of the expiration date shall not relieve the licensee of the duties and responsibilities of applying for and maintaining a valid specific license,

decommissioning, reclaiming, and meeting the license termination requirements of Section 330.325~~ of this Part~~. Immediately upon the passing of the expiration date, a licensee that has neither met license termination requirements nor filed a timely application under subsection (a)~~ of this Section~~ shall:

1) Cease use of radioactive material;

2) Store all radioactive material in a secure location and limit activities involving radioactive material to those necessary for shipping, transferring and disposing of the radioactive material;

3) File either a new application for a specific license or provide information equivalent to that required on Agency Form KLM.007 (Certificate Termination and Disposition or Radioactive Material);

4) Comply with all applicable Agency regulations;

5) Comply with the license conditions of the expired license until either a new license is issued or the termination requirements of Section 330.325 ~~of this Part~~ are met; and

6) Comply with any orders issued by the Agency in accordance with the Act and 32 Ill. Adm. Code 200 that result from violation of subsection (a)~~ of this Section~~ or any other applicable provisions of Agency regulations or the Act.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 330.330 Renewal of Licenses (Repealed)

~~a) Applications for renewal of specific licenses shall be filed in accordance with Section 330.240 of this Part.~~

~~b) In any case in which a licensee, not less than 30 days prior to expiration of an existing license, has filed an application in proper form for renewal or for a new license authorizing the same activities, the existing license shall not expire until final action has been taken by the Agency.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 330.400 Transfer of Material

a) No licensee shall transfer radioactive material except as authorized pursuant to this Section.

b) Except as otherwise provided in his license and subject to the provisions of subsections (c) and (d), any licensee may transfer radioactive material:

1) To the Agency if prior approval has been granted by the Agency;

2) To the U.S. Department of Energy;

3) To any person exempt from the regulations in this Part to the extent permitted under the~~such~~ exemption;

4) To any person authorized to receive the~~such~~ material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the Agency, the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State, ~~or a Licensing State~~ or to any person otherwise authorized to receive the~~such~~ material by the Federal Government or any agency thereof, the Agency, or an Agreement State ~~or a Licensing State~~; or

5) As otherwise authorized by the Agency in writing.

c) Before transferring radioactive material to a specific licensee of the Agency, or to a general licensee who is required to register with the Agency, the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~ prior to receipt of the radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the radionuclide, form and activity of radioactive material to be transferred.

d) The following methods for the verification required by subsection (c) are acceptable:

1) The transferor may possess a current copy of the transferee's specific license or registration certificate authorizing the transferee to receive the radionuclide, form and activity of radioactive material to be transferred;

2) The transferor may possess a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the radionuclide, form and activity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date;

3) For emergency shipments, the transferor may accept oral certification by the transferee that the transferee is authorized by license or registration certificate to receive the radionuclide, form and activity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date; provided, that the oral certification is confirmed in writing within 10 days;

4) The transferor may obtain other information compiled by a reporting service from official records of the Agency, the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~ regarding the identity of licensees and the scope and expiration dates of licenses and registration; or

5) When none of the methods of verification described in subsections (d)(1) through (4) are readily available or when a transferor desires to verify that information received by one of the~~such~~ methods is correct or up-to-date, the transferor may obtain and record confirmation from the Agency, the U.S. Nuclear Regulatory Commission or~~,~~ an Agreement State ~~or a Licensing State~~ that the transferee is licensed to receive the radioactive material.

e) Shipment and transport of radioactive material shall be in accordance with the provisions of 32 Ill. Adm. Code 341.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

Section 330.APPENDIX A Exempt Concentrations

Element (atomic number)	Isotope	Column I Gas Concentration[1] Bg/ml	Column I Gas Concentration[1] microCi/ml	Column II Liquid and Solid Concentration[2] Bg/ml	Column II Liquid and Solid Concentration[2] microCi/ml
Antimony (51)	Sb-122			$1.11x10^{1}$	$3x10^{-4}$
	Sb-124			$7.40x10^{0}$	$2x10^{-4}$
	Sb-125			$3.70x10^{1}$	$1x10^{-3}$
Argon (18)	Ar-37	$3.70x10^{1}$	$1x10^{-3}$		
	Ar-41	$1.48x10^{-2}$	$4x10^{-7}$		
Arsenic (33)	As-73			$1.85x10^{2}$	$5x10^{-3}$
	As-74			$1.85x10^{1}$	$5x10^{-4}$
	As-76			$7.40x10^{0}$	$2x10^{-4}$
	As-77			$2.96x10^{1}$	$8x10^{-4}$
Barium (56)	Ba-131			$7.40x10^{1}$	$2x10^{-3}$
	Ba-140			$1.11x10^{1}$	$3x10^{-4}$
Beryllium (4)	Be-7			$7.40x10^{2}$	$2x10^{-2}$
Bismuth (83)	Bi-206			$1.48x10^{1}$	$4x10^{-4}$
Bromine (35)	Br-82	$1.48x10^{-2}$	$4x10^{-7}$	$1.11x10^{2}$	$3x10^{-3}$
Cadmium (48)	Cd-109			$7.40x10^{1}$	$2x10^{-3}$
	Cd-115m			$1.11x10^{1}$	$3x10^{-4}$
	Cd-115			$1.11x10^{1}$	$3x10^{-4}$
Calcium (20)	Ca-45			$3.33x10^{0}$	$9x10^{-5}$
	Ca-47			$1.85x10^{1}$	$5x10^{-4}$
Carbon (6)	C-14	$3.70x10^{-2}$	$1x10^{-6}$	$2.96x10^{2}$	$8x10^{-3}$
Cerium (58)	Ce-141			$3.33x10^{1}$	$9x10^{-4}$
	Ce-143			$1.48x10^{1}$	$4x10^{-4}$
	Ce-144			$3.70x10^{0}$	$1x10^{-4}$
Cesium (55)	Cs-131			$7.40x10^{2}$	$2x10^{-2}$
	Cs-134m			$2.22x10^{3}$	$6x10^{-2}$
	Cs-134			$3.3x10^{0}$	$9x10^{-5}$
Chlorine (17)	Cl-38	$3.33x10^{-2}$	$9x10^{-7}$	$1.48x10^{2}$	$4x10^{-3}$

Chromium (24)	Cr-51	7.40×10^{2}	2×10^{-2}
Cobalt (27)	Co-57	1.85×10^{2}	5×10^{-3}
	Co-58	3.70×10^{1}	1×10^{-3}
	Co-60	1.85×10^{1}	5×10^{-4}
Copper (29)	Cu-64	1.11×10^{2}	3×10^{-3}

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

Element (atomic number)	Isotope	Column I Gas Concentration[1] Bg/ml	Column I Gas Concentration[1] microCi/ml	Column II Liquid and Solid Concentration[2] Bg/ml	Column II Liquid and Solid Concentration[2] microCi/ml
Dysprosium (66)	Dy-165			$1.48x10^{2}$	$4x10^{-3}$
	Dy-166			$1.48x10^{1}$	$4x10^{-4}$
Erbium (68)	Er-169			$3.33x10^{1}$	$9x10^{-4}$
	Er-171			$3.70x10^{1}$	$1x10^{-3}$
Europium (63)	Eu-152 (9.2h)			$2.22x10^{1}$	$6x10^{-4}$
	Eu-155			$7.40x10^{1}$	$2x10^{-3}$
Fluorine (9)	F-18	$7.40x10^{-2}$	$2x10^{-6}$	$2.96x10^{2}$	$8x10^{-3}$
Gadolinium (64)	Gd-153			$7.40x10^{1}$	$2x10^{-3}$
	Gd-159			$2.96x10^{1}$	$8x10^{-4}$
Gallium (31)	Ga-72			$1.48x10^{1}$	$4x10^{-4}$
Germanium (32)	Ge-71			$7.40x10^{2}$	$2x10^{-2}$
Gold (79)	Au-196			$7.40x10^{1}$	$2x10^{-3}$
	Au-198			$1.85x10^{1}$	$5x10^{-4}$
	Au-199			$7.40x10^{1}$	$2x10^{-3}$
Hafnium (72)	Hf-181			$2.59x10^{1}$	$7x10^{-4}$
Hydrogen (1)	H-3	$1.85x10^{-1}$	$5x10^{-6}$	$1.11x10^{3}$	$3x10^{-2}$
Indium (49)	In-113m			$3.70x10^{2}$	$1x10^{-2}$
	In-114m			$7.40x10^{0}$	$2x10^{-4}$
Iodine (53)	I-126	$1.11x10^{-4}$	$3x10^{-9}$	$7.40x10^{-1}$	$2x10^{-5}$
	I-131	$1.11x10^{-4}$	$3x10^{-9}$	$7.40x10^{-1}$	$2x10^{-5}$
	I-132	$2.96x10^{-3}$	$8x10^{-8}$	$2.22x10^{1}$	$6x10^{-4}$
	I-133	$3.70x10^{-4}$	$1x10^{-8}$	$2.59x10^{0}$	$7x10^{-5}$
	I-134	$7.40x10^{-3}$	$2x10^{-7}$	$3.70x10^{1}$	$1x10^{-3}$
Iridium (77)	Ir-190			$7.40x10^{1}$	2x10-3
	Ir-192			$1.48x10^{1}$	$4x10^{-4}$
	Ir-194			$1.11x10^{1}$	$3x10^{-4}$
Iron (26)	Fe-55			$2.96x10^{2}$	$8x10^{-3}$
	Fe-59			$2.22x10^{1}$	$6x10^{-4}$

Krypton (36)	Kr-85m	$3.70x10^{-2}$	$1x10^{-6}$		
	Kr-85	$1.11x10^{-1}$	$3x10^{-6}$		
Lanthanum (57)	La-140			$7.40x10^{0}$	$2x10^{-4}$
Lead (82)	Pb-203			$1.48x10^{2}$	$4x10^{-3}$

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

Element (atomic number)	Isotope	Column I Gas Concentration[1] Bg/ml	Column I Gas Concentration[1] microCi/ml	Column II Liquid and Solid Concentration[2] Bg/ml	Column II Liquid and Solid Concentration[2] microCi/ml
Lutetium (71)	Lu-177			$3.70x10^{1}$	$1x10^{-3}$
Manganese (25)	Mn-52			$1.11x10^{1}$	$3x10^{-4}$
	Mn-54			$3.70x10^{1}$	$1x10^{-3}$
	Mn-56			$3.70x10^{1}$	$1x10^{-3}$
Mercury (80)	Hg-197m			$7.40x10^{1}$	$2x10^{-3}$
	Hg-197			$1.11x10^{2}$	$3x10^{-3}$
	Hg-203			$7.40x10^{0}$	$2x10^{-4}$
Molybdenum (42)	Mo-99			$7.40x10^{1}$	$2x10^{-3}$
Neodymium (60)	Nd-147			$2.22x10^{1}$	$6x10^{-4}$
	Nd-149			$1.11x10^{2}$	$3x10^{-3}$
Nickel (28)	Ni-65			$3.70x10^{1}$	$1x10^{-3}$
Niobium (Columbium) (41)	Nb-95			$3.70x10^{1}$	$1x10^{-3}$
	Nb-97			$3.33x10^{2}$	$9x10^{-3}$
Osmium (76)	Os-185			$2.59x10^{1}$	$7x10^{-4}$
	Os-191m			$1.11x10^{3}$	$3x10^{-2}$
	Os-191			$7.40x10^{1}$	$2x10^{-3}$
	Os-193			$2.22x10^{1}$	$6x10^{-4}$
Palladium (46)	Pd-103			$1.11x10^{2}$	$3x10^{-3}$
	Pd-109			$3.33x10^{1}$	$9x10^{-4}$
Phosphorus (15)	P-32			$7.40x10^{0}$	$2x10^{-4}$
Platinum (78)	Pt-191			$3.70x10^{1}$	$1x10^{-3}$
	Pt-193m			$3.70x10^{2}$	$1x10^{-2}$
	Pt-197m			$3.70x10^{2}$	$1x10^{-2}$
	Pt-197			$3.70x10^{1}$	$1x10^{-3}$
Potassium (19)	K-42			$1.11x10^{2}$	$3x10^{-3}$
Praseodymium (59)	Pr-142			$1.11x10^{1}$	$3x10^{-4}$
	Pr-143			$1.85x10^{1}$	$5x10^{-4}$

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

Promethium (61)	Pm-147	$7.40x10^{1}$	$2x10^{-3}$
	Pm-149	$1.48x10^{1}$	$4x10^{-4}$
Rhenium (75)	Re-183	$2.22x10^{2}$	$6x10^{-3}$
	Re-186	$3.33x10^{1}$	$9x10^{-4}$
	Re-188	$2.22x10^{1}$	$1x10^{-4}$
Rhodium (45)	Rh-103m	$3.70x10^{3}$	$1x10^{-1}$
	Rh-105	$3.70x10^{1}$	$1x10^{-3}$

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

Element (atomic number)	Isotope	Column I Gas Concentration[1] Bg/ml	Column I Gas Concentration[1] microCi/ml	Column II Liquid and Solid Concentration[2] Bg/ml	Column II Liquid and Solid Concentration[2] microCi/ml
Rubidium (37)	Rb-86			2.59×10^{1}	7×10^{-4}
Ruthenium (44)	Ru-97			1.48×10^{2}	4×10^{-3}
	Ru-103			2.96×10^{1}	8×10^{-4}
	Ru-105			3.70×10^{1}	1×10^{-3}
	Ru-106			3.70×10^{0}	1×10^{-4}
Samarium (62)	Sm-153			2.96×10^{1}	8×10^{-4}
Scandium (21)	Sc-46			1.48×10^{1}	4×10^{-4}
	Sc-47			3.33×10^{1}	9×10^{-4}
	Sc-48			1.11×10^{1}	3×10^{-4}
Selenium (34)	Se-75			1.11×10^{2}	3×10^{-3}
Silicon (14)	Si-31			3.33×10^{2}	9×10^{-3}
Silver (47)	Ag-105			3.70×10^{1}	1×10^{-3}
	Ag-110m			1.11×10^{1}	3×10^{-4}
	Ag-111			1.48×10^{1}	4×10^{-4}
Sodium (11)	Na-24			7.40×10^{1}	2×10^{-3}
Strontium (38)	Sr-85			3.70×10^{1}	1×10^{-3}
	Sr-89			3.70×10^{0}	1×10^{-4}
	Sr-91			2.59×10^{1}	7×10^{-4}
	Sr-92			2.59×10^{1}	7×10^{-4}
Sulfur (16)	S-35			2.22×10^{1}	6×10^{-4}
Tantalum (73)	Ta-182			1.48×10^{1}	4×10^{-4}
Technetium (43)	Tc-96m			3.70×10^{3}	1×10^{-1}
	Tc-96			3.70×10^{1}	1×10^{-3}
Tellurium (52)	Te-125m			7.40×10^{1}	2×10^{-3}
	Te-127m			2.22×10^{1}	6×10^{-4}
	Te-127			1.11×10^{2}	3×10^{-3}
	Te-129m			1.11×10^{1}	3×10^{-4}
	Te-131m			2.22×10^{1}	6×10^{-4}
	Te-132			1.11×10^{1}	3×10^{-4}

Terbium (65)	Tb-160	$1.48x10^{1}$	$4x10^{-4}$
Thallium (81)	Tl-200	$1.48x10^{1}$	$4x10^{-3}$
	Tl-201	$1.11x10^{2}$	$3x10^{-3}$
	Tl-202	$3.70x10^{1}$	$1x10^{-3}$
	Tl-204	$3.70x10^{1}$	$1x10^{-3}$

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

Element (atomic number)	Isotope	Column I Gas Concentration[1] Bg/ml	Column I Gas Concentration[1] microCi/ml	Column II Liquid and Solid Concentration[2] Bg/ml	Column II Liquid and Solid Concentration[2] microCi/ml
Thulium (69)	Tm-170			1.85×10^{1}	5×10^{-4}
	Tm-171			1.85×10^{2}	5×10^{-3}
Tin (50)	Sn-113			3.33×10^{1}	9×10^{-4}
	Sn-125			7.40×10^{0}	2×10^{-4}
Tungsten (Wolfram) (74)	W-181			1.48×10^{2}	4×10^{-3}
	W-187			2.59×10^{1}	7×10^{-4}
Vanadium (23)	V-48			1.11×10^{1}	3×10^{-4}
Xenon (54)	Xe-131m	1.48×10^{-1}	4×10^{-6}		
	Xe-133	1.11×10^{-1}	3×10^{-6}		
	X3-135	3.70×10^{-2}	1×10^{-6}		
Ytterbium (70)	Yb-175			3.70×10^{1}	1×10^{-3}
Yttrium (39)	Y-90			7.40×10^{0}	2×10^{-4}
	Y-91m			1.11×10^{3}	3×10^{-2}
	Y-91			1.11×10^{1}	3×10^{-4}
	Y-92			2.22×10^{1}	6×10^{-4}
	Y-93			1.11×10^{1}	3×10^{-4}
Zinc (30)	Zn-65			3.70×10^{1}	1×10^{-3}
	Zn-69m			2.59×10^{1}	7×10^{-4}
	Zn-69			7.40×10^{2}	2×10^{-2}
Zirconium (40)	Zr-95			2.22×10^{1}	6×10^{-4}
	Zr-97			7.40×10^{0}	2×10^{-4}
Beta-and/or gamma-emitting radioactive material not listed above with half-life of less than 3 years.		3.70×10^{-6}	1×10^{-10}	3.70×10^{2}	1×10^{-6}

[1] Values are given in Column I only for those materials normally used as gases.

[2] Bq or µmicroCi/g for solids.

NOTE 1: Many radionuclides~~radioisotopes~~ transform into nuclides that~~isotopes which~~ are also radioactive. In expressing the concentrations in this Appendix, the activity stated is that of the parent radionuclide~~isotope~~ and takes into account the daughters.

NOTE 2: For purposes of Section 330.40 where there is involved a combination of radionuclides~~isotopes~~, the limit for the combination should be derived as follows: Determine for each radionuclide~~isotope~~ in the product the ratio between the radioactivity concentration present in the product and the exempt radioactivity concentration established in this Appendix for the radionuclide~~specific isotope~~ when not in combination. The sum of such ratios may not exceed "1".

EXAMPLE:

$$\frac{\text{Concentration of Nuclide}\cancel{\text{Isotope}}\text{ A in Product}}{\text{Exempt Concentration of Nuclide}\cancel{\text{Isotope}}\text{ A}} + \frac{\text{Concentration of Nuclide}\cancel{\text{Isotope}}\text{ B in Product}}{\text{Exempt Concentration of Nuclide}\cancel{\text{Isotope}}\text{ B}} \leq 1$$

(Source: Amended at 35 Ill. Reg. _____, effective _____)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

Section 330.APPENDIX C Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release

Radioactive Material[1]	Release Fraction	Quantity (GBq)	Quantity (Ci)
Actinium-228	0.001	148,000	4,000
Americium-241	0.001	74	2
Americium-242	0.001	74	2
Americium-243	0.001	74	2
Antimony-124	0.01	148,000	4,000
Antimony-126	0.01	222,000	6,000
Barium-133	0.01	370,000	10,000
Barium-140	0.01	1,110,000	30,000
Bismuth-207	0.01	185,000	5,000
Bismuth-210	0.01	22,200	600
Cadmium-109	0.01	37,000	1,000
Cadmium-113	0.01	2,960	80
Calcium-45	0.01	740,000	20,000
Californium-252	0.001	333	9 (20mg)
Carbon-14 (Non-CO_2)	0.01	1,850,000	50,000
Cerium-141	0.01	370,000	10,000
Cerium-144	0.01	11,100	300
Cesium-134	0.01	74,000	2,000
Cesium-137	0.01	111,000	3,000
Chlorine-36	0.5	3,700	100
Chromium-51	0.01	11,100,000	300,000
Cobalt-60	0.001	185,000	5,000
Copper-64	0.01	7,400,000	200,000
Curium-242	0.001	2,220	60
Curium-243	0.001	110	3
Curium-244	0.001	148	4
Curium-245	0.001	74	2
Europium-152	0.01	18,500	500
Europium-154	0.01	14,800	400
Europium-155	0.01	111,000	3,000
Gadolinium-153	0.01	185,000	5,000
Germanium-68	0.01	74,000	2,000
Gold-198	0.01	1,110,000	30,000

Hafnium-172	0.01	14,800	400
Hafnium-181	0.01	259,000	7,000
Holmium-166m	0.01	3,700	100
Hydrogen-3	0.5	740,000	20,000
Indium-114m	0.01	37,000	1,000
Iodine-125	0.5	370	10
Iodine-131	0.5	370	10
Iridium-192	0.001	1,480,000	40,000
Iron-55	0.01	1,480,000	40,000
Iron-59	0.01	259,000	7,000
Krypton-85	1.0	222,000,000	6,000,000
Lead-210	0.01	296	8
Manganese-56	0.01	2,220,000	60,000
Mercury-203	0.01	370,000	10,000
Molybdenum-99	0.01	1,110,000	30,000
Neptunium-237	0.001	74	2
Nickel-63	0.01	740,000	20,000
Niobium-94	0.01	11,100	300
Phosphorus-32	0.5	3,700	100
Phosphorus-33	0.5	37,000	1,000
Polonium-210	0.01	370	10
Potassium-42	0.01	333,000	9,000
Promethium-145	0.01	148,000	4,000
Promethium-147	0.01	148,000	4,000
Radium-226	0.001	3,700	100
Ruthenium-106	0.01	7,400	200
Samarium-151	0.01	148,000	4,000
Scandium-46	0.01	111,000	3,000
Selenium-75	0.01	370,000	10,000
Silver-110m	0.01	37,000	1,000
Sodium-22	0.01	333,000	9,000
Sodium-24	0.01	370,000	10,000
Strontium-89	0.01	111,000	3,000
Strontium-90	0.01	3,330	90
Sulfur-35	0.5	33,300	900
Technetium-99	0.01	370,000	10,000
Technetium-99m	0.01	14,800,000	400,000
Tellurium-127m	0.01	185,000	5,000
Tellurium-129m	0.01	185,000	5,000

Terbium-160	0.01	148,000	4,000
Thulium-170	0.01	148,000	4,000
Tin-113	0.01	370,000	10,000
Tin-123	0.01	111,000	3,000
Tin-126	0.01	37,000	1,000
Titanium-44	0.01	3,700	100
Vanadium-48	0.01	259,000	7,000
Xenon-133	1.0	33,300,000	900,000
Yttrium-91	0.01	74,000	2,000
Zinc-65	0.01	185,000	5,000
Zirconium-93	0.01	14,800	400
Zirconium-95	0.01	185,000	5,000
Any other beta-gamma emitter	0.01	370,000	10,000
Mixed fission products	0.01	37,000	1,000
Mixed corrosion products	0.01	370,000	10,000
Contaminated equipment, beta-gamma	0.001	370,000	10,000
Irradiated material, any form other than solid noncombustible	0.01	37,000	1,000
Irradiated material, solid noncombustible	0.001	370,000	10,000
Mixed radioactive waste,[2] beta-gamma	0.01	37,000	1,000
Packaged mixed waste, [2] beta-gamma	0.001	370,000	10,000
Any other alpha emitter	0.001	74	2
Contaminated equipment, Alpha	0.0001	740	20
Packaged waste, alpha[2]	0.0001	740	20

[1] For combinations of radioactive materials, the licensee is required to consider whether an emergency plan is needed if the sum of the ratios of the quantity of each radioactive material authorized to the quantity listed for that material above exceeds one.

[2] Waste packaged in Type B containers does not require an emergency plan.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

1) Heading of the Part: Non-Binding, Advisory Opinions on Criminal Convictions

2) Code Citation: 68 Ill. Adm. Code 1130

3)

Section Numbers:	Proposed Action:
1130.10	New Section
1130.20	New Section
1130.30	New Section
1130.40	New Section

4) Statutory Authority: Implementing the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(i)]

5) A complete description of the subjects and issues involved: Public Act 96-852 included a provision amending the Civil Administrative Code to direct the Department of Financial and Professional Regulation to establish a process for individuals with a criminal conviction to request a non-binding, advisory opinion from the Department on the impact their criminal conviction might have with respect to an application for licensure; this proposed rulemaking implements that provision. It provides a method for individuals with criminal convictions to ask the Department what impact, if any, their criminal conviction will or might have with respect to an application for licensure. It further provides a method for the Division of Professional Regulation to respond to those inquiries.

6) Any published studies or reports, along with the sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Craig Cellini, Rules Coordinator
Department of Financial and Professional Regulation
320 West Washington, 3rd Floor
Springfield, Illinois 62786-

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities, and not-for-profit corporations affected: None

B) Reporting, bookkeeping, or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the agency's 2 most recent agendas.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER a: ADMINISTRATIVE RULES

PART 1130
NON-BINDING, ADVISORY OPINIONS ON CRIMINAL CONVICTIONS

Section
1130.10 Definitions
1130.20 Request for Non-Binding, Advisory Opinion
1130.30 Board Review
1130.40 Confidentiality of Records

AUTHORITY: Implementing Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

SOURCE: Adopted at 35 Ill. Reg. _____, effective _____.

Section 1130.10 Definitions

"Board" means a board or committee appointed and acting pursuant to any Act administered by the Department of Financial and Professional Regulation-Division of Professional Regulation.

"Department" means the Department of Financial and Professional Regulation.

"Individual" *means a person with a criminal record, who seeks a license or certificate in an occupation for which a criminal record is not expressly a per se bar, who applies to the Department for a non-binding, advisory opinion to be provided by the Board or body with the authority to issue the license or certificate as to whether his or her criminal record would bar the individual from the licensure or certification sought, should the individual meet all other licensure requirements, including, but not limited to, the successful completion of the relevant examinations* [20 ILCS 2105/2105-15(i)].

"Statute" means Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

Section 1130.20 Request for Non-Binding, Advisory Opinion

a) An individual shall file a request for a non-binding, advisory opinion on forms provided by the Department. The request shall include:

1) A copy of all convictions for which the individual seeks a non-binding, advisory opinion from the Department;

2) Copies of any certificate of relief from disabilities that the individual may have received or obtained;

3) A detailed nature of the offense, including but not limited to the following:

A) any statements of mitigation;

B) any prior conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or a misdemeanor of which an essential element is dishonesty or that is directly related to the practice of the profession;

C) any licenses held or prior applications filed with the Division;

4) The profession for which the individual intends to seek licensure (if the individual intends to seek licensure in more than one profession and is seeking a non-binding, advisory opinion on more than one profession, the individual shall complete a separate request for each profession for which the individual is seeking a non-binding, advisory opinion);

5) If applicable, verification from any state in which an individual is or has been licensed stating:

A) The time during which the individual was licensed in that state, including the date of the original issuance of the license; and

B) Whether the file on the individual contains any record of disciplinary actions taken or pending.

b) When the accuracy of any submitted documentation or the relevance or sufficiency of the information submitted by the individual is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the individual seeking licensure may be requested to provide further information as may be necessary.

c) In determining whether an individual's criminal record, as disclosed in the request, is considered a bar to the future licensure of the individual, the Department may consider the following factors or any other factors deemed relevant by the Department:

1) Whether there is a direct relationship between one or more of the previous criminal offenses and the specific license to be sought;

2) Whether the issuance of the license would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public;

3) The specific duties and responsibilities necessarily related to the license being sought;

4) The bearing, if any, the criminal offenses will have on the applicant's fitness or ability to perform one or more of the duties and responsibilities of a licensee;

5) The time that has elapsed since the occurrence of the offenses;

6) The age of the individual at the time of occurrence of the criminal offenses;

7) The seriousness of the offenses; and

8) Any information produced by the individual or produced on his or her behalf in regard to his or her rehabilitation and good conduct, including a certificate of relief from disabilities issued to the individual, which shall create a presumption of rehabilitation in regard to the offenses specified in the certificate.

Section 1130.30 Board Review

a) At any time during the review and determination of a request for a non-binding, advisory opinion as to whether the criminal record of an individual as disclosed in the request would bar the individual from the licensure or certification to be sought, the Department may, but shall not be required to, seek the advice and/or recommendation of the Board established for the profession for which the individual seeks licensure or certification.

b) Any recommendation taken by the Board shall be taken at a meeting held in accordance with the Open Meetings Act [5 ILCS 120]. In exigent circumstances, as determined in the sole discretion of the Department, the Department may contact an individual Board member for advice concerning any individual's request for a non-binding, advisory opinion.

Section 1130.40 Confidentiality of Records

All documents and records submitted to the Department by an individual seeking a non-binding, advisory opinion shall be deemed confidential and may not be made available to any person or public or private agency, including any requests made pursuant to the Freedom of Information Act [5 ILCS 140], except if specifically required or permitted by statute or upon specific authorization by the individual seeking a non-binding, advisory opinion. The Department shall not be required to release any documents filed or received pursuant to this Part unless the Department has obtained a written, signed release from the individual who originally requested a non-binding, advisory opinion determination from the Department; except that the Department may disclose information and documents to a federal, state or local law enforcement agency pursuant to a subpoena in an ongoing criminal investigation or to a health care licensing body of this State or another state or jurisdiction pursuant to an official request made by that licensing body.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Long Term Care Reimbursement Changes

2) Code Citation: 89 Ill. Adm. Code 153

3) Section Number: 153.125 — Proposed Action: Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: HFS is filing this rulemaking to coincide with the following emergency rule filed by the Department of Human Services (DHS), Division of Developmental Disabilities. Section 144.102, High Medical/High Personal Care Needs of Individuals with Developmental Disabilities, will provide increased rates to ICFs/DD serving higher need residents. The increased rates will be effective November 1, 2010. DHS will be responsible for the filing of this rule. However, it is necessary to amend HFS' "rate freeze" rule to allow these increased rates.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

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

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:

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

201 South Grand Avenue E., 3rd Floor
Springfield IL 62763-0002

217/782-1233

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: ICFs/DD and Medicaid-certified long-term care facilities,

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this Rulemaking was Summarized:

The text of this Proposed Amendment is identical to the Emergency Amendment that appears on page 17462 of this issue of the Illinois Register.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Child Support Services

2) Code Citation: 89 Ill. Adm. Code 160

3)

Section Numbers:	Proposed Action:
160.60	Amendment
160.61	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13], Public Act 96-1134 and 96-1074

5) Complete Description of the Subjects and Issues Involved: This rulemaking implements Public Act 96-1134 and 96-1074 that provides, foster care payments paid to the Department of Children and Family Services (DCFS) for licensed foster care as a deduction when calculating net income for the purposes of determining the minimum amount of child support. Further, adds the definition of the "probability of paternity" that states that the results of genetic testing show that the alleged father is not excluded and that the combined paternity index is at least 1000 to 1 and there is a 99.9% probability of paternity.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

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:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue E., 3rd Floor
Springfield IL 62763-0002

217/782-1233

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2010

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER f: COLLECTIONS

PART 160
CHILD SUPPORT SERVICES

SUBPART A: GENERAL PROVISIONS

Section
160.1 Incorporation by Reference
160.5 Definitions
160.10 Child Support Enforcement Program
160.12 Administrative Accountability Process
160.15 Fees for IV-D Non-TANF Cases
160.20 Assignment of Rights to Support
160.25 Recoupment

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section
160.30 Cooperation With Support Enforcement Program
160.35 Good Cause for Failure to Cooperate with Support Enforcement
160.40 Proof of Good Cause For Failure to Cooperate With Support Enforcement
160.45 Suspension of Child Support Enforcement Upon a Claim of Good Cause

SUBPART C: ESTABLISHMENT AND MODIFICATION OF
CHILD SUPPORT ORDERS

Section
160.60 Establishment of Support Obligations
160.61 Uncontested and Contested Administrative Paternity and Support Establishment
160.62 Cooperation with Paternity Establishment and Continued Eligibility Demonstration Program (Repealed)
160.64 Compromise of Assigned Obligations
160.65 Modification of Support Obligations

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section
160.70 Enforcement of Support Orders
160.71 Credit for Payments Made Directly to the Title IV-D Client
160.75 Withholding of Income to Secure Payment of Support
160.77 Certifying Past-Due Support Information or Failure to Comply with a Subpoena or Warrant to State Licensing Agencies
160.80 Amnesty – 20% Charge (Repealed)
160.85 Diligent Efforts to Serve Process
160.88 State Case Registry
160.89 Interest

SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section
160.90 Earmarking Child Support Payments

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section
160.95 State Disbursement Unit
160.100 Distribution of Child Support for TANF Recipients
160.110 Distribution of Child Support for Former AFDC or TANF Recipients Who Continue to Receive Child Support Services
160.120 Distribution of Child Support Collected While the Client Was an AFDC or TANF Recipient, But Not Yet Distributed at the Time the AFDC or TANF Case Is Cancelled
160.130 Distribution of Intercepted Federal Income Tax Refunds
160.132 Distribution of Child Support for Non-TANF Clients
160.134 Distribution of Child Support For Interstate Cases
160.136 Distribution of Support Collected in IV-E Foster Care Maintenance Cases
160.138 Distribution of Child Support for Medical Assistance No Grant Cases

SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

Section
160.140 Quarterly Notice of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

160.150 Department Review of Distribution of Child Support for TANF Recipients
160.160 Department Review of Distribution of Child Support for Former AFDC or TANF Recipients

AUTHORITY: Implementing and authorized by Sections 4-1.7, Art. X, 12-4.3, and 12-13 of the Illinois Public Aid Code [305 ILCS 5/4-1.7, Art. X, 12-4.3 and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298, effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 15492, effective October 30, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency amendment at 20 Ill. Reg. 14002, effective October 15, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1189, effective January 10, 1997; amended at 21 Ill. Reg. 3922, effective March 13, 1997; emergency amendment at 21 Ill. Reg. 8594, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9220, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12197, effective August 22, 1997; amended at 21 Ill. Reg. 16050, effective November 26, 1997; amended at 22 Ill. Reg. 14895, effective August 1, 1998; emergency amendment at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2313, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11715, effective September 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12737, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14560, effective December 1, 1999; amended at 24 Ill. Reg. 2380,

effective January 27, 2000; amended at 24 Ill. Reg. 3808, effective February 25, 2000; emergency amendment at 26 Ill. Reg. 11092, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17822, effective November 27, 2002; amended at 27 Ill. Reg. 4732, effective February 25, 2003; amended at 27 Ill. Reg. 7842, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 12139, effective July 11, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18891, effective November 26, 2003; amended at 28 Ill. Reg. 4712, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 10225, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15591, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 2743, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10211, effective June 30, 2005; amended at 29 Ill. Reg. 14995, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 5426, effective March 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 8897, effective May 1, 2006; amended at 30 Ill. Reg. 13393, effective July 28, 2006; amended at 31 Ill. Reg. 12771, effective August 27, 2007; emergency amendment at 32 Ill. Reg. 543, effective January 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6511, effective March 31, 2008; amended at 32 Ill. Reg. 16805, effective October 6, 2008; amended at 33 Ill. Reg. 591, effective January 5, 2009; amended at 33 Ill. Reg. 9077, effective June 15, 2009; amended at 33 Ill. Reg. 12732, effective September 7, 2009; amended at 34 Ill. Reg. 6809, effective May 1, 2010; amended at 34 Ill. Reg. 15406, effective September 27, 2010; amended at 35 Ill. Reg. _____, effective _____.

SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

Section 160.60 Establishment of Support Obligations

a) Definitions

1) "CSS" means any Child Support Specialist performing assigned duties, his or her supervisory staff and any other person assigned responsibility by the Director of the Department.

2) "Service" or "Served" means notice given:

A) by personal service, certified mail (with or without return receipt requested) or restricted delivery,

B) *by a person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004* [225 ILCS 447] *or by a registered employee*

of a private detective agency certified under that Act, or

C) *in counties with a population of less than 2,000,000* [305 ILCS 5/10-4], by any method provided by law for service of summons. (See Sections 2-202, 2-203 and 2-206 of the Code of Civil Procedure [735 ILCS 5/2-202, 2-203 and 2-206].)

3) "Support Statutes" means the following:

A) Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X];

B) The Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5];

C) The Non-Support Punishment Act [750 ILCS 16];

D) The Uniform Interstate Family Support Act [750 ILCS 22];

E) The Illinois Parentage Act of 1984 [750 ILCS 45]; and

F) Any other statute in another state that provides for child support.

4) "Retroactive support" means support for a period prior to the date a court or administrative support order is entered.

5) "Child's needs" means:

A) the custodial parent's statement of the associated costs, including, but not limited to, providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care; or

B) the State's current minimum hourly wage multiplied by 40 hours per work week, multiplied by 4.3 weeks per month, multiplied by the applicable child support guideline percentage contained in subsection (c)(1) of this Section.

b) Responsible Relative Contact

1) Timing and Purpose of Contact

A) The Department shall contact and interview responsible relatives in Title IV-D cases to establish support obligations, following the IV-D client interview.

B) The purpose of contact and interview shall be to obtain relevant facts, including income information (for example, paycheck stubs, income tax returns) necessary to determine the financial ability of such relatives for use in obtaining stipulated, consent and other court orders for support and in entering administrative support orders, pursuant to the support statutes.

2) At least ten working days in advance of the interview, the Department shall notify each responsible relative contacted of his support obligation, by ordinary mail, which notice shall contain the following:

A) the Title IV-D case name and identification number;

B) the names and birthdates of the persons for whom support is sought or other information identifying such persons, such as a prior court number;

C) that the responsible relative has a legal obligation to support the named persons;

D) the date, time, place and purpose of the interview and that the responsible relative may be represented by counsel; and

E) that the responsible relative should bring specified information regarding his income and resources to the interview.

3) The Department shall notify each Title IV-D client of the date, time and place of the responsible relative interview and that the client may attend if he or she chooses.

c) Determination of Financial Ability

1) In cases handled under subsection (d) of this Section, the CSS shall determine the amount of child support and enter an administrative support

order on the following basis:

Number of Children	Percent of Responsible Relative's Net Income
1	20%
2	28%
3	32%
4	40%
5	45%
6 or more	50%

A) "Net Income" is the total of all income from all sources, minus the following deductions:

i) Federal income tax (properly calculated withholding or estimated payments);

ii) State income tax (properly calculated withholding or estimated payments);

iii) Social Security (FICA payments);

iv) Mandatory retirement contributions required by law or as a condition of employment;

v) Union dues;

vi) Dependent and individual health/hospitalization insurance premiums;

vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;

viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;

ix) Medical expenditures necessary to preserve life or health; ~~and~~

x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts; and.

xi) Foster care payments paid by the Department of Children and Family Services for providing licensed foster care to a foster child.

B) The deductions in subsections (c)(1)(A)(viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders that contain provisions for an automatic increase in the support obligation upon termination of such payment period.

2) In de novo hearings provided for in subsection (d)(5)(H) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall determine the minimum amount of child support as follows:

Number of Children	Percent of Responsible Relative's Net Income
1	20%
2	28%
3	32%
4	40%
5	45%
6 or more	50%

A) "Net Income" is the total of all income from all sources, minus the following deductions:

i) Federal income tax (properly calculated withholding or estimated payments);

ii) State income tax (properly calculated withholding or estimated payments);

iii) Social Security (FICA payments);

iv) Mandatory retirement contributions required by law or as a

condition of employment;

v) Union dues;

vi) Dependent and individual health/hospitalization insurance premiums;

vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;

viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;

ix) Medical expenditures necessary to preserve life or health; and

x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.

B) The deductions in subsections (c)(2)(A)(viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders that contain provisions for an automatic increase in the support obligation upon termination of such payment period.

C) The above guidelines shall be applied in each case unless the Department finds that application of the guidelines would be inappropriate after considering the best interests of the child in light of evidence including but not limited to one or more of the following relevant factors:

i) the financial resources and needs of the child;

ii) the financial resources and needs of the custodial parent;

iii) the standard of living the child would have enjoyed had the marriage not been dissolved, the separation not occurred or the parties married;

iv) the physical and emotional condition of the child, and his educational needs; and

v) the financial resources and needs of the non-custodial parent.

D) Each order requiring support that deviates from the guidelines shall state the amount of support that would have been required under the guidelines. The reason or reasons for the variance from the guidelines shall be included in the order.

3) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the amount of child support due in accord with Section 505 and medical support in accordance with Section 505.2 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505].

4) All orders for support shall include a provision for the health care coverage of the child. In all cases where health insurance coverage is not being furnished by the responsible relative to a child to be covered by a support order, the Department shall enter administrative, or request the court to enter, support orders requiring the relative to provide such coverage when a child can be added to an existing insurance policy at reasonable cost or indicating what alternative arrangement for health insurance coverage is being provided. Net income shall be reduced by the cost thereof in determining the minimum amount of support to be ordered.

5) In cases where the net income of the responsible relative cannot be determined because of default or any other reason, the Department shall order or request the court to order the responsible relative to pay retroactive support for the prior period in the amount of the child's needs as defined by subsection (a)(5)(A) or (B) of this Section when the IV-D client requests that such an order for retroactive support be entered or requested.

6) The final order in all cases shall state the support level in dollar amounts.

7) If there is no net income because of the unemployment of a responsible

relative who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving cash assistance in Illinois, the Department, when proceeding under subsection (d) of this Section, shall order, or, when proceeding under subsection (e) of this Section, shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives. In TANF cases, the Department shall order, when proceeding under subsection (d) of this Section, or, when proceeding under subsection (e) of this Section, shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the responsible relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].

8) The Department shall enter administrative support orders, or request the court to enter support orders, that include a provision requiring the responsible relative to notify the Department, within seven days:

A) of any new address of the responsible relative;

B) of the name and address of any new employer or source of income of the responsible relative;

C) of any change in the responsible relative's Social Security Number;

D) whether the responsible relative has access to health insurance coverage through the employer or other group coverage; and

E) if so, the policy name and number and the names of persons covered under the policy.

9) The Department shall enter administrative support orders, or request the court to enter support orders, that include a date on which the current support obligation terminates. The termination date shall be no earlier than the date on which the child covered by the order will attain the age of majority or is otherwise emancipated. The order for support shall state that the termination date does not apply to any arrearage that may remain unpaid on that date. The provision of a termination date in the order shall

not prevent the order from being modified.

10) The Department shall enter administrative support orders, or request the court to enter support orders, that include a statement that if there is an unpaid arrearage or delinquency equal to at least one month's support obligation on the termination date stated in the order for support or, if there is no termination date stated in the order, on the date the child attains the age of majority or is otherwise emancipated, then the periodic amount required to be paid for current support of that child immediately prior to that date shall automatically continue to be an obligation, not as current support but as periodic payment toward satisfaction of the unpaid arrearage or delinquency.

11) At the request of the IV-D client, the Department shall enter administrative support orders, or request the court to enter support orders, that include provisions for retroactive support, as follows:

A) In cases handled under subsection (d) of this Section, the Department shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties' separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock).

B) In de novo hearings provided for in subsection (d)(5)(H) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock), unless, in cases where the child was born out of wedlock, the hearing officer, after having examined the factors set forth in Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505] decides that another date is more appropriate.

C) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to

determine the date retroactive support is to commence in accord with Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X], Sections 510 and 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/510 and 505], and Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14].

d) Administrative Process

1) Use of Administrative Process

A) Unless otherwise directed by the Department, the CSS shall establish support obligations of responsible relatives through the administrative process set forth in this subsection (d), in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:

i) presumed paternity as set forth in Section 5 of the Illinois Parentage Act of 1984 [750 ILCS 45/5] and support is sought from one or both parents;

ii) alleged paternity and support is sought from the mother;

iii) an administrative paternity order entered under Section 160.61 and support is sought from the man determined to be the child's father, or from the mother, or both;

iv) an establishment of parentage in accordance with Section 6 of the Illinois Parentage Act of 1984 [750 ILCS 45/6]; and

v) an establishment of parentage under the laws of another state, and support is sought from the child's father, or from the mother, or both.

B) In addition to those items specified in subsection (b)(2) of this Section, the notice of support obligation shall inform the responsible relative of the following:

i) that the responsible relative may be required to pay retroactive support as well as current support; and

ii) that in its initial determination of child support under subsection (c) of this Section, the Department will only consider factors listed in subsections (c)(1)(A)(i) through (x) of this Section; and

iii) that the Department will enter an administrative support order based only on those factors listed in subsections (c)(1)(A)(i) through (x) of this Section; and

iv) that in order for the Department to consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505], either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; and

v) that both the client and the responsible relative have a right to request a de novo hearing within 30 days after the mailing or delivery of an administrative support order, at which time a Department hearing officer may consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505]; and

vi) that unless the client and/or the responsible relative requests a de novo hearing within 30 days after the order's mailing or delivery, the administrative support order will become a final enforceable order of the Department; and

vii) that upon failure of the responsible relative to appear for the interview or to provide necessary information to determine net income, an administrative support order may be entered by default or the Department may seek court determination of financial ability based upon the guidelines.

2) The CSS shall determine the ability of each responsible relative to provide support in accordance with subsection (c) of this Section when such relative appears in response to the notice of support obligation and provides necessary information to determine net income. An administrative support order shall be entered which shall incorporate the resulting support amount therein. When requested by the IV-D client, the CSS shall also determine (and incorporate in the administrative support order) the amount of retroactive support the responsible relative shall be required to pay by applying the relative's current net income (unless the relative provides necessary information to determine net income for the prior period) to the support guidelines in accordance with subsection (c) of this Section. The CSS shall reduce the total amount of retroactive support determined by the amount of cash contributions made by the responsible relative to the IV-D client for the benefit of the child during the retroactive period as specified in the IV-D client's affidavit of direct contribution. In no event shall credit be given in excess of the total amount of the retroactive support determined.

3) Failure to Appear

A) In instances in which the responsible relative fails to appear in response to the notice of support obligation or fails to provide necessary information to determine net income, the CSS shall enter an administrative support order by default, except as provided in subsection (d)(3)(D) of this Section. The terms of the order shall be based upon the needs of the child for whom support is sought, as defined by subsection (a)(5) of this Section. No default order shall be entered when a responsible relative fails to appear at the interview unless the relative shall have been served as provided by law with a notice of support obligation.

B) The CSS may issue a subpoena to a responsible relative who fails to appear for interview, or who appears and furnishes income information, when the CSS has information from the Title IV-D client, the relative's employer or any other reliable source indicating that:

i) financial ability, as determined from the guidelines

contained in subsection (c) of this Section, exceeds the amount indicated in case of default, as indicated in subsection (d)(3)(A) of this Section; or

ii) income exceeds that reported by the relative.

C) The CSS will not issue a subpoena under subsection (d)(3)(B) of this Section where the information from the Title IV-D client, the responsible relative's employer or other source concerning the relative's financial ability is verified through documentation such as payroll records, paycheck stubs or income tax returns.

D) In instances in which the relative fails or refuses to accept or fully respond to a Department subpoena issued to him pursuant to subsection (d)(3)(B) of this Section, the CSS may enter a temporary administrative support order by default, in accordance with subsection (d)(3)(A) of this Section, and may then, after investigation and determination of the responsible relative's financial ability to support, utilizing existing State and federal sources (for example, Illinois Department of Employment Security), client statements, employer statements, or the use of the Department's subpoena powers, enter a support order in accord with subsection (c)(1) of this Section.

4) The Department shall register, enforce or modify an order entered by a court or administrative body of another state, and make determinations of controlling order where appropriate, in accordance with the provisions of the Uniform Interstate Family Support Act [750 ILCS 22].

5) An administrative support order shall include the following:

A) the Title IV-D case name and identification number;

B) the names and birthdates of the persons for whom support is ordered;

C) the beginning date, amount and frequency of support;

D) any provision for health insurance coverage ordered under

subsection (c)(4) of this Section;

E) a provision for retroactive support ordered under subsection (c)(11), including the total retroactive support obligation and the beginning date, amount (that shall not be less than 20 percent of the current support amount) and frequency of payments to be made until the retroactive support obligation is paid in full;

F) the amount of any arrearage that has accrued under a prior support order and the beginning date, amount (that shall not be less than 20 percent of the support order) and frequency of payments to be made until the arrearage is paid in full;

G) a provision requiring that support payments be made to the State Disbursement Unit;

H) a statement informing the client and the responsible relative that they have 30 days from the date of mailing of the administrative support order in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102 and subsection (c)(2) of this Section, except that for orders entered as a result of a decision after a de novo hearing, the statement shall inform the client and the responsible relative that the order is a final administrative decision of the Department and that review is available only in accord with provisions of the Administrative Review Law [735 ILCS 5/Art III];

I) except where the order was entered as a result of a decision after a de novo hearing, a statement that the order was based upon the factors listed in subsection (c)(1)(A) of this Section and that in order to have the Department consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505], either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; and

J) in each administrative support order entered or modified on or after January 1, 2002, a statement that a support obligation required under the order, or any portion of a support obligation required under the order, that becomes due and remains unpaid for 30 days or more shall accrue simple interest at the rate of nine percent per annum.

6) Every administrative support order entered on or after July 1, 1997, shall include income withholding provisions based upon and containing the same information as prescribed in Section 160.75. The Department shall also prepare and serve income withholding notices after entry of an administrative support order and effect income withholding in the same manner as prescribed in Section 160.75.

7) The Department shall provide to each client and each responsible relative a copy of each administrative support order entered, no later than 14 days after entry of such order, by:

A) delivery at the conclusion of an interview where financial ability to support was determined. An acknowledgment of receipt signed by the client or relative or a written statement identifying the place, date and method of delivery signed by the Department's representative shall be sufficient for purposes of notice to that person.

B) regular mail to the party not receiving personal delivery where the relative fails or refuses to accept delivery, where either party does not attend the interview, or the orders are entered by default.

8) In any case where the administrative support process has been initiated for the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original county, the administrative support case shall remain in the original county unless a transfer to the other county in which the custodial parent and the non-marital child reside is requested by either party or the Department and the hearing officer assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative support process.

9) In any case in which an administrative support order is entered to establish

and enforce an arrearage only, and the responsible relative's current support obligation has been terminated, the administrative support order shall require the responsible relative to pay a periodic amount equal to the terminated current support amount until the arrearage is paid in full.

e) Judicial Process

1) The Department shall refer Title IV-D cases for court action to establish support obligations of responsible relatives, pursuant to the support statutes (see subsection (a)(3) of this Section) in matters requiring the determination of parentage (except when paternity is to be determined administratively under Section 160.61), when the court has acquired jurisdiction previously and in instances described in subsection (d)(3)(D) of this Section, and as otherwise determined by the Department.

2) The Department shall prepare and transmit pleadings and obtain or affix appropriate signature thereto, which pleadings shall include, but not be limited to, petitions to:

A) intervene;

B) modify;

C) change payment path;

D) establish an order for support;

E) establish retroactive support when the IV-D client requests it;

F) establish past-due support;

G) establish parentage;

H) obtain a rule to show cause;

I) enforce judicial and administrative support orders; and

J) combinations of the above.

3) Department legal representatives shall request that judicial orders for support require payments to be made to the State Disbursement Unit in accordance with Section 10-10.4 of the Illinois Public Aid Code [305 ILCS 5/10-10.4], Section 507.1 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/507.1], Section 320 of the Uniform Interstate Family Support Act [750 ILCS 22/320], Section 21.1 of the Illinois Parentage Act of 1984 [750 ILCS 45/21.1] and Section 25 of the Non-Support Punishment Act [750 ILCS 16/25].

f) Petitions for Release from Administrative Support Orders – Extraordinary Remedies

1) Notwithstanding the statements required by subsections (d)(5)(H) and (d)(5)(I) of this Section, more than 30 days after the entry of an administrative support order under subsection (d) of this Section, a party aggrieved by entry of an administrative support order may petition the Department for release from the order on the same grounds as are provided for relief from judgments under Section 2-1401 of the Code of Civil Procedure.

2) Petitions under this subsection (f) must:

A) cite a meritorious defense to entry of the order;

B) cite the exercise of due diligence in presenting that defense to the Department;

C) be filed no later than two years following the entry of the administrative support order, except that times listed below shall be excluded in computing the two years:

i) time during which the person seeking relief is under legal disability;

ii) time during which the person seeking relief is under duress;

iii) time during which the ground for relief is concealed from the person seeking relief;

D) be supported by affidavit or other appropriate showing as to matters not supported by the record.

3) Notice of the filing of the petition must be given and a copy of the petition must be served on the other parent, caretaker or responsible relative by certified mail, return receipt requested, or by any manner provided by law for service of process. The filing of a petition under this subsection (f) does not affect the validity of the administrative support order.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 160.61 Uncontested and Contested Administrative Paternity and Support Establishment

a) Definitions

1) "Combined paternity index" means a statistic, stated as an odds ratio in a report of genetic testing results, giving the likelihood that the man having undergone the testing is the father of the child relative to the chance that the father is another (unrelated random) man from the same racial background.

2) "Genetic testing" means deoxyribonucleic acid (DNA) tests.

3) "Service" or "Served" means notice given:

A) by personal service, certified mail (with or without return receipt requested) or restricted delivery,

B) *by a person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004* [225 ILCS 447] *or by a registered employee of a private detective agency certified under that Act,* or

C) *in counties with a population of less than 2,000,000* [305 ILCS 5/10-4], by any method provided by law for service of a summons. (See Sections 2-202, 2-203 and 2-206 of the Code of Civil Procedure [735 ILCS 5/2-202, 2-203 and 2-206].)

4) "Non-marital child", as used in this Section and Section 160.62, means a child born out of wedlock for whom paternity has not been established.

5) "Alleged father", as used in this Section and Section 160.62, means a man alleged to be the father of a non-marital child.

6) "Presumed father" shall have the meaning ascribed to that term in the Illinois Parentage Act of 1984 [750 ILCS 45].

7) "Probability of paternity" is the value converted from the "Combined Paternity Index" into the percentage of probability.

b) Uncontested Administrative Paternity Process

1) Except as otherwise determined, the Department shall establish a man's paternity of a child through the administrative process set forth in this Section, in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:

A) a non-marital child and support is sought from the alleged father;

B) a non-marital child who is in the physical custody of the alleged father or a caretaker relative other than the child's mother, and support is sought from the alleged father or from the mother, or both; or

C) presumed paternity as set forth in Section 5(a)(1) and (2) of the Illinois Parentage Act of 1984 [750 ILCS 45/5(a)(1) and (2)] in which a man other than the presumed father has been alleged to be the child's father, and notice has been provided to the alleged and presumed fathers as set forth in this Section.

2) Contact with Responsible Relatives

A) Following the IV-D client interview, the Department shall contact and interview:

i) alleged fathers to establish paternity and support obligations; and

ii) mothers to establish an alleged father's paternity of a child (where the alleged father or a caretaker relative other than the mother has physical custody of the child) and to establish the support obligation of the alleged father, the mother, or both.

B) The purpose of contact and interview shall be to obtain relevant facts, including information concerning the child's paternity and responsible relative income information (for example, paycheck stubs, income tax returns) necessary to establish the child's paternity and to determine the responsible relative's financial ability for use in establishing child support obligations.

3) At least ten working days in advance of the interview, the Department shall serve upon or provide to the alleged father from whom child support is sought, by ordinary mail, a notice of alleged paternity and support obligation, which notice shall contain the following:

A) the Title IV-D case name and identification number;

B) the name and birthdate of the non-marital child;

C) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child;

D) the date, time, place and purpose of the interview and that the alleged father may be represented by counsel;

E) that the alleged father should bring specified information regarding his income and resources to the interview;

F) that upon failure of the alleged father to appear for the interview, administrative paternity and support orders may be entered against him by default; and

G) that the alleged father may be ordered to pay current support and retroactive support, and to provide health insurance coverage for

the child.

4) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child's mother, by ordinary mail, a notice of alleged paternity and support obligation, when a man has been alleged to be the father of the child, the alleged father has physical custody of the child, and support is sought from the mother. The notice shall contain the following:

A) the Title IV-D case name and identification number;

B) the name and birthdate of the non-marital child;

C) that the mother has a legal obligation to support the child;

D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;

E) that the mother should bring specified information regarding her income and resources to the interview;

F) that the mother may be ordered to pay current support and retroactive support, and to provide health insurance coverage for the child;

G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and

H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:

i) an administrative support order may be entered against the mother by default or the Department may seek court determination of financial ability based upon the guidelines; and

ii) the Department may enter an order finding the alleged

father to be the father of the child.

5) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child's mother, by ordinary mail, a notice of alleged paternity and support obligation, when a man has been alleged to be the father of a child, an adult other than a parent of the child has physical custody of the child, and support is sought from the mother and the alleged father. The notice shall contain the following:

A) the Title IV-D case name and identification number;

B) the name and birthdate of the non-marital child;

C) that the mother has a legal obligation to support the child;

D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;

E) that the mother should bring specified information regarding her income and resources to the interview;

F) that the mother may be ordered to pay current support and retroactive support, and to provide health insurance coverage for the child;

G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and

H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:

i) an administrative support order may be entered against the mother by default or the Department may seek an administrative or court determination of financial ability based upon the guidelines; and

ii) the Department may enter an order finding the alleged

father to be the father of the child on the basis of genetic testing.

6) Where the man alleged to be the father of a child is different from a man presumed to be the father under Section 5(a)(1) and (2) of the Illinois Parentage Act of 1984 [750 ILCS 45/5(a)(1) and (2)], the Department shall send a notice to the presumed father which shall contain the following:

A) the Title IV-D case name and identification number;

B) the child's name and birthdate;

C) the name of the child's mother;

D) that the man to whom the notice is directed has been identified as the child's presumed father;

E) that another man has been alleged to be the child's father, and the name of that alleged father;

F) that the Department has scheduled an interview with the alleged father for the purpose of determining the child's paternity, and the date, time and place of the interview (the date of the interview shall not be less than ten working days after the date of the notice to the presumed father);

G) that if the presumed father fails to appear at the interview to assert his rights as the presumed father, the Department may enter an administrative order finding the alleged father to be the child's father on the basis of genetic testing, or if the alleged father and the child's mother voluntarily sign an acknowledgment that the alleged father is the father of the child; and

H) that counsel may accompany the presumed father to the interview.

7) The Department shall notify each Title IV-D client of the date, time and place of the alleged father interview and that the client may attend if the client chooses.

8) In cases involving a non-marital child:

A) The Department shall provide the alleged father and the child's mother an opportunity to establish paternity by voluntarily signing an acknowledgment of paternity (and, in a case in which there is also a presumed father, an opportunity for the mother and the presumed father to sign a denial of paternity), after being provided with information concerning the implications of signing the acknowledgment (and denial), including parental rights and responsibilities of child support, retroactive support, health insurance coverage, custody, visitation, the right to obtain and agree to be bound by the results of genetic testing, and the right to deny paternity and obtain a contested hearing.

B) The Department shall enter and, within 14 days after entry, serve or mail the parties a copy of an administrative paternity order finding the alleged father to be the father of the child in the following circumstances. An acknowledgment of receipt signed by the client or relative or a written statement identifying the place, date, and method of delivery signed by the Department's representative shall be sufficient for purposes of notice to that person. The Department shall enter the order where:

i) the alleged father and the child's mother (and any presumed father) have voluntarily signed an agreement to be bound by the results of genetic testing, and the results of such testing show that the alleged father is not excluded and that the combined paternity index is at least 1000~~500~~ to 1 and there is a 99.9% probability of paternity;

ii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him in a case in which support is sought from the alleged father, or fails to appear for scheduled genetic testing after signing an agreement to be bound by the results of genetic testing;

iii) the child's mother fails to appear for interview in response

to the Department's notice of alleged paternity and support obligation served upon her in a case where the alleged father has physical custody of the child;

iv) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where an adult other than a parent of the child has physical custody of the child, the alleged father has voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 1000~~500~~ to 1 and there is a 99.9% probability of paternity;

v) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him (or fails to appear for genetic testing after agreeing to be bound by the results of genetic testing) in a case where an adult other than a parent of the child has physical custody of the child;

vi) the presumed father fails to appear in response to the Department's notice to presumed father served upon him, the child's mother, and the alleged father have voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 1000~~500~~ to 1 and there is a 99.9% probability of paternity; or

vii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him, and the presumed father fails to appear in response to the Department's notice to presumed father served upon the presumed father.

C) The Department shall make a determination that the alleged father is not the father of the child where the results of genetic testing exclude the alleged father.

9) An agreement to be bound by the results of genetic testing under subsection (b)(8)(B) of this Section shall not be valid where the mother or alleged father is a minor, unless the parent or guardian of the minor mother or minor alleged father also signs the agreement to be bound by the results of genetic testing, except where the mother or alleged father is either emancipated or head of his or her own household with the child for whom paternity is being determined.

10) A party aggrieved by entry of an administrative paternity order, pursuant to subsection (b)(8) of this Section, may have the order vacated if, within 30 days after the authorized mailing or service of the order, the party appears in person at the office to which he or she was given notice to appear for an interview pursuant to subsection (b)(3) of this Section and files a written request for relief from the order. The Department shall then proceed with the establishment of paternity under this Section. A party may obtain relief under this subsection (b) only once in any proceeding to establish paternity.

11) The child's mother or the alleged father may void the presumption of paternity created by voluntarily signing an acknowledgment of paternity under Section 12 of the Vital Records Act [410 ILCS 535/12] by signing a rescission of paternity and filing it with the Department by the earlier of:

A) 60 days after the date the acknowledgment of paternity was signed; or

B) the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the mother or the alleged father is a party.

12) If the mother or alleged father signs a rescission of paternity, the Department shall process the case under this subsection (b).

c) Contested Paternity Hearing Officers

1) Except as otherwise directed by the Department or provided for in this Part, cases in which paternity is contested shall be referred to Department hearing officers to administratively determine paternity. The Department

shall provide the alleged father (and any presumed father) with notice and opportunity to contest paternity at a hearing to determine the existence of the father and child relationship. The notice and any administrative hearing shall be governed by 89 Ill. Adm. Code 104.200 through 104.295. Any administrative support order shall be established in accordance with Section 160.60.

2) Notice shall be given to all parties in the manner provided for service of a notice of alleged paternity and support obligation under subsections (a) and (b) of this Section or, where necessary, by publication in cases in which the whereabouts of a party or parties are unknown after diligent location efforts by the Department. Where service is by publication, the notice shall be published at least once in each week for three consecutive weeks in a newspaper published in the county in which the administrative proceeding is pending. If there is no newspaper published in that county, then the publication shall be in a newspaper published in an adjoining Illinois county having a circulation in the county in which the administrative proceeding is pending. In addition, where service is by publication, the date of the interview stated in the notice shall not be less than 30 days after first publication of the notice.

3) The Department shall enter default paternity determinations in contested administrative cases as provided for under subsection (b) of this Section. However, where notice of the administrative proceedings was served on a party by publication under subsection (c)(2) of this Section, a notice of default paternity determination shall be published in the same manner. The notice of default paternity determination shall contain the information required in an administrative paternity order under subsections (d)(1) through (9) of this Section, except that the notice of default paternity determination shall not include the mother's and father's Social Security numbers. The Department shall not proceed to establish paternity administratively under subsection (c) of this Section in those cases wherein the court has acquired jurisdiction previously or the custodial parent claims good cause for failing to cooperate in the establishment of paternity and is found to be exempt from cooperating as set forth in Section 160.35.

4) In any case where the administrative paternity process has been initiated for the custodial parent and the non-marital child, and the custodial parent

and the non-marital child move outside the original county, the paternity determination case shall remain in the original county of venue unless a transfer to another county of proper venue is requested by either party and the hearing officer assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative paternity process.

d) An administrative paternity order, whether entered under subsection (b) or (c) of this Section, shall include the following:

1) the Title IV-D case name and identification number;

2) the name and birthdate of the child for whom paternity is determined;

3) the alleged father's name and his Social Security number, if known;

4) the mother's name and her Social Security number, if known;

5) a finding that the alleged father is the father of the child, and a statement indicating how paternity was determined (for example, agreement to be bound by the results of genetic testing, default, contested hearing);

6) except in cases in which paternity is administratively determined under subsection (b)(8)(B)(ii), (v) or (viii) of this Section, or in a contested hearing under subsection (c) of this Section, a statement informing the client and responsible relative that each has 30 days after the date of mailing (or delivery at the interview) of the administrative paternity order to petition the Department for release from the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.105;

7) in cases in which paternity is administratively determined by default under subsection (b)(8)(B)(ii), (v) or (viii) of this Section, a statement informing the client and responsible relative of the relief available pursuant to subsection (b)(10) of this Section;

8) a statement that more than 30 days after entry of an administrative paternity order, a party aggrieved by entry of the administrative paternity order may petition the Department for release from the order under the provisions of subsection (e) of this Section; and

9) in cases in which paternity is administratively determined in a contested hearing under subsection (c) of this Section, a statement informing the client and responsible relative that the order is a final and binding administrative decision, and whether the order is reviewable only under the provisions of the Administrative Review Law [735 ILCS 5/Art. III].

e) Petitions For Release – Extraordinary Remedies

1) Notwithstanding the statements required by subsection (d) of this Section, more than 30 days after entry of an administrative paternity order under subsection (b) or (c) of this Section, a party aggrieved by entry of an administrative paternity order may petition the Department for release from the order.

2) Petitions under this subsection (e) must:

A) Cite a meritorious defense to entry of the order.

B) Cite the exercise of due diligence in presenting that defense to the Department.

C) Be filed no later than two years following the entry of the administrative paternity order, except that times listed below shall be excluded in computing the two years:

i) time during which the person seeking relief is under legal disability;

ii) time during which the person seeking relief is under duress; and

iii) time during which the ground for relief is concealed from the person seeking relief.

D) Be supported by affidavit or other appropriate showing as to matters not supported by the record.

3) Notice of the filing of the petition must be given and a copy of the petition

must be served on the other parent by certified mail, return receipt requested or by any manner provided by law for service of process. The filing of a petition under this subsection (e) does not affect the validity of the administrative paternity order.

f) When the paternity of a child has been administratively established under subsection (b) or (c) of this Section, the Department shall enter an administrative support order under the process set forth in Section 160.60.

g) In cases in which a final administrative determination of paternity is pending, but there is clear and convincing evidence of paternity based upon the results of genetic testing and upon motion of a party, the Department shall enter a temporary order for support in the manner provided for in Section 160.60.

h) The Department shall notify the Department of Public Health of final administrative paternity determinations, voluntary acknowledgments of paternity, denials of paternity and rescissions of paternity.

i) In cases in which a child's certificate of birth is on file in a state other than Illinois and any of the circumstances stated below occur, the Department shall forward to the other state a copy of the final administrative determination of paternity or the voluntary acknowledgment of paternity (and the presumed father's denial of paternity, if applicable) or the rescission of paternity:

1) the Department enters a final administrative determination of paternity; or

2) the paternity of a child is established by voluntary acknowledgment under Section 12 of the Vital Records Act [410 ILCS 535/12]; or

3) the alleged father or the child's mother rescinds a voluntary acknowledgment of paternity under Section 12 of the Vital Records Act [410 ILCS 535/12].

j) Judicial Process. The Department shall refer Title IV-D cases for judicial action to establish a child's paternity and a responsible relative's support obligation pursuant to the Illinois Parentage Act of 1984 [750 ILCS 45], the Revised Uniform Reciprocal Enforcement of Support Act [750 ILCS 20] or the Uniform Interstate Family Support Act [750 ILCS 22], as appropriate, in matters:

1) involving contested paternity, except where the case is appropriate for referral to a Department hearing officer;

2) where the non-marital child was not conceived in Illinois and the alleged father resides in a state other than Illinois;

3) where the court has acquired jurisdiction previously; or

4) where the results of genetic testing show that the alleged father is not excluded and the combined paternity index is less than 1000~~500~~ to 1 and there is a 99.9% probability of paternity, except when~~where~~ the case is appropriate for referral to a Department hearing officer under subsection (c) of this Section.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Procedures Applicable to All Agencies

2) Code Citation: 44 Ill. Adm. Code 750

3)

Section Numbers:	Proposed Action:
750.110	Amendment
750.210	Amendment
750.APPENDIX A	Amendment

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

5) A Complete Description of the Subjects and Issues Involved: The amendment provides the circumstances under which entities with expired IDHR Numbers can receive the same Number upon renewing their application for a Number. Further, the rules clarify that public contractors and eligible bidders may not discriminate on the basis of protective order status.

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 amendment affects units of local government that will file or are considering filing DHR Employer Report Forms.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments in writing within 45 days after publication to:

David T. Rothal
Staff Attorney

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

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

312/814-6257 or 217/785-5125 (TTY)

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Entities who file DHR Employer Report Forms will be affected.

B) Reporting, bookkeeping or other procedures required for compliance: No changes in reporting or bookkeeping procedures are required.

C) Types of Professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

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

PART 750
PROCEDURES APPLICABLE TO ALL AGENCIES

SUBPART A: DEFINITIONS

Section
750.5 Definitions

SUBPART B: EQUAL OPPORTUNITY CLAUSE

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

SUBPART C: DUTIES OF PUBLIC CONTRACTORS AND SUBCONTRACTORS

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

SUBPART D: BIDDING AND COMPLIANCE

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

750.APPENDIX A Equal Employment Opportunity Clause

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

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; codified at 8 Ill. Reg. 17889; amended at 22 Ill. Reg. 11774, effective July 1, 1998; amended at 30 Ill. Reg. 18709, effective November 20, 2006; amended at 32 Ill. Reg. 16484, effective September 23, 2008; amended at 34 Ill. Reg. 933, effective December 29, 2009; amended at 35 Ill. Reg. _____, effective _____.

SUBPART C: DUTIES OF PUBLIC CONTRACTORS AND SUBCONTRACTORS

Section 750.110 General

a) No public contractor or subcontractor shall discriminate or permit discrimination against any applicant for employment, or in the terms or conditions of employment of any employee, or in connection with any apprenticeship or other training program, because of race, color, religion, sex, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or unfavorable discharge from military service.

b) Each public contractor and subcontractor shall examine all its job classifications to determine if minority persons or women are underutilized in any classifications (see Section 750.120 of this Part). If underutilization exists in any job classification, the contractor or subcontractor shall take appropriate affirmative action to rectify any underutilization.

c) If a public contractor or subcontractor hires additional employees in order to perform any contract or portion of a contract, it will determine the availability (see Section 750.120 of this Part) of minorities and women in the areas from which it may reasonably recruit and will hire for each job classification in a way that minorities and women are not underutilized.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART D: BIDDING AND COMPLIANCE

Section 750.210 Eligibility for Public Contracts

a) DHR Filing Requirement

1) The requirements of this Section shall apply to all persons employing 15 or more individuals at any time during the 365 day period immediately preceding the date of filing. No such employer shall be eligible to be awarded a contract by a State agency, as defined in the Illinois Procurement Code [30 ILCS 500/1-15.100], unless that employer has filed with the Department a properly completed DHR Employer Report Form (Form PC-1) or holds a valid Number. This filing with the Department must take place prior to bid opening, if a bidding or competitive selection procedure is required under the Illinois Procurement Code or, in all other cases, contract award.

2) Persons covered under this Section may obtain DHR Employer Report Forms by writing to the Public Contracts Unit, Department of Human Rights, 100 W. Randolph Street, Suite 10-100, Chicago IL 60601, by accessing the Department's website at www.state.il.us/dhr, or by TTY at (217)785-5125. An DHR Employer Report Form shall be deemed filed when it is received in the Department's Chicago office, properly completed and signed.

3) After January 1, 2010, an DHR Employer Report Form, whether it is a renewal or an initial filing, will not be deemed complete unless it is accompanied by a filing fee of $75 in the form of a certified check, money order or cashier's check payable to "Department of Human Rights" and mailed to the Department of Human Rights, ATTN: Fiscal Unit, 100 West Randolph Street, Suite 10-100, Chicago, Illinois 60601. Each DHR Employer Report Form containing a separate Federal Employer Identification Number (FEIN) shall be accompanied by a separate $75 fee. The Number or FEIN of the covered person filing the DHR Employer Report Form shall appear on the certified check, money order or cashier's check. The $75 fee is non-refundable.

b) Each person who files the form required by subsection (a) shall be issued a Number as evidence of its eligibility to bid on, or be awarded, public contracts. Each Number shall expire five years from the date of issue, without further notice to the employer. A list of Numbers due to expire within a certain month will be published on the Department's website. At any time prior to the expiration date, the Department may suspend or revoke the Number in accordance with the Act or this Part. The Number shall also expire upon dissolution, sale or merger of the public contractor or eligible bidder. Each person who has an expired Number and who files a completed form pursuant to subsection (a) will receive the same Number that the Department previously issued only if the form is filed within 365 days after expiration of the Number.

c) If the Department finds that a public contractor or eligible bidder is underutilizing minorities and/or women in any job classification, as defined in Section 750.120, it shall require the submission of an acceptable affirmative action plan.

1) After submitting an acceptable plan, the contractor or eligible bidder shall file such reports as the Department may require to document the contractor's progress under the plan. The Department may require that such reports contain information that includes, but is not limited to, the contractor's or eligible bidder's:

A) identification of underutilization (as required in Section 750.120);

B) hiring and promotional goals and timetables;

C) personnel policies and procedures;

D) personnel outreach and recruitment efforts;

E) personnel transactions (including hires, promotions, discharges, layoffs and disciplinary actions);

F) employee compensation and benefits;

G) sexual harassment prevention policies and procedures;

H) allegations of unlawful discrimination (as defined in Section 750.110(a)); and

I) compliance with any specific commitments made by the contractor or eligible bidder in its plan.

2) The Department may require a contractor or eligible bidder to file these reports until such time as the underutilization has been eliminated, but no more than quarterly.

d) A public contractor or eligible bidder may voluntarily relinquish its Number by so notifying the Department in writing addressed to the Department's Chicago office. Each public contractor or eligible bidder must notify the Department in writing of any change of address or other information necessary for the Department to readily contact it.

e) A public contractor or eligible bidder that cannot be located by the Department, does not respond to a written inquiry sent to its last known address, or does not respond to a notice published in the Illinois Procurement Bulletin (see 30 ILCS 500/15-1) and/or in other publications of general circulation may be deemed to have relinquished its Number.

f) A written request of a contracting agency for an exemption shall state the specific reasons for the exemption. The Department may exempt any person from the requirements of subsection (a) when it deems that exceptional circumstances and the public interest so require. An exemption shall be granted for a specified purpose and duration but may be withdrawn by the Department at any time; provided, however, that the withdrawal shall not apply to contracts awarded prior to the withdrawal.

g) The requirements of subsection (a) shall not apply to:

1) State agencies, boards and commissions required to file affirmative action plans with the Department pursuant to 56 Ill. Adm. Code 2520.710;

2) persons located wholly outside the territorial boundaries of the United States and who have no employees in the United States and will not hire employees in the United States to perform any part of any public contract;

3) procurements designated as small purchases pursuant to 30 ILCS 500/20-20;

4) procurements designated as sole-source pursuant to 30 ILCS 500/20-25; and

5) procurements designated as emergency pursuant to 30 ILCS 500/20-30.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

Section 750.APPENDIX A Equal Employment Opportunity Clause

EQUAL EMPLOYMENT OPPORTUNITY

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

1) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, ~~sexual orientation,~~ military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.

2) That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.

3) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, ~~sexual orientation,~~ military status or an unfavorable discharge from military service.

4) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the contractor's obligations under the Act and the Department's

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF PROPOSED AMENDMENTS

Rules and Regulations. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and Rules and Regulations, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.

5) That he or she will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and the Department's Rules and Regulations.

6) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.

7) That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Transitional Bilingual Education

2) Code Citation: 23 Ill. Adm. Code 228

3) Section Number: 228.50 — Proposed Action: Amendment

4) Statutory Authority: 105 ILCS 5/2-3.39(1) and 14C

5) A Complete Description of the Subjects and Issues Involved: PA 96-1170, effective January 1, 2011, requires that school districts seeking reimbursement for bilingual education services under Article 14C of the School Code [105 ILCS 5/Art. 14C] and Part 228 (Transitional Bilingual Education) devote at least 60 percent of the funding received to "instructional costs". Currently, Part 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing) defines "instructional costs" and lists the expenditure codes for school districts to use to account for the funds used for this purpose. Reference to Table D of those rules is needed in Part 228 to ensure the uniform application of those expenditure codes when districts are budgeting, reporting, accounting for, and auditing the use of State bilingual funding.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a state mandate.

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

Shelley Helton

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield, Illinois 62777-0001

217/782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent Agendas because: The regulatory agenda was submitted for publication before the enactment of PA 96-1170 on July 22, 2010.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

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

PART 228
TRANSITIONAL BILINGUAL EDUCATION

Section

228.5 Purpose and Applicability
228.10 Definitions
228.15 Identification of Eligible Students
228.20 Student Language Classification Data
228.25 Program Options, Placement, and Assessment
228.27 Language Acquisition Services for Certain Students Exiting the Program
228.30 Establishment of Programs
228.35 Personnel Qualifications; Professional Development
228.40 Students' Participation; Records
228.50 Program Plan Approval and Reimbursement Procedures
228.60 Evaluation

AUTHORITY: Implementing Article 14C and authorized by Section 2-3.39(1) of the School Code [105 ILCS 5/Art. 14C and 2-3.39(1)].

SOURCE: Adopted May 28, 1976; codified at 8 Ill. Reg. 5176; Part repealed, new Part adopted at 11 Ill. Reg. 5969, effective March 23, 1987; amended at 17 Ill. Reg. 104, effective December 18, 1992; amended at 26 Ill. Reg. 898, effective January 15, 2002; amended at 27 Ill. Reg. 9996, effective June 20, 2003; amended at 30 Ill. Reg. 17434, effective October 23, 2006; amended at 34 Ill. Reg. 11581, effective July 26, 2010; amended at 35 Ill. Reg. _____, effective _____.

Section 228.50 Program Plan Approval and Reimbursement Procedures

a) Reimbursement for programs provided by school districts pursuant to the provisions of Article 14C of the School Code and this Part is contingent upon the submission and approval of a program plan and request for reimbursement in accordance with the requirements of Section 14C-12 of the School Code and this Section.

b) Program Plan Submission and Approval

1) Applications for program approval shall be submitted, on forms provided by the State Superintendent of Education, at least 60 calendar days prior to the start of the proposed initial or continuing program.

2) The State Superintendent of Education will waive the requirement in subsection (b)(1) of this Section only when an application is accompanied by a statement of facts showing that the waiver will enable the district to begin serving a student or students sooner than would otherwise be the case.

3) School districts shall be granted at least 45 calendar days to complete and submit applications to the State Superintendent of Education. A district's failure to submit a completed application by the date specified on the form will delay its receipt of reimbursement pursuant to subsection (c) of this Section.

4) Applications for a Transitional Bilingual Education Program and/or a Transitional Program of Instruction must contain at least the following information:

A) The number of students to be served by grade or grade equivalent and language group in a full-time or part-time program.

B) A summary description of the number and types of personnel who will provide services in the program.

C) A description of the full-time and/or part-time program to be provided to the students identified pursuant to subsection (b)(4)(A) of this Section in relation to the applicable program standards set forth in Section 228.30 of this Part.

D) Additional requirements for programs offering instruction in Spanish language arts in kindergarten and any of grades 1 through 12:

i) For the 2011-12 school year only, a description of the steps the district will take to align its curriculum in the Spanish

language arts with the standards required under Section 228.30(b)(4) this Part; and

ii) For 2012-13 and each subsequent school year, a description of the methods by which the district will measure and monitor its students' progress with respect to the standards required under Section 228.30(b)(4) of this Part.

E) A budget summary containing a projection of the program expenditures (e.g., instruction, support services, administration and transportation) and offsetting revenues for the upcoming fiscal year, and a detailed budget breakdown, including allowable program expenditures for which reimbursement is sought, other program expenditures, and total program costs. *At least 60 percent of the funding received from the State must be used for instructional costs* [105 ILCS 5/14C-12]. "Instructional costs" are limited to any of the costs described under Account Number 1000, as set forth in 23 Ill. Adm. Code 100.Appendix D (Expenditure Accounts).

F) In the case of a TBE program, an assurance that the district's Bilingual Parent Advisory Committee established pursuant to Section 14C-10 of the School Code and Section 228.30(c)(5) of this Part has had an opportunity to review the application.

G) Inclusion of certifications, assurances and program-specific terms of the grant, as the State Board of Education may require, to be signed by the applicant that is a party to the application and submitted with the application.

5) Applications that, upon review by the State Superintendent of Education staff, are found to contain the information required pursuant to this Section shall be recommended for approval by the State Superintendent of Education. If the application is found to be incomplete, State Board staff will send a written notice to applicants requesting that they supply the needed information. In order to permit accurate allocation of funds for the program among eligible recipients, the State Superintendent may establish a deadline by which applicants must supply the requested information.

6) The State Superintendent of Education will approve applications that demonstrate compliance with Article 14C of the School Code and this Part, except that the State Superintendent shall invoke subsection (b)(5) of this Section with respect to any requested information that is missing from any application submitted for approval.

c) Account of Expenditures and Reimbursement Procedures

1) An account of each district's expenditures pursuant to Article 14C of the School Code and this Part shall be maintained as required in Section 14C-12 of the School Code. Accounting procedures shall be in accordance with applicable requirements of 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing).

2) The final annual report of district expenditures, which shall include the information specified in Section 14C-12 of the School Code, shall be submitted on forms provided by the State Superintendent of Education no later than July 31 of each year.

3) School districts shall submit claims for reimbursement of programs approved in accordance with this Part on forms provided by the State Superintendent of Education and in accordance with Section 14C-12 of the School Code, as limited by subsection (b)(4)(E) of this Section. No State reimbursement shall be available with respect to any student served for fewer than five class periods per week.

4) In the event that funds appropriated by the General Assembly are insufficient to cover the districts' excess costs, the funds will be distributed on a pro rata basis and in accordance with the timelines specified in Section 14C-12 of the School Code.

5) A request to amend a district's approved budget shall be submitted on forms provided by the State Superintendent of Education whenever a district determines that there is a need to increase or decrease an approved line item expenditure by more than $1,000 or 20 percent, whichever is larger. A budget amendment must also be submitted for approval when a grantee proposes to use funds for allowable expenditures not identified in the approved budget. An amendment shall not be approved if it results in instructional costs comprising less than 60 percent of the total

reimbursement requested.

6) Budget amendment requests will be approved if the rationale provided for each amendment includes facts demonstrating that:

A) there is a need (e.g., a change in the number of students served or personnel needed); and

B) the altered expenditures and their related program services will be in compliance with the requirements of Article 14C of the School Code and this Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Early Childhood Block Grant

2) Code Citation: 23 Ill. Adm. Code 235

3)

Section Numbers:	Proposed Action:
235.10	Amendment
235.20	Amendment
235.30	Amendment
235.55	New Section
235.60	Amendment
235.70	Repeal
235.100	Repeal
235.110	Repeal
235.120	Repeal
235.130	Repeal
235.140	Repeal
235.200	Amendment
235.210	Amendment

4) Statutory Authority: 105 ILCS 5/1C-2

5) A Complete Description of the Subjects and Issues Involved: The proposed amendments flow from two public acts (P.A. 96-944 and 96-948), each of which removes from Section 2-3.71 of the School Code [105 ILCS 5/2-3.71] the original prekindergarten program for students at risk of academic failure and permanently replaces it with the 4-year-old Preschool for All (PFA) program. Additionally, staff are proposing changes in the funding priorities, and references to the parental training program throughout the rules are being removed.

The PFA program was initially established for a two-year period, during which time the agency was to award new preschool grants to only PFA programs; however, any prekindergarten at-risk program funded previous to 2006 could continue to apply for renewal grants under the prekindergarten at-risk program requirements found in Subpart A of the rules. In 2008, the "sunset" of the PFA program was again extended until June 30, 2010.

At the time the PFA program was established, Part 235 was amended to include Subpart B specific to those elements unique to the PFA program. Although Subpart B is being proposed for repeal, the PFA requirements need to be retained. Therefore these are being

moved into Subpart A without change. Currently, 486 prekindergarten at-risk programs are still being funded. All meet the current requirements for PFA, so they would have no difficulty converting to PFA programs.

As noted above, the PFA program, unlike the prekindergarten program, is open to any child, regardless of his or her at-risk status. As a way to preserve the law's original intent of ensuring that the most vulnerable children are ready to start school, the PFA program provides a funding priority first to programs that serve "primarily" children who are determined to be at risk of academic failure and then to those programs that serve "primarily" children who are from low-income families, as defined in the law. The rules addressed these priorities in Sections 235.110 and 235.120, and this text is being moved to Sections 235.30(b) and (c) and new Section 235.55, respectively.

The law sets forth the priority categories, but the rules define what is meant by "primarily" as 51 percent or more children in the given category. This percentage was established in 2006, in consultation with the Governor's Office, as a way to broaden the scope of state-funded preschools and encourage moderate-income families to participate. Even so, more than 83 percent of all children served in PFA programs in FY 2010 were considered to be at risk. Among the 190 PFA programs for which total enrollment figures are available, nearly 60 percent (111 programs) serve 80 percent or more children who are at risk. In light of the elimination of the prekindergarten at-risk programs and the need to target limited State resources to the neediest children, staff are proposing that "primarily" be defined as 80 percent or more children in a given category. It should be noted that the priority categories are used to award initial grants and the priority factors are not considered when PFA grants are renewed. Therefore existing programs should not be negatively affected by the increase in the percentage of children needed to qualify under either funding priority.

Finally, a 2005 law required that any funding provided for parental training under Section 2-3.71a of the School Code [105 ILCS 5/2-3.71a] be awarded as part of either the preschool program or the prevention initiative (0-to-age-3 program), although parental training programs in existence before the law's enactment could continue to renew their grants. The number of separate parental training programs has fallen to 84 funded in FY 2011, receiving a little more than $3 million of the approximately $209 million in Early Childhood Block Grant monies that are allocated to competitive programs in areas outside of Chicago. (Chicago receives its early childhood funding directly through its block grant; in FY 2011, it received approximately $127 million). All but five of the currently funded parental training programs serve children ages 0 to 3 years, and staff estimate that nearly half would be able to convert their existing programs to prevention

initiative grants, given the similarities between the two programs and the level of funding each currently receives.

Under the law, continuing to fund these existing, stand-alone parental training programs is "subject to appropriation". Given the reduction in the Early Childhood Block Grant in the last two years and the priority of the agency to maintain, as much as possible, the number of preschool programs, separate parental training grants will no longer be renewed, and the rules need to reflect that policy.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a State mandate.

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

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield, Illinois 62777-0001

217/782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Not-for-profit entities and small daycare centers may be recipients of grants under either the prekindergarten at-risk program or the parental training program.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) This rulemaking was not included on either of the 2 most recent Agendas because: The regulatory agenda was submitted for publication before the enactment of PA 96-944 and 96-948.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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

PART 235
EARLY CHILDHOOD BLOCK GRANT

SUBPART A: PRESCHOOL EDUCATION AND
PREVENTION INITIATIVE PROGRAMS

Section
235.10 Purpose; Eligible Applicants
235.20 Application Procedure and Content for New or Expanding Programs
235.30 Additional Program Components for Preschool Education Proposals
235.40 Additional Program Components for Prevention Initiative Proposals
235.50 Proposal Review and Approval for New or Expanding Programs
235.55 Proposal Review Process and Additional Funding Priorities for Preschool Education Programs
235.60 Application Content and Approval for Continuation Programs
235.70 Terms of the Grant (Repealed)

SUBPART B: PRESCHOOL FOR ALL CHILDREN PROGRAM

Section
235.100 Purpose; Eligible Applicants (Repealed)
235.110 Application Procedure and Content for New or Expanding Programs (Repealed)
235.120 Proposal Review and Approval for New or Expanding Programs (Repealed)
235.130 Application Content and Approval for Continuation Programs (Repealed)
235.140 Terms of the Grant (Repealed)

SUBPART C: SOCIAL AND EMOTIONAL CONSULTATION SERVICES

Section
235.200 Implementation and Purpose; Eligible Applicants
235.210 Application Procedure and Content
235.220 Proposal Review and Approval of Proposals

235.APPENDIX A Illinois Early Learning Standards

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

235.APPENDIX B Illinois Birth to Three Program Standards

AUTHORITY: Authorized by Section 1C-2 of the School Code [105 ILCS 5/1C-2] and implementing Sections 2-3.71 and 2-3.89 of the School Code [105 ILCS 5/2-3.71 and 2-3.89].

SOURCE: Adopted at 16 Ill. Reg. 10181, effective June 10, 1992; expedited correction at 16 Ill. Reg. 15186, effective June 10, 1992; amended at 26 Ill. Reg. 903, effective January 15, 2002; old Part repealed at 30 Ill. Reg. 4618 and new Part adopted at 30 Ill. Reg. 4620, effective February 28, 2006; emergency amendment adopted at 30 Ill. Reg. 11793, effective June 26, 2006, for a maximum of 150 days; emergency expired November 22, 2006; amended at 30 Ill. Reg. 19383, effective November 28, 2006; amended at 32 Ill. Reg. 13357, effective July 25, 2008; amended at 33 Ill. Reg. 4027, effective February 23, 2009; amended at 34 Ill. Reg. 11615, effective July 26, 2010; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: PRESCHOOL EDUCATION AND PREVENTION INITIATIVE PROGRAMS

Section 235.10 Purpose; Eligible Applicants

a) This Subpart A establishes the procedures and criteria for the approval of proposals submitted to the State Board of Education by eligible applicants for grants to assist in establishing early childhood education programs funded through the Early Childhood Block Grant authorized by Section 1C-2 of the School Code [105 ILCS 5/1C-2]. The Early Childhood Block Grant program shall include:

1) preschool education primarily for at-risk and low-income children ages 3 years old to kindergarten enrollment age as defined in Section 10-20.12 of the School Code [105 ILCS 5/10-20.12], to include those programs and activities that meet the requirements of Section 2-3.71~~2-3.71(a)~~ of the School Code [105 ILCS 5/2-3.71~~2-3.71(a)~~]~~ and parental training activities as authorized under Section 2-3.71a of the School Code [105 ILCS 5/2-3.71a]~~; and

2) prevention initiative for at-risk children from birth to age 3 and their families, to include those programs and activities that meet the requirements of Section 2-3.89 of the School Code [105 ILCS 5/2-3.89] ~~and parental training activities as authorized under Section 2-3.71a of the School Code~~.

3) For the purposes of this Part, "at risk" is defined as those children *who because of their home and community environment are subject to such language, cultural, economic and like disadvantages to cause them to~~that they~~ have been determined, as a result of screening procedures* (to be carried out in conformance with Section 235.20(c)(5) of this Part) *to be at risk of academic failure*. (Section 2-3.71(a)(4.5)~~(4)~~ of the School Code)

b) Eligible applicants for Early Childhood Block Grant programs include any public or private not-for-profit or for-profit entity with experience in providing educational, health, social and/or child development services to young children and their families. If the Early Childhood Block Grant program is operated in or by a child care center subject to the licensure requirements of the Illinois Department of Children and Family Services (DCFS), then that child care center must hold the appropriate licensure in accordance with rules promulgated by DCFS (see 89 Ill. Adm. Code 403 (Licensing Standards for Group Homes), 405 (Licensing Standards for Day Care Agencies), 406 (Licensing Standards for Day Care Homes), 407 (Licensing Standards for Day Care Centers) and 408 (Licensing Standards for Group Day Care Homes)).

c) Joint applications for funds may be submitted by any combination of eligible applicants, as described in subsection (b) of this Section.

1) If a joint application is submitted, then an administrative agent shall be designated.

2) A school district or other eligible applicant shall only participate in one proposal for a specific program.

d) Eligible applicants may subcontract with a private school, not-for-profit or for-profit corporation, or other governmental agency that would otherwise be eligible under subsection (b) of this Section to conduct an Early Childhood Block Grant program.

~~e) Parental training programs funded under Section 2-3.71a of the School Code prior to July 1, 2006, are not subject to the requirements of this Part, but may be awarded continuation funding in accordance with the requirements of Section 235.60 of this Part.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Section 235.20 Application Procedure and Content for New or Expanding Programs

Each applicant that is proposing a program that has not received funding in the year previous to the current application or is seeking additional funds to expand its currently funded program shall submit to the State Board of Education a proposal that includes the components specified in this Section. For purposes of this Section, an "expanded" program includes one in which the applicant is proposing to serve additional children and their families or to offer initiatives not provided under its currently funded program.

a) Grants for new or expanded programs shall be offered in years in which the level of available funding is such that one or more new or expanded programs can be supported, along with those currently funded programs that seek continuation funding in accordance with~~to~~ Section 235.60 of this Part.

b) When sufficient funding is available, the State Superintendent of Education shall issue one or more Requests for Proposals (RFP) specifying the information that applicants shall include in their proposals, informing applicants of any bidders' conferences, and requiring that proposals be submitted no later than the date specified in the RFP. The RFP shall provide at least 45 calendar days in which to submit proposals.

c) All proposals submitted in response to an RFP shall include the following components:

1) A cover page completed on a form supplied by the State Board of Education and signed by the school district superintendent or official authorized to submit the proposal or, in the case of a joint application, by the superintendent from each of the school districts and each authorized official of other eligible entities participating in the joint proposal.

2) For applicants other than public school districts, a description that includes the following:

A) the applicant's mission statement, organizational structure, and goals or policies regarding early childhood programs;

B) the applicant's existing competencies to provide early childhood education programs, to include a list of any early childhood accreditations that have been achieved; and

C) in the case of a joint application, the goals and objectives of the collaboration and a brief description of each partner's experience in providing services similar to those to be provided under the Early Childhood Block Grant program.

3) A description of the need for the program, which shall include:

A) current demographic or descriptive information regarding the community in which the families and children reside (including information on the prevalence of homelessness); and

B) the process that was used to determine the need for the program in the community in relation to other similar services that may be operating in the same geographic area.

4) A description of the population to be served, as defined in Section 235.10(a) of this Part, for each program to be funded under the Early Childhood Block Grant. This description shall include:

A) how the eligible population will be recruited;

B) the geographic area to be served; and

C) the estimated number of children and/or families to be enrolled.

5) A description of the procedures to be used to screen children and their families to determine their need for services. Results of the screening shall be made available to the program staff and parents of the children screened. All screening procedures shall include:

A) criteria to determine at what point performance on the screening instrument indicates that children are at risk of academic failure as well as to assess other environmental, economic and demographic information that indicates a likelihood that the children would be at risk;

B) screening instruments/activities related to and able to measure the child's development in at least the following areas (as appropriate for the age of the child): vocabulary, visual-motor integration, language and speech development, English proficiency, fine and gross motor skills, social skills and cognitive development;

C) written parental permission for the screening;

D) parent interview (to be conducted in the parents' home language, if necessary), including at least the following:

i) for preschool education programs, a summary of the child's health history and social development; or

ii) for prevention initiative programs, information about the parents, such as age, educational achievement and employment history;

E) vision and hearing screening, in accordance with 77 Ill. Adm. Code 685 (Vision Screening) and 675 (Hearing Screening); and

F) where practicable, provision for the inclusion of program teaching staff in the screening process.

6) A description of the parent education and involvement~~training~~ component that will be provided, which shall include activities in each of the following areas:~~to meet at least all of the requirements of Section 2-3.71a of the School Code.~~

A) communication between the home and the preschool education program that is regular, two-way and meaningful;

B) parenting skills are promoted and supported;

C) recognition that parents play an integral role in assisting student learning;

D) parents are welcome in the program, and their support and involvement are sought; and

E) parents are full partners in the decisions that affect children and families.

7) A description of how the program will coordinate with other programs, as specified in the RFP, that are in operation in the same area and that are concerned with the education, welfare, health and safety needs of young children. A copy of the written agreement between the program and any Head Start program operating in the same area shall be executed by the date and contain the information specified in Section 2-3.71(a)(4.5) of the School Code. If the Head Start program is either unable or unwilling to enter into a written agreement, the program shall notify the State Board of Education of this fact no later than December 31 of each fiscal year.

8) A description of the full-time and part-time professional and nonprofessional staff to be paid by the program, indicating that program administrators, early childhood teachers, counselors, psychologists, psychiatrists and social workers are appropriately qualified.

A) Teachers of children ages 3 to 5 years must hold an initial, initial alternative, standard, master, provisional, provisional alternative, resident teacher, or visiting international teacher early childhood certificate. (See Section 2-3.71(a)(3) of the School Code and 23 Ill. Adm. Code 1.Appendix A.)

B) By July 1, 2014, noncertificated staff employed to assist in instruction provided to children ages 3 to 5 years shall meet the requirements set forth in 23 Ill. Adm. Code 25.510(c).

C) Teachers of children ages 3 to 5 years who are assigned to a transitional bilingual program or a transitional program of instruction that is administered by a school district, either in an attendance center or a non-school-based facility, shall meet the requirements set forth in 23 Ill. Adm. Code 228.35 (Transitional Bilingual Education), as applicable.

9) A description of staff development assessment procedures and ongoing professional development activities to be conducted.

10) A description of the required program components, as set forth in either Section 235.30 or 235.40 of this Part.

11) Other information, as specified in the RFP, such as daily schedules (including the number of hours per day and days per week the program will operate), classroom locations, facility information (e.g., owner's name, terms of lease arrangement, size of classrooms and other areas to be used by the program), if applicable.

12) The plan for ensuring that the program provides either a snack, in the case of a half-day program, or a meal, in the case of a full-day program, for participating children.

13) A budget summary and payment schedule, as well as a budget breakdown, i.e., a detailed explanation of each line item of expenditure.~~Budget information, provided on forms supplied by the State Board of Education.~~ The budget shall specify that no more than 5 percent of the total grant award shall be used for administrative and general expenses not directly attributed to program activities, except that a higher limit not to exceed 10 percent may be negotiated with an applicant that has provided evidence that the excess administrative expenses are beyond its control and that it has exhausted all available and reasonable remedies to comply with the limitation.

14) A description of how the applicant will ensure that no fees will be charged of parents or guardians and their children who are enrolled and participate in Early Childhood Block Grant programs.

15) A plan for evaluating the proposed programs and activities to be included in the Early Childhood Block Grant, which shall correspond to the applicable specifications set forth in the RFP.

16) Such certifications, assurances and program-specific terms of the grant as the State Superintendent of Education may require, to be signed by each applicant that is a party to the application and submitted with the proposal. ~~Such certifications and assurances as the State Board of Education may require.~~

d) Applicants may be requested to clarify various aspects of their proposals. The contents of the approved proposal shall be incorporated into a grant agreement to be signed by the State Superintendent of Education or designee and the school district superintendent or, in the case of an entity that is not the school district, the person legally authorized to submit the proposal and bind the applicant to its contents.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 235.30 Additional Program Components for Preschool Education Proposals

a) In addition to the requirements set forth in Section 235.20, applications for funding for preschool education programs and activities, as defined in Section 235.10(a)(1) of this Part, must provide:

1)~~a)~~ a description of how the comprehensive services to be provided are aligned with the Illinois Early Learning Standards as set forth in Appendix A of this Part;

2)~~b)~~ a description of how the proposed educational program is developmentally appropriate for each child, which shall:

A)~~1)~~ be accepted based upon evidence in the proposal that the results of the individualized assessment profile for each child will be the basis for determining that child's educational program;

B)~~2)~~ address the domains of development specified in Section 235.20(c)(5)(B) and how a language and literacy development program shall be implemented for each child based on that child's individual assessment; and

C)~~3)~~ address how student progress will be assessed and documented to ensure that the educational program meets the needs of the student and provides a system whereby that student's parents are routinely advised of their child's progress;

3)~~c)~~ the maximum number of children to be screened for program eligibility and, for those children that are screened, the maximum to be served by the

educational program. The maximum number must be served in each classroom if, following completion of screening, the program has a waiting list of eligible children;

4)~~d)~~ the child/staff ratio for each classroom, which shall not exceed a ratio of 10 children to one adult, with no more than 20 children being served in each classroom;

5)~~e)~~ a description of how the program will ensure that those children who are age-eligible for kindergarten are enrolled in school upon leaving the preschool education program; ~~and~~

6)~~f)~~ for school district applicants, a description of the steps to be taken to ensure that the provisions of Article 14C of the School Code [105 ILCS 5/Art. 14C] and 23 Ill. Adm. Code 228 (Transitional Bilingual Education) are met; and~~.~~

7) a description of the provisions to be made to allow for the participation of children with disabilities in the program.

b) Each applicant also shall describe whether the program qualifies as a program serving primarily at-risk children or a program serving primarily children whose families meet the income guidelines set forth in Section 2-3.71(a)(4.5) of the School Code.

1) A program serving "primarily at-risk children" is one that:

A) has 80 percent or more of the enrolled children identified as being at risk of academic failure (see Sections 235.10(a)(3) and 235.20(c)(5) of this Part);

B) gives priority for enrollment to academically at-risk students over those students who have not been identified as academically at risk; and

C) has taken specific proactive measures to ensure that parents of children who may be at risk of academic failure are aware of the opportunity to enroll in the preschool education program.

2) A program serving "primarily children whose families meet income guidelines" is one that has 80 percent or more of the enrolled children from families meeting the income guidelines and does not qualify under subsection (b)(1) of this Section as serving primarily academically at-risk children.

3) Each applicant shall estimate the percentage of children to be enrolled who are considered to be at risk of academic failure or whose families meet income guidelines, as applicable.

c) Programs serving primarily at-risk children shall describe:

1) the process to ensure that, if the program has a waiting list of children to be enrolled, all children identified as being at risk of academic failure are enrolled before other children not identified as being at risk; and

2) the specific proactive measures the program has taken or will take to ensure that parents of children who may be at risk of academic failure are made aware of the opportunity to participate in the preschool education program.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 235.55 Proposal Review Process and Additional Funding Priorities for Preschool Education Programs

In order to meet the funding priorities set forth in Section 2-3.71(a)(4.5) of the School Code, each proposal for a preschool education program shall be reviewed using both quantitative and qualitative criteria.

a) Proposals shall first be screened to identify those proposals that meet the criteria for each funding priority (see Section 235.30(b) of this Part). Proposals shall be separated into the following three categories:

1) proposals serving primarily at-risk children;

2) proposals serving primarily children whose families meet income guidelines; and

3) all other proposals.

b) Within each of the three categories set forth in subsection (a) of this Section, the proposals shall be reviewed and scored using the qualitative criteria set forth in Section 235.50(a) of this Part to determine which proposals provide evidence of a qualified program. Qualified programs shall be those scoring at least 60 out of 100 total points.

1) All qualified programs within the category set forth in subsection (a)(1) of this Section shall be funded before funding any qualified programs in the categories set forth in subsection (a)(2) or (a)(3) of this Section.

2) All qualified programs within the category set forth in subsection (a)(2) of this Section shall be funded before funding any qualified programs in the category set forth in subsection (a)(3) of this Section.

3) Within each category, priority for funding will be given to substantially similar proposals that serve children from a community with limited preschool education programs or few resources promoting preschool education.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 235.60 Application Content and Approval for Continuation Programs

The requirements of this~~the~~ Section shall apply to those applicants seeking funding to continue preschool education and prevention initiative programs beyond the initial grant period~~ and for programs offering parental training services under Section 2-3.71a of the School Code that were first funded previous to school year 2006-07~~.

a) In order to continue to operate an Early Childhood Block Grant Program, a grantee each year shall electronically submit an application for continuation. The application shall include at least the following:

1) an overview of the program, addressing~~: A~~ the program components outlined in Section 235.20 of this Part and either Section 235.30 or Section 235.40 of this Part, as applicable for preschool education or prevention initiative programs; ~~or~~

~~B) the requirements of Section 2-3.71a of the School Code for parental training programs;~~

2) budget summary and payment schedule, as well as a budget breakdown, i.e., a detailed explanation of each line item of expenditure~~budget information for the year in which the application is being made~~; and

3) the certifications and assurances referred to in Section 235.20(c)(16) of this Part applicable to the renewal period.

b) An Early Childhood Education Block Grant Program shall be approved for continuation provided that:

1) a need continues to exist for the program, as evidenced by the number or proportion of children and families to be served;

2) the program components proposed will be effective in assisting at-risk children and families;

3) the proposed budget is cost-effective, as evidenced by the cost of proposed services in relation to the numbers to be served and the services to be provided; and

4) in the year previous to the continuation application, the applicant complied with the terms and conditions of any grant it received pursuant to this Subpart A.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 235.70 Terms of the Grant (Repealed)

~~a) Expenditure reports must be filed electronically with the Division of Funding and Disbursements four times a year.~~

~~b) Each grantee shall submit evaluation information on forms provided by the State Board of Education, specifying:~~

~~1) descriptive statistics on the population served, eligibility, screening procedures and staff qualifications and training, including any social and~~

~~emotional consultation services provided pursuant to Subpart C of this Part;~~

~~2) descriptive information, including type and quality of the educational program, amount and extent of interagency collaboration, and parent education and involvement;~~

~~3) the extent to which program objectives have been accomplished; and~~

~~4) any similar program-related information that the State Superintendent of Education may request upon 30 days' written notice.~~

~~c) An annual program review shall be conducted for each new project to ensure program quality, to assist in program improvement and to provide technical assistance.~~

~~d) All equipment purchased by the grantee for the program with Early Childhood Block Grant funds must be documented on a form supplied by the State Board of Education and be maintained in the grantee's files.~~

~~e) A time distribution worksheet shall be kept for any staff member in a part-time position.~~

~~f) Grantees shall use funds provided under the Early Childhood Block Grant *to supplement, not supplant, funds received from any other source*. (Sections 2-3.71 and 2-3.89 of the School Code)~~

~~g) Grant funds may not be used to provide religious instruction, conduct worship services, or engage in any form of proselytization.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

SUBPART B: PRESCHOOL FOR ALL CHILDREN PROGRAM

Section 235.100 Purpose; Eligible Applicants (Repealed)

~~a) This Subpart B establishes the procedures and criteria for the approval of proposals submitted to the State Board of Education by eligible applicants for~~

~~grants to assist in establishing Preschool for All Children programs authorized by Section 2-3.71(a)(4.5) of the School Code [105 ILCS 5/2-3.71(a)(4.5)].~~

~~b)~~ ~~Applicants eligible to apply for the Preschool for All Children program are those listed in Section 235.10(b) and (c) of this Part.~~

~~c)~~ ~~This Subpart is repealed as of June 30, 2010 (see Section 2-3.71(a)(4.5) of the School Code).~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 235.110 Application Procedure and Content for New or Expanding Programs (Repealed)

~~In addition to meeting the requirements set forth in Section 235.20 of this Part (with the exception of Section 235.20(c)(6) of this Part) and Section 235.30 of this Part, each application for funding for a Preschool for All Children program shall provide the following.~~

~~a)~~ ~~Each applicant shall describe whether the program qualifies as a program serving primarily at-risk children or a program serving primarily children whose families meet the income guidelines set forth in Section 2-3.71(a)(4.5) of the School Code.~~

~~1)~~ ~~A program serving "primarily at-risk children" is one that:~~

~~A)~~ ~~has 51 percent or more of the enrolled children identified as being at risk of academic failure (see Sections 235.10(a)(3) and 235.20(c)(5) of this Part);~~

~~B)~~ ~~gives priority for enrollment to academically at-risk students over those students who have not been identified as academically at risk, and~~

~~C)~~ ~~has taken specific proactive measures to ensure that parents of children who may be at risk of academic failure are aware of the opportunity for preschool education through the Preschool for All Children program.~~

~~2)~~ ~~A program serving "primarily children whose families meet income guidelines" is one that has 51 percent or more of the enrolled children~~

~~from families meeting the income guidelines and does not qualify under subsection (a)(1) of this Section as serving primarily academically at-risk children.~~

~~3)~~ ~~Each applicant shall estimate the percentage of children to be enrolled who are considered to be at risk of academic failure or whose families meet income guidelines, as applicable.~~

~~b)~~ ~~Programs serving primarily at-risk children shall describe:~~

~~1)~~ ~~the process to ensure that, if the program has a waiting list of children to be enrolled, all children identified as being at risk of academic failure are enrolled before other children not identified as being at risk; and~~

~~2)~~ ~~the specific proactive measures the program has taken or will take to ensure that parents of children who may be at risk of academic failure are made aware of the opportunity to participate in the Preschool for All Children program.~~

~~c)~~ ~~Each applicant shall describe the provisions to be made to allow for:~~

~~1)~~ ~~the participation of children with disabilities in the program, and~~

~~2)~~ ~~the continued participation of children of homeless families in the program in those instances in which the children move outside the area served by the Preschool for All Children program.~~

~~d)~~ ~~Each applicant shall describe the parent education and involvement component, which shall include activities in each of the following areas.~~

~~1)~~ ~~Communication between home and the Preschool for All Children program that is regular, two-way and meaningful.~~

~~2)~~ ~~Parenting skills are promoted and supported.~~

~~3)~~ ~~Recognition that parents play an integral role in assisting student learning.~~

~~4)~~ ~~Parents are welcome in the program, and their support and involvement are sought.~~

~~5) Parents are full partners in the decisions that affect children and families.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 235.120 Proposal Review and Approval for New or Expanding Programs (Repealed)

~~In order to meet the funding priorities set forth in Section 2-3.71(a)(4.5) of the School Code, each proposal shall be reviewed using both quantitative and qualitative criteria.~~

~~a) Proposals shall first be screened to identify those proposals that meet the criteria for each funding priority (see Section 235.110(a) of this Part). Proposals shall be separated into the following three categories:~~

~~1) proposals serving primarily at-risk children,~~

~~2) proposals serving primarily children whose families meet income guidelines, and~~

~~3) all other proposals.~~

~~b) Within each of the three categories set forth in subsection (a) of this Section, the proposals shall be reviewed and scored using the qualitative criteria set forth in Section 235.50(a) of this Part to determine which proposals provide evidence of a "qualified program". "Qualified programs" shall be those scoring at least 60 out of 100 total points.~~

~~1) All qualified programs within the category set forth in subsection (a)(1) of this Section shall be funded before funding any qualified programs in the categories set forth in subsection (a)(2) or (a)(3) of this Section.~~

~~2) All qualified programs within the category set forth in subsection (a)(2) of this Section shall be funded before funding any qualified programs in the category set forth in subsection (a)(3) of this Section.~~

~~3) Within each category, priority for funding will be given to substantially similar proposals that serve children from a community with limited preschool programs or few resources promoting preschool education.~~

~~c) The selection of proposals for funding may be based in part on the need to make programs available on a statewide basis and/or provide resources to school districts and communities with varying demographic characteristics.~~

~~d) The State Superintendent of Education shall determine the amount of individual grant awards. The final award amounts shall be based upon:~~

~~1) the total amount of funds available for the Preschool for All Children program; and~~

~~2) the resources requested in the top-ranked proposals, as identified pursuant to subsections (b) and (c) of this Section.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 235.130 Application Content and Approval for Continuation Programs (Repealed)

~~The requirements of this Section shall apply to those applicants seeking funding to continue Preschool for All Children programs beyond the initial grant period.~~

~~a) In order to continue to operate a Preschool for All Children program, a grantee each year shall electronically submit an application for continuation. The application shall include at least the following:~~

~~1) an overview of the program, addressing the program components outlined in Sections 235.20 and 235.110 of this Part;~~

~~2) budget information for the year in which the application is being made; and~~

~~3) the certifications and assurances referred to in Section 235.20(c)(16) of this Part applicable to the renewal period.~~

~~b) A Preschool for All Children program shall be approved for continuation provided that:~~

~~1) a need continues to exist for the program, as evidenced by the number or proportion of children and families to be served;~~

~~2) the program components proposed will be effective in meeting the needs of children and families to be served by the program;~~

~~3) the proposed budget is cost-effective, as evidenced by the cost of proposed services in relation to the numbers to be served and the services to be provided; and~~

~~4) in the year previous to the continuation application, the applicant complied with the terms and conditions of any grant it received pursuant to this Subpart B.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 235.140 Terms of the Grant (Repealed)

~~In addition to meeting each of the requirements set forth in Section 235.70 of this Part, each grantee receiving funding for a Preschool for All Children program shall comply with the following terms and conditions of the grant.~~

~~a) Each grantee is required to collaborate with its local Head Start program. Children currently enrolled or pre-enrolled in Head Start shall not be recruited to be in the Preschool for All Children program.~~

~~b) Each grantee with a program funded to serve primarily at-risk children shall be required to:~~

~~1) enroll 51 percent or more of children who have been identified as being at risk of academic failure,~~

~~2) give priority in enrollment to children identified as being at risk of academic failure over those children who are not academically at risk, and~~

~~3) take specific proactive measures to ensure that the parents of children who may be academically at risk are made aware of the availability of the opportunity for participation in the Preschool for All Children program.~~

~~c) Any grantee that fails to enroll the required percentage of children (at least 51 percent) in the particular prioritization category for which the proposal was~~

~~funded (i.e., at-risk status or income levels) shall have its grant award reduced proportionate to the decrease in percentage of such children enrolled.~~

~~d)~~ ~~School district grantees with programs serving homeless children must comply with all applicable provisions of the McKinney-Vento Homeless Assistance Act (42 USC 11301 et seq.). Non-school district grantees should, as much as possible, ensure that homeless children enrolled in their programs receive the support necessary for successful and continued participation, including, without limitation, arranging for appropriate transportation, when necessary in cases where such children move outside of the area served by the program during the grant period.~~

~~e)~~ ~~Staff from the Illinois State Board of Education shall conduct an annual program review for each new project to ensure program quality, to assist in program improvement and to provide technical assistance.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

SUBPART C: SOCIAL AND EMOTIONAL CONSULTATION SERVICES

Section 235.200 Implementation and Purpose; Eligible Applicants

a) The State Superintendent of Education may annually allocate a portion of the Early Childhood Block Grant to assist preschool education programs funded under Section 2-3.71 of the School Code in providing to teachers in their programs ongoing social and emotional consultation services from mental health professionals.

b) For the purposes of this Subpart C, social and emotional consultation services shall mean services that help prepare teachers to promote the social and emotional development of their students and to manage inappropriate classroom behaviors that may result from a student's exposure to such challenges as domestic violence, substance abuse, depression or other mental illness, homelessness and other potential concerns.

c) Eligible applicants are those programs operating ~~either~~ a preschool education~~Prekindergarten Program for Children at Risk of Academic Failure or a Preschool for All Children~~ program funded under Subpart A of this Part during

the fiscal year in which funds are made available for social and emotional consultation services.

1) Joint applications may be submitted, in which case one of the programs shall be designated as the administrative agent.

2) A program shall only participate in one proposal for social and emotional consultation services.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 235.210 Application Procedure and Content

a) When an allocation for social and emotional consultation services is made available pursuant to Section 235.200(a) of this Part, the State Superintendent of Education shall issue a Request for Proposals (RFP) specifying the information that applicants shall include in their proposals, informing applicants of any bidders' conferences, and requiring that proposals be submitted no later than the date specified in the RFP. The RFP shall provide at least 30 calendar days in which to submit proposals.

b) Each proposal submitted in response to an RFP shall include the following components.

1) A description of the need for the services, to include, but not limited to:

A) the number or proportion of students who are being served in each State-funded preschool education program included in the proposal who come from families experiencing the type of problems outlined in Section 235.200(b) of this Part.

B) the impact that these types of problems have in the classroom (e.g., classroom disruptions, difficulties in learning, lack of positive social interaction);

C) the number of teachers likely to use the consultation services on an ongoing basis; and

D) other resources that may be available to the program to provide similar services.

2) A description of the types of services to be provided, to include the frequency of each, the person responsible, and how the effectiveness of the service will be measured.

3) A description of the process, measures and data elements to be used to determine the effectiveness of the consultation services on teacher quality and classroom management.

4) The name of each individual to provide the social and emotional consultation services, to include a description of his or her qualifications and experience that at least addresses the person's educational attainment and specialties, experience working with a population similar to that being served in the State-funded preschool education program, and evidence that he or she possesses any licenses or other credentials required to practice his or her profession.

5) A budget summary and payment schedule, as well as a budget breakdown, i.e., a detailed explanation of each line item of expenditure.

6) Such certifications, assurances and program-specific terms of the grant as the State Superintendent of Education may require, to be signed by each applicant that is a party to the application and submitted with the proposal. ~~Such certifications and assurances as the State Board of Education may require.~~

c) Applicants may be requested to clarify various aspects of their proposals. The contents of the approved proposal shall be incorporated into a grant agreement to be signed by the State Superintendent of Education or designee and the school district superintendent or, in the case of an entity that is not the school district, the person legally authorized to submit the proposal and bind the applicant to its contents.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: School Technology Program

2) Code Citation: 23 Ill. Adm. Code 575

3)

Section Numbers:	Proposed Action:
575.100	Amendment
575.300	Amendment
575.500	Amendment
575.600	Amendment
575.700	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.117a

5) A Complete Description of the Subjects and Issues Involved: PA 96-783, effective August 28, 2009, allows nonpublic schools that are recognized by the State Board of Education under Part 425 (Voluntary Registration and Recognition of Nonpublic Schools) to apply for a loan under the School Technology Revolving Loan Fund. Under the law, priority consideration for awarding loans goes to eligible public entities that submit applications prior to October 1 during each fiscal year. "Public entities" include school districts, charter schools, area vocational centers and approved university laboratory schools. The law also directs the agency to establish a mechanism to recover any equipment purchased with loan proceeds from any nonpublic school that closes.

The proposed amendments in Section 575.500(b) address the requirement for priority consideration of public entities by having two points at which loan award determinations will be made. In the first-round consideration, all applications that are complete, approvable and submitted by eligible public entities on or before September 30 will be funded on a first come, first serve basis, and the loan award determination shall be made no later than October 15. In the second round, all other applications from public entities and those from nonpublic entities will be considered on a first come, first serve basis, as the rules now provide.

Priority consideration for public entities is further preserved in Section 575.500(e), which addresses funding applications from entities that were approvable in a given cycle but did not receive a loan due to an insufficient appropriation. Under the existing rules, these applications are funded first in the next cycle when the grade levels specified in the application are eligible. Under the proposed amendments, priority consideration will be given to applications from public entities before October 1 and then to recognized nonpublic schools after the October 1 cut-off date.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

The rules currently allow the agency to withhold general State aid (GSA) payments in the event that a public entity is in default more than 90 days on a loan payment. This ability to withhold funding is being extended to nonpublic schools in that any money received under the School Safety and Educational Improvement Block Grant may be withheld. (NOTE: Nonpublic schools do not qualify for GSA.) In FY 2010, 642 nonpublic schools received $1,570,360 in grants, with individual awards ranging from $96 to $18,179. No funding was provided for the block grant in FY 2011, however, so the proposed amendments also provide that a nonpublic school's recognition pursuant to Part 425 may be affected, if the school fails to make a loan payment.

As noted above, the law directs the State Board to recover equipment purchased with loan proceeds from recognized nonpublic schools that close. The proposed rules do not demand immediate recovery, however, instead allowing the school to continue to repay the loan (Section 575.700). In order to ensure the return of the equipment, if that becomes necessary, nonpublic schools will be required to mark all equipment as being purchased under the Technology Revolving Loan Program. The process for equipment recovery is set forth in Section 575.700(g) and includes notification and an opportunity for the nonpublic school to pay the outstanding loan balance due.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a State mandate.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 90 days after the publication of this Notice to:

Shelley Helton

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield, Illinois 62777-0001

217/782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Nonpublic schools

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER o: MISCELLANEOUS

PART 575
SCHOOL TECHNOLOGY PROGRAM

SUBPART A: SCHOOL TECHNOLOGY GRANTS

Section
575.10 Purpose (Repealed)
575.20 Eligible Expenditures (Repealed)
575.30 Application Procedure and Content (Repealed)
575.40 Matching Requirements (Repealed)
575.50 Proposal Review and Approval (Repealed)
575.60 Terms of the Grant (Repealed)

SUBPART B: SCHOOL TECHNOLOGY REVOLVING LOAN PROGRAM

Section
575.100 Purpose
575.200 Use of Funds
575.300 Maximum Amount of Loan
575.400 Application Procedures
575.500 Review of Application and Notification of Loan Award
575.600 Repayment Procedures
575.700 Terms and Conditions of Loan Agreement

AUTHORITY: Implementing and authorized by Section 2-3.117a of the School Code [105 ILCS 5/2-3.117a].

SOURCE: Adopted at 20 Ill. Reg. 3522, effective February 13, 1996; emergency amendment at 22 Ill. Reg. 9591, effective May 22, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19770, effective November 2, 1998; amended at 23 Ill. Reg. 8370, effective July 12, 1999; amended at 25 Ill. Reg. 8167, effective June 21, 2001; amended at 26 Ill. Reg. 915, effective January 15, 2002; amended at 28 Ill. Reg. 13227, effective September 17, 2004; amended at 29 Ill. Reg. 18474, effective October 31, 2005; amended at 32 Ill. Reg. 8773, effective May 27,

2008; amended at 33 Ill. Reg. 11639, effective July 22, 2009; amended at 35 Ill. Reg. _____, effective _____.

SUBPART B: SCHOOL TECHNOLOGY REVOLVING LOAN PROGRAM

Section 575.100 Purpose

a) This Subpart establishes the procedures and criteria for applications submitted by eligible participants pursuant to the School Technology Revolving Loan Program established by Section 2-3.117a of the School Code [105 ILCS 5/2-3.117a].

1) For the purpose of the School Technology Revolving Loan Program, "laboratory schools" eligible to apply for a loan are only those schools as defined in Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)].

2) A nonpublic school is eligible to apply for a loan if it is recognized pursuant to 23 Ill. Adm. Code 425 (Voluntary Registration and Recognition of Nonpublic Schools).

b) *Priority shall be given to school districts, charter schools, area vocational centers, and laboratory schools that apply for a loan prior to October 1 of each year.* (Section 2-3.117a of the School Code)

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 575.300 Maximum Amount of Loan

The maximum loan amount shall be calculated on a per-pupil basis, based upon the total enrollment in the eligible grade levels. A participant may request a loan amount that does not exceed $150 per pupil in the eligible grade levels plus a base amount of $25,000; however, no single loan in a given fiscal year shall exceed $6,000,000. The State Board of Education shall annually notify participants of the maximum loan amount to which they are entitled.

a) For school districts, approved university laboratory schools, ~~and~~ charter schools~~,~~ and recognized nonpublic schools, the maximum loan amount shall be calculated using the enrollment as reported as of the last school day in September of the immediately preceding school year.

b) For area vocational centers, the maximum loan amount shall be calculated using the enrollment as reported to the State Board of Education in April of the immediately preceding school year.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 575.500 Review of Application and Notification of Loan Award

a) Applications shall be reviewed for completeness. If an application is incomplete, then State Board of Education staff shall request the needed information from the applicant no later than 20 calendar days after~~following~~ receipt of the application. Applications will not be processed until all requested information is received.

b) All complete applications that demonstrate compliance with Section 2-3.117a of the School Code and this Subpart shall be approved for funding ~~on a first come, first served basis, as long as funds appropriated for a given fiscal year remain available. Loan award determinations shall be made on December 15 of each fiscal year~~.

1) Approved applications from school districts, charter schools, area vocational centers and laboratory schools received on or before September 30 of each fiscal year shall receive a loan on a first-come, first-served basis, as long as funds appropriated for a given fiscal year remain available. Applications from recognized nonpublic schools shall not be considered in this round regardless of date of receipt. Loan award determinations under this subsection (b)(1) shall be made no later than October 15 of each fiscal year.

2) Approved applications from school districts, charter schools, area vocational centers and laboratory schools received on or after October 1 and applications from any recognized nonpublic school shall receive a loan on a first-come, first-served basis, as long as funds appropriated for a given fiscal year remain available after funding any loans awarded pursuant to subsection (b)(1) of this Section. Loan award determinations under this subsection (b)(2) shall be made no later than December 15 of each fiscal year.

c) Notification of a loan award shall be made no later than 15 calendar days after~~following~~ the applicable award determination date established in subsection

(b) of this Section. Applications not approved for funding on or before December 15 of the fiscal year in which the application was made shall expire.

d) Applications received after the December 1 deadline in a given fiscal year shall not be considered for funding in that fiscal year and shall be returned to the applicant.

e) School districts, charter schools, area vocational centers and laboratory schools~~Applicants~~ otherwise eligible but not receiving loans due to insufficiency of the appropriation shall receive first consideration in the next fiscal year in which the grade levels specified on the application shall be eligible for funding. Otherwise eligible but not funded recognized nonpublic schools shall receive first consideration among all applications received on or after October 1 in that fiscal year.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 575.600 Repayment Procedures

Loans shall be repaid within three years (see Section 2-3.117a of the School Code).

a) The rate of interest shall be stipulated on the loan application and *shall not be greater than 50% of the rate for the most recent date shown in the 20 G.O. Bonds Index of average municipal bond yields as published in the most recent edition of The Bond Buyer, published in New York, New York* (Section 2-3.117a(a) of the School Code). Interest shall be computed semi-annually.

b) Payments on the loan (principal and interest) shall be made by check twice annually in six equal installments.

1) Loan payments shall be due on December 1 and June 1, with the first payment under each loan due on June 1 of the fiscal year in which the loan is made.

2) Checks shall be made payable to the "ISBE-School Technology Revolving Loan Fund" and mailed to the Fiscal and Procurement~~Administrative Services~~ Division, Illinois State Board of Education, 100 North First Street, W-380, Springfield, Illinois 62777-0001.

3) 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 shall be waived when either:

A) the postmark date on the envelope used to submit the payment is dated five days or more before the end of the 15-day grace period; or

B) the payment is not received at the State Board's office within 60 days after~~following~~ the due date, but the participant provides to the State Superintendent of Education no later than 70 days beyond the due date the following:

i) a copy of the original check, dated at least five days before the end of the 15-day grace period;

ii) a copy of the stop payment order placed on the original check; and

iii) a new check issued in the amount due.

c) A participant may prepay the balance due on the loan in its entirety on any scheduled payment date or at the midpoint between any two scheduled payment dates, provided that the participant first contacts the State Superintendent's designee to obtain the total amount of the principal and interest due at that time.

d) A participant may prepay a portion of the balance due on the loan on any scheduled payment date or at the midpoint between any two scheduled payment dates, provided that the participant first contacts the State Superintendent's designee for instructions. The remaining payments shall be recalculated to account for any early repayment, and the participant shall be notified accordingly.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 575.700 Terms and Conditions of Loan Agreement

a) Loan proceeds under this program shall be used exclusively for the purposes listed in Section 575.200 of this Part and shall be expended in accordance with the approved application and the participant's policies and procedures related to such

expenditures. In the event that the loan proceeds are not expended in the manner approved, then the participant, upon written notification from the State Board of Education, shall be required to submit, by the next payment due date, payment of the outstanding principal of the loan and the amount of the interest accrued as of that payment due date.

b) Loan proceeds shall be obligated no later than six months following receipt of the loan.

c) Use of loan proceeds shall be accounted for in accordance with the rules of the State Board of Education at 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing) or, for participants not subject to those rules, in accordance with generally accepted standards of governmental accounting principles.

d) Loan recipients shall submit to the State Board of Education a report detailing how the loan proceeds were used. This expenditure report, to be submitted on a form supplied by the State Board of Education, shall be due not later than nine months after~~following~~ receipt of the loan.

e) Along with the report required under subsection (d) of this Section, each recognized nonpublic school shall submit an inventory listing the property identification number, serial number, description and location of each piece of equipment purchased with loan proceeds. The recognized nonpublic school shall identify (tag) each piece of equipment as "Purchased with proceeds from the State of Illinois' School Technology Revolving Loan Fund, School Year ___"; this designation may be removed once the outstanding principal of the loan and any amount of interest accrued has been paid in full. The recognized nonpublic school shall not transfer or assign any interest in the equipment during the pendency of the loan.

f) In~~Subject to Section 575.400(b)(5) of this Part, in~~ the event of default that is not cured within 90 calendar days, the State Superintendent~~Board~~ of Education or designee shall take the action specified either in subsection (f)(1) or (f)(2) of this Section~~deduct the amount owed from the participant's next payment of General State Aid~~. The participant shall be ineligible for additional loans until good standing has been restored; however, the chartering school district of a charter school participant or the school districts participating in a vocational education cooperative shall be allowed to apply for loans on behalf of their respective

school districts.

1) For school districts, charter schools, area vocational centers and laboratory schools, the State Superintendent or designee shall deduct the amount owed from the participant's next payment of General State Aid, subject to the provisions of Section 575.400(b)(5) of this Part.

2) For recognized nonpublic schools, the State Superintendent or designee shall deduct the amount owed from the participant's next payment of school safety and educational improvement block grant funding. In any fiscal year in which the recognized nonpublic school does not receive a block grant, or when either the grant is not funded by the State or the grant payment is insufficient to cover the amount owed, then the school shall be subject to consequences for noncompliance as set forth in 23 Ill. Adm. Code 425.50 (Renewal of Recognition).

g) A recognized nonpublic school that ceases operating before the outstanding principal of the loan and the amount of interest accrued is repaid shall notify the State Superintendent or designee in writing of that fact no later than 10 days after the closure. The notification of closure shall include the name, address and telephone number of the party responsible for the loan, as specified by his or her signature on the loan agreement, and the address of the location at which the equipment is being stored. The nonpublic school shall continue to repay the loan as set forth in Section 575.600 of this Part until the outstanding principal and the amount of the interest accrued is paid in full.

1) In the event of default that is not cured within 90 calendar days, the State Superintendent or designee shall notify the school in writing by certified mail, return receipt requested, that payment of the outstanding principal and amount of the interest accrued as of the date of the notification is due immediately. The school shall have 30 days from the date the notification is received to submit its payment.

2) Failure to make the payment by the date set forth in subsection (g)(1) of this Section shall result in the repossession of any equipment purchased with the loan proceeds. Written notification of this fact shall be provided to the school, along with a copy of the equipment inventory required by subsection (e) of this Section. The notification shall include the time and

date on which State Board of Education staff will pick up the equipment, as listed on the inventory.

3) A recognized nonpublic school that has closed and has paid in full the outstanding principal and the amount of the interest accrued is not subject to the requirements of this subsection (g).

h) The contents of the approved application and terms and conditions of the loan shall be incorporated into a promissory note. Should the indebtedness represented by the promissory note or any part thereof be collected at law or in equity or in bankruptcy, receivership or other court proceedings, or if the promissory note is placed in the hands of attorneys for collection after default, the participant agrees to pay, in addition to the principal and interest due, reasonable attorneys' fees and costs of collection.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Airport Hazard Zoning

2) Code Citation: 92 Ill. Adm. Code 16

3) Section Number: 16.APPENDIX A
Proposed Action: Amend

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to amend Section 16.Appendix A to add more publicly-owned airports to the Part. This Part prescribes requirements for administration and enforcement that restrict the height of structures, equipment, and vegetation, and that regulate the use of property, on or in the vicinity of publicly-owned airports. The following airports will be covered under this Part upon adoption of this proposed rulemaking: Pinckneyville-DuQuoin (PJY), Freeport (FEP), Centralia (ENL), Savanna (SFY), Pekin (C15), Bloomington (BMI) and Litchfield (3LF)

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking will not create or expand a State mandate.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed amendment. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

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

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

217/524-3838

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Any future development, business, or small municipality located in the vicinity of those airports being added to this Part may be affected by this rulemaking. Additionally, other proposed objects situated under the surfaces described in Sections 16.40 - 16.110 such as farm ground, grain elevators, power companies, cell towers, radio towers, TV towers, etc., may also be impacted by this rulemaking. However, this proposed rulemaking has no impact on pre-existing businesses per Section 16.140.

B) Reporting, bookkeeping or other procedures required for compliance: The Division must be notified concerning objects on airport property. (See Section 16.160.) For objects off airport property, the person or sponsor will be directed by the Division to notify the FAA. No bookkeeping requirements are anticipated.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

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

14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

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

PART 16
AIRPORT HAZARD ZONING

Section

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

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

SOURCE: Adopted at 28 Ill. Reg. 2421, effective January 26, 2004; amended at 29 Ill. Reg. 12529, effective July 27, 2005; amended at 30 Ill. Reg. 14117, effective August 10, 2006; amended at 31 Ill. Reg. 3191, effective February 9, 2007; amended at 32 Ill. Reg. 7806, effective May 1, 2008; amended at 33 Ill. Reg. 5474, effective March 30, 2009; amended at 33 Ill. Reg. 17371, effective December 8, 2009; amended at 35 Ill. Reg. _____, effective _____.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

Section 16.APPENDIX A Applicable Airports

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

TAZ	Taylorville	Christian	39-31.95	89-19.84	X		May 1, 2008

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

Airport	City	County	ARP Latitude	ARP Longitude	Fed Std.	State Std.	Applicable Date
BLV	Belleville/Mascoutah	St. Clair	38-32.71	89-50.11	X		May 1, 2008
AAA	Lincoln	Logan	40-09.52	89-20.10	X		May 1, 2008
VLA	Vandalia	Fayette	38-59.49	89-09.97	X		May 1, 2008
UGN	Waukegan	Lake	42-25.33	87-52.07	X		May 1, 2008
MDH	Carbondale	Jackson	37-46.69	89-15.12	X		May 1, 2008
CPS	Cahokia/Sauget	St. Clair	38-34.24	90-09.37	X		May 1, 2008
MQB	Macomb	McDonough	40-31.21	90-39.14	X		May 1, 2008
PWK	Wheeling/Prospect Heights	Cook	42-06.85	87-54.09	X		May 1, 2008
9I0	Havana	Mason	40-13.32	90-01.37	X		May 1, 2008
C09	Morris	Grundy	41-25.53	88-25.12	X		May 1, 2008
1H2	Effingham	Effingham	39-04.23	88-32.01	X		May 1, 2008
CMI	Champaign/Savoy	Champaign	40-02.36	88-16.68	X		May 1, 2008
I63	Mt. Sterling	Brown	39-59.25	90-48.25	X		May 1, 2008
RSV	Robinson	Crawford	39-00.96	87-38.99	X		May 1, 2008
ALN	East Alton/Bethalto	Madison	38-53.42	90-02.76	X		May 1, 2009
PNT	Pontiac	Livingston	40-55.47	88-37.44	X		May 1, 2009
AJG	Mt. Carmel/St. Francisville	Lawrence	38-36.39	87-43.60	X		May 1, 2009
RPJ	Rochelle	Ogle	41-53.58	89-04.70	X		May 1, 2009
1H8	Casey	Clark	39-18.15	88-00.24	X		May 1, 2009
MVN	Mt. Vernon	Jefferson	38-19.40	88-51.51	X		May 1, 2009
ARR	Aurora/Sugar Grove	Kane	41-46.32	88-28.54	X		May 1, 2009
2H0	Shelbyville	Shelby	39-24.63	88-50.73	X		May 1, 2009
IKK	Kankakee	Kankakee	41-04.28	87-50.78	X		May 1, 2009
FOA	Flora	Clay	38-39.90	88-27.18	X		May 1, 2009
UIN	Quincy	Adams	39-56.58	91-11.67	X		May 1, 2009
GRE	Greenville	Bond	38-50.17	89-22.70	X		Jan. 1, 2010
M30	Metropolis	Massac	37-11.15	88-45.04	X		Jan. 1, 2010
DNV	Danville	Vermilion	40-11.98	87-35.73	X		Jan. 1, 2010
RFD	Rockford	Winnebago	42-11.72	89-05.83	X		Jan. 1, 2010

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

1C5	Bolingbrook	Will	41-41.76	88-07.75	X		Jan. 1, 2010

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

Airport	City	County	ARP Latitude	ARP Longitude	Fed Std.	State Std.	Applicable Date
PPQ	Pittsfield	Pike	39-38.33	90-46.71	X		Jan. 1, 2010
SAR	Sparta	Randolph	38-08.94	89-41.92	X		Jan. 1, 2010
PJY	Pinckneyville-DuQuoin	Perry	37-58.67	89-21.63	X		Mar. 1, 2011
FEP	Freeport	Stephenson	42-14.77	89-34.92	X		Mar. 1, 2011
ENL	Centralia	Marion	38-30.91	89-05.47	X		Mar. 1, 2011
SFY	Savanna	Carroll	42-02.75	90-06.48	X		Mar. 1, 2011
C15	Pekin	Tazewell	40-29.29	89-40.55	X		Mar. 1, 2011
BMI	Bloomington	McLean	40-28.63	88-54.96	X		Mar. 1, 2011
3LF	Litchfield	Montgomery	39-09.75	89-40.48	X		Mar. 1, 2011

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Bloomington-Normal Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 24

3)

Section Numbers:	Proposed Action:
24.10	Repeal
24.20	Repeal
24.30	Repeal
24.40	Repeal
24.50	Repeal
24.60	Repeal
24.70	Repeal
24.80	Repeal
24.90	Repeal
24.100	Repeal
24.110	Repeal
24.120	Repeal
24.130	Repeal
24.140	Repeal
24.150	Repeal
24.160	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Bloomington-Central Illinois Regional Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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 amendments pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed repealer: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

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

217/524-1580

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

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

217/524-3838

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

PART 24
BLOOMINGTON-NORMAL AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

24.10 Introduction
24.20 Short Title
24.30 Definitions
24.40 Surfaces and Height Limitations
24.50 Use Restrictions
24.60 Non-Conforming Uses
24.70 Permits
24.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
24.90 Variances
24.100 Notice of Construction or Alteration
24.110 Enforcement
24.120 Appeal and Judicial Review
24.130 Penalties
24.140 Conflicting Regulations
24.150 Severability
24.160 Effective Date

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

SOURCE: Adopted at 3 Ill. Reg. 27, p. 198, effective July 7, 1979; codified at 6 Ill. Reg. 15257; repealed at 35 Ill. Reg. _____, effective _____.

Section 24.10 Introduction

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

b) These zoning regulations are adopted at the request of the Blooomington-Normal Airport Authority, a municipal corporation of the State of Illinois, as owner and operator of Bloomington-Normal Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act as approved July 17, 1945, (Ill. Rev. Stat. 1981, ch. 15 ½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Bloomington-Normal Airport and of occupants of land or to property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Bloomington-Normal Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Bloomington-Normal Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of

Aeronautics, State of Illinois, that the zoning regulations for Bloomington-Normal Airport be adopted as follows:

Section 24.20 Short Title

These zoning regulations shall be known and may be cited as "Airport Hazard Zoning Regulations for Bloomington-Normal Airport".

Section 24.30 Definitions

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

"Airport" – The Bloomingtion-Normal Airport located near Bloomington, in Part of Section 1, Township 23 North, Range 2 East, and Parts of Sections 5 and 6, Township 23 North, Range 3 East of the Third Principal Meridian, McLean County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 875' above mean sea level (AMSL).

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

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 40° 28' 49" N and Longitude 88° 55' 04" W.

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

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

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

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

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

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

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

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

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

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

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 24.40 hereof.

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

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

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

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

"State" – The State of Illinois.

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

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

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 24.90.

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

Section 24.40 Surfaces and Height Limitations

a) Establishment and Creation

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

2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include nonprecision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Bloomington-Normal Airport prepared by Casler, Houser & Hutchison, Inc., Jacksonville, Illinois, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 875' AMSL, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall

be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150' above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200' beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of a utility runway with only visual approaches;

B) 1,500' for that end of runway other than a utility runway with only visual approaches:

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;

E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 875' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' AGL or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Bloomington-Normal Airport and this surface increases in height in the proportion of 100' for each additional nautical mile of distance from the airport reference point up to a maximum of 500'.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50' above the surface of the land.

Section 24.50 Use Restrictions

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

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

Section 24.60 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Sec. 24.60 (a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Bloomington-Normal Airport Authority.

Section 24.70 Permits

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

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in these regulations, no permit shall be required for any growth or structure less than 75' of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200' from each end of the

runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75' of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75' of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits prescribed by these regulations.

Section 24.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

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

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within

ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 24.90 Variances

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

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

Section 24.100 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Sec. 24.40 hereof with respect to Bloomington-Normal Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more

than 3200' in actual length.

B) 50 to 1 for a horizontal distance of 10,000' from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200' in actual length.

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

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Bloomington-Normal Airport:

1) Any antenna structure of 20' or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

3) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a

city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a) shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, North Walnut Street Road, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgement of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) above within 30 days of receipt of such notice.

2) The acknowledgement will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation, although an application for variance pursuant to

Section 24.90 of these regulations would be required; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation and an application for variance pursuant to Sec. 24.90 of these regulations would be required; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 24.110 Enforcement

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

Section 24.120 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of McLean County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, par. 3-101 et seq.).

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 24.130 Penalties

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

Section 24.140 Conflicting Regulations

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

Section 24.150 Severability

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

Section 24.160 Effective Date

a) These zoning regulations shall be in full force and effect from and after concurrence by the Illinois Commerce Commission, adopted by the Department and ten (10) days after filing with the Secretary of State.

b) Concurred in by Order of the Illinois Commerce Commission dated June 6, 1979.

c) Adopted by Order of the Division of Aeronautics dated June 14, 1979.

d) Filed with the Office of the Secretary of State on June 27, 1979 and became

effective on July 7, 1979.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Freeport Albertus Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 44

3)

Section Numbers:	Proposed Action:
44.5	Repeal
44.10	Repeal
44.20	Repeal
44.30	Repeal
44.40	Repeal
44.50	Repeal
44.60	Repeal
44.70	Repeal
44.80	Repeal
44.90	Repeal
44.100	Repeal
44.110	Repeal
44.120	Repeal
44.130	Repeal
44.140	Repeal
44.150	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Freeport-Albertus Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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 amendments pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed repealer: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

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

217/524-1580

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

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

217/524-3838

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER
TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 44
FREEPORT ALBERTUS AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

44.5 Introduction
44.10 Short Title
44.20 Definitions
44.30 Surfaces and Height Limitations
44.40 Use Restrictions
44.50 Non-Conforming Uses
44.60 Permits
44.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
44.80 Variances
44.90 Notice of Construction or Alteration
44.100 Enforcement
44.110 Appeal and Judicial Review
44.120 Penalties
44.130 Conflicting Regulations
44.140 Severability
44.150 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1991, ch. 15½, par. 48.1 et seq.).

SOURCE: Emergency rule adopted March 9, 1977; codified at 6 Ill. Reg. 15271; amended at 16 Ill. Reg. 12601, effective July 27, 1992; repealed at 35 Ill. Reg. _____, effective _____.

Section 44.5 Introduction

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

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

b) These zoning regulations are adopted at the request of the City of Freeport, a municipal corporation of the State of Illinois, as owner and operator of the Freeport Albertus Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15 ½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Freeport Albertus Airport and of occupants of land or to property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Freeport Albertus Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Freeport Albertus Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Freeport Albertus Airport be adopted as follows:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 44.10 Short Title

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

Section 44.20 Definitions

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

"Airport" – The Freeport Albertus Airport, located near Freeport, in the East ½ of the Southwest ¼; and part of the Southeast ¼ of Section 16; also the North 25/40ths of the Northeast ¼of the Northwest ¼ of Section 21; all in Township 26 North, Range 8 East of the Fourth Principal Meridian, Stephenson County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 847' above mean sea level (AMSL).

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

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 42° 15' 00" N and Longitude 89° 35' 00" W.

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

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

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

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

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

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

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

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

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

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

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

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 44.30 hereof.

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

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

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

"State" – The State of Illinois.

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

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

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 44.80.

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

Section 44.30 Surfaces and Height Limitations

a) Establishment and Creation

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

2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface,

conical surface, primary surface, approach surface (to include non-precision instrument approach precision instrument approach, and visual approach), transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Freeport Albertus Airport consisting of two (2) sheets, prepared by James F. Gastel, Consulting Engineer, and dated September 28, 1976, and referred to hereinafter as the zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62707-8415.) An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces described in subsections (b) through (h) are hereby established, and height limitations are hereby established in those subsections for each of the surfaces.

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 847' above mean sea level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.

3) The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precisions instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of a utility runway with only visual approaches;

B) 1,500' for that end of runway other than a utility runway with only visual approaches;

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument visibility minimums greater than three-fourths of a statute mile;

E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 847' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' above ground level (AGL) and above the established airport elevation, whichever is higher, within three (3) nautical miles of the established reference point of Freeport Albertus Airport. This surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50' above the surface of the land.

Section 44.40 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

NOTICE OF PROPOSED REPEALER

Section 44.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 44.50 (a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the City of Freeport.

Section 44.60 Permits

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

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

2) In the areas lying within the limits of visual, precision instrument and non-

precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75' of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75' of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 44.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

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

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 44.80 Variances

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

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

Section 44.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 44.30 hereof with respect to Freeport Albertus Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport.

B) 50 to 1 for a horizontal distance of 10,000' from the nearest point of the nearest runway of the airport.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where

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

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Freeport Albertus Airport:

1) Any antenna structure of 20' or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a) of this section shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, North Walnut St Road, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration,

the 30-day requirement in paragraph (a) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) of this section.

2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the Statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 44.100 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations.

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

Section 44.110 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Stephenson County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110 pars. 3-101 et. seq.).

Section 44.120 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred Dollars ($200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Stephenson County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 44.130 Conflicting Regulations

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 44.140 Severability

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

Section 44.150 Effective Date

a) Whereas, the immediate application of the provisions of these zoning regulations are necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.

b) Adopted by the Division of Aeronautics on the 21st day of January, 1977.

c) Concurred in by the Illinois Commerce Commission on the 2nd day of March, 1977.

d) Certified copy filed with the Secretary of State's Office on the 9th day of March, 1977.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Litchfield Municipal Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 58

3)

Section Numbers:	Proposed Action:
58.10	Repeal
58.20	Repeal
58.30	Repeal
58.40	Repeal
58.50	Repeal
58.60	Repeal
58.70	Repeal
58.80	Repeal
58.90	Repeal
58.100	Repeal
58.110	Repeal
58.120	Repeal
58.130	Repeal
58.140	Repeal
58.150	Repeal
58.160	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Litchfield Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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 amendments pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed repealer: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

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

217/524-1580

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

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

217/524-3838

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

PART 58
LITCHFIELD MUNICIPAL AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

58.10 Introduction
58.20 Short Title
58.30 Definitions
58.40 Surfaces and Height Limitations
58.50 Use Restrictions
58.60 Non-Conforming Uses
58.70 Permits
58.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
58.90 Variances
58.100 Notice of Construction or Alteration
58.110 Enforcement
58.120 Appeal and Judicial Review
58.130 Penalties
58.140 Conflicting Regulations
58.150 Severability
58.160 Effective Date

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

SOURCE: Adopted at 5 Ill. Reg. 1695, effective February 6, 1981; codified at 6 Ill. Reg. 15570; repealed at 35 Ill. Reg. _____, effective _____.

Section 58.10 Introduction

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

b) These zoning regulations are adopted at the request of the Litchfield Airport Authority, a municipal corporation of the State of Illinois, as owner and operator of Litchfield Municipal Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Litchfield Municipal Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Litchfield Municipal Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Litchfield Municipal Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of

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

Section 58.20 Short Title

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

Section 58.30 Definitions

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

"Airport" – The Litchfield Municipal Airport located near Litchfield, in the Southwest ¼ of Section 5 and the West 840' of the Southeast ¼ of Section 5; the Northeast ¼ of the Southeast ¼ of Section 6, Township 8 North, Range 5 West of the Third Principal Meridian, Montgomery County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 690.00' above mean sea level (AMSL).

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

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 39° 09' 46" N and Longitude 89° 40' 41" W.

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

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

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

"Department" – The Department of Transportation.

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

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

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

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

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

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

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

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 58.40 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is

planned and so indicated by an Federal Aviation Administration (FAA) Approved Layout Plan.

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

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

"State" – The State of Illinois.

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

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

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 58.90.

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

Section 58.40 Surfaces and Height Limitations

a) Establishment and Creation

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

2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Litchfield Municipal prepared by William J. Murray and Associates, Inc. of Springfield, Illinois (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 690' above mean sea level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall

be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision

instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of a utility runway with only visual approaches;

B) 1,500' for that end of runway other than a utility runway with only visual approaches:

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;

E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 690.0' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' above ground level (AGL) and above the established airport elevation, whichever is higher, within three (3) nautical miles of the established reference point of Litchfield Municipal Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

Section 58.50 Use Restrictions

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

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

Section 58.60 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 58.60(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Litchfield Airport Authority.

Section 58.70 Permits

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

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of

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

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 50 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 58.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

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

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to

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

Section 58.90 Variances

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

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

Section 58.100 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 58.40 hereof with respect to Litchfield Municipal Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3,200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.

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

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Litchfield Municipal Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

3) Any object that would be shielded by existing structures of a permanent

and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a) of this section shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the thirty (30) day requirement in paragraph (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) above within 30 days of receipt of such notice.

2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the

Department, or these zoning regulations but would not be a hazard to air navigation, although an application for Variance pursuant to Section 58.90 of these regulations would be required; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation and an application for Variance pursuant to Section 58.90 of these regulations would be required; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 58.110 Enforcement

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

Section 58.120 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Montgomery County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, "The

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Administrative Review Law" (Ill. Rev. Stat. 1981, ch. 110. par. 3-101 et seq.).

Section 58.130 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred Dollars ($200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Montgomery County, Illinois, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 58.140 Conflicting Regulations

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

Section 58.150 Severability

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

Section 58.160 Effective Date

a) These zoning regulations shall be in full force and effect from and after concurrence by the Illinois Commerce Commission, adoption by the Department and after filing with the Secretary of State.

b) Concurred in by Order of the Illinois Commerce Commission dated November 13, 1980.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

c) Adopted by Order of the Division of Aeronautics dated December 16, 1980.

d) Filed with the Office of the Secretary of State on February 6, 1981, and became effective on February 6, 1981.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Pekin Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 73

3)

Section Numbers:	Proposed Action:
73.5	Repeal
73.10	Repeal
73.20	Repeal
73.30	Repeal
73.40	Repeal
73.50	Repeal
73.60	Repeal
73.70	Repeal
73.80	Repeal
73.90	Repeal
73.100	Repeal
73.110	Repeal
73.120	Repeal
73.130	Repeal
73.140	Repeal
73.EXHIBIT A	Repeal
73.ILLUSTRATION A	Repeal
73.ILLUSTRATION B	Repeal
73.EXHIBIT B	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Pekin Airport under 92 Ill. Adm. Code 16, (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed amendments pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed repealer: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

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

217/524-1580

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

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

217/524-3838

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

PART 73
PEKIN AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

73.5 Introduction
73.10 Short Title
73.20 Definitions
73.30 Surfaces and Height Limitations
73.40 Use Restrictions
73.50 Non-Conforming Uses
73.60 Permits
73.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
73.80 Variances
73.90 Notice of Construction or Alteration
73.100 Enforcement
73.110 Appeal and Judicial Review
73.120 Penalties
73.130 Conflicting Regulations
73.140 Severability
73.EXHIBIT A Illustrations
73.ILLUSTRATION A Location Map
73.ILLUSTRATION B Zoning Map
73.EXHIBIT B Proposed Construction Permit Request

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

SOURCE: Adopted and codified at 7 Ill. Reg. 16996, effective December 23, 1983; repealed at 35 Ill. Reg. _____, effective _____.

Section 73.5 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Pekin Municipal Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Pekin Municipal Airport zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois 62706. For an example of this information see Exhibit A); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of City of Pekin, a municipal corporation of the State of Illinois, as owner and operator of Pekin Municipal Airport, pursuant to the authority conferred by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). *It is hereby found that an airport hazard endangers the lives and property of users of* Pekin Municipal Airport *and of occupants of land* or property *in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of* Pekin Municipal Airport *and the public investment therein.*

1) *Accordingly, it is declared:*

A) *that the creation or establishment of an airport hazard is a public nuisance and an injury to the* region *served by* Pekin Municipal Airport;

B) *that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and*

C) that the prevention of these hazards *should be accomplished to the extent legally possible, by the exercise of the police power, without compensation.*

2) *It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land* or interests in land.

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Pekin Municipal Airport be adopted as follows.

Section 73.10 Short Title

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

Section 73.20 Definitions

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

"Airport" – The Pekin Municipal Airport located near Pekin, in the South ½ of the North ½ of Section 33, Township 24 North, Range 5 West of the Third Principal Meridian, Tazewell County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing strip; the established airport elevation shall be 530' above mean sea level (AMSL).

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

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 40º 29' 13" N and Longitude 89º 40' 47" W.

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

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Section 73.30 of these rules.

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

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

State of Illinois.

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

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

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

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

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

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

"Permit" - A permit issued by the Department of Transportation, Division of Aeronautics, pursuant to Section 73.60 of these rules.

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

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more

thereof, situated in whole or in part within any of the surfaces established by Section 73.30 hereof.

"Precision Instrument Runway" – A precision instrument runway is one which uses an instrument landing system (ILS) or precision approach radar (PAR). A planned precision instrument runway is one for which a precision approach system is indicated on an Illinois DOT approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, Capital Airport, Springfield, Illinois 62706.

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

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

"State" – The State of Illinois.

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

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

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 73.80.

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

"Visual Runway" – A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on an Illinois DOT approved Airport Layout Plan, which is on file at the Department of

Transportation, Division of Aeronautics, Bureau of Engineering, Capital Airport, Springfield, Illinois 62706.

Section 73.30 Surfaces and Height Limitations

a) Establishment and Creation

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

2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surface are shown on the Airport Zoning Map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics Capital Airport, Springfield, Illinois 62706. For an example of this information see Exhibit A) for Pekin Municipal Airport prepared by William J. Murray & Associates, Inc., Springfield, Illinois. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevation of 530'

AMSL, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

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

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150' above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the approach surfaces to the precision instrument runways and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200' beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument

approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of utility runway with only visual approaches;

B) 1,500' for that end of a runway other than a utility runway with only visual approaches;

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths statute mile;

E) 4,000' for that end of a non-precision instrument runway, other

than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90~) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 530' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90~) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Pekin Municipal Airport and this surface increases in height in the proportion of 100' for each additional nautical mile of distance from the airport reference point up to a maximum of 500'.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as

prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50' above the surface of the land.

Section 73.40 Use Restrictions

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

a) Electrical or Electronic Interference

1) In such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft.

2) If a complaint of such interference is received by the Department, a Flight Safety Coordinator shall determine if a hazard exists by observing all relevant factors including the type of aircraft using the airport, the traffic patterns at the airport, the time of day and frequency of the interference.

b) Flashing or Illuminated Structures

1) The installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots.

2) In determining whether such a hazard exists, a Flight Safety Coordinator shall consider factors which include, but are not limited to, assessing the difficulty pilots have in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off or maneuvering of aircraft, the proximity of the illuminated structure to the airport, and the traffic patterns at the airport.

c) Smoke

1) A use which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

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

Section 73.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting

1) Notwithstanding the provisions of Section 73.50(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the City of Pekin.

2) In determining the necessity for such markers and lights the Department shall consider all relevant conditions, including but not limited to, the traffic patterns, volume and type of aircraft at the airport, the general weather patterns in the vicinity, the topography of the airport and the surrounding area, and the height of the structure and its proximity to the approach and transition slopes of the existing runways.

Section 73.60 Permits

a) Future Uses – Except as specifically provided in Paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or

tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

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

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75' of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75' of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits prescribed by these regulations.

Section 73.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

a) *no permit shall be granted* by the Department *that* will *allow such structure* or use or growth *to exceed the applicable height limit or otherwise deviate from* these *zoning regulations; and*

b) *whether application is made for a permit, or not, the Department may* issue an order pursuant to Section 73.70(c), in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling *the owner of the non-conforming structure* or use or growth, *at his own expense, to lower, remove, reconstruct, or equip such* structure or use or growth *as may be necessary to conform to* these zoning *regulations. If the owner of the non-conforming structure* or use or growth *shall neglect or refuse to comply with such order* within ten (10) *days after notice thereof, the Department may proceed to have* such structure or use or growth *so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the state, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the state by suit in equity for the enforcement thereof as in the case of other liens.*

c) The Department shall issue an order if it is determined that the non-conforming structure or use or growth interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport, and whether or not the airport has precision instrument or instrument runways.

Section 73.80 Variances

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

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

c) In making the determination to allow variances the Department will consider, but is not limited to considering, the proximity of the hazard to the normal flight path or traffic patterns at the airport, the proximity of other non-conforming uses, structures or objects of natural growth which would impair the use of the airport, the height of the object, the volume of air traffic at the airport, the type of aircraft using the airport, the type of navigational aids used at the airport, the length and width of existing runways, and plans for future expansion of the airport.

Section 73.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established herein by Section 73.30 hereof with respect to Pekin Municipal Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3200' in actual length.

B) 50 to 1 for a horizontal distance of 10,000' from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200' in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where

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

4) Any construction or alteration that would exceed a standard of the statute or these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Pekin Municipal Airport:

1) Any antenna structure of 20' or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device less than 50 feet in height.

3) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not obstruct or interfere with aircraft using the airport, or cause any additional adverse effect on airport operations by considering the height and location of the existing uses and structures.

c) Form and Time of Notice

1) Each person who is required to notify the Department under Paragraph (a) of this section shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 (for an example, see Exhibit B) to the Division of Aeronautics, Capital Airport, One Langhorne Bond Drive, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in Paragraph (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgement of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under Paragraph (a) above within 30 days of receipt of such notice.

2) The acknowledgement will state that a study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation, although an application for variance pursuant to Section 73.80 of these regulations would be required; or

C) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation and an application for variance pursuant to Section 73.80 of these regulations would be required; or

D) Would require lighting or marking standards as prescribed in Advisory Circular, Department of Transportation, Federal Aviation

Administration, Subject: Obstruction Marking and Lighting, AC No: 70/7460-1F, September 27, 1978, as provided in 14 CFR 77.11(b)(3), January 1, 1983, and information on how the structure should be marked and lighted in accordance with such FFA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 73.100 Enforcement

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

Section 73.110 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department. (Ill. Rev. Stat. 1981, ch. 15½, par. 48.29).

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Tazewell County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, "The Administrative Review Law" (Ill. Rev. Stat. 1981, ch. 110, pars. 3-101 et seq.).

Section 73.120 Penalties

Each violation of these zoning regulations or of *any regulations, orders, or rulings promulgated* hereunder shall constitute an airport hazard and a *petty offense*, and such hazard shall be removed by proper legal proceedings and each day a violation continues to exist shall constitute a separate offense. *In addition, the Department may institute in the* Circuit Court of Tazewell County, Illinois, or *Circuit Court of any county in which the airport hazard* is wholly or partly *located, an action to prevent* and *restrain, correct or abate, any violation of* these *zoning regulations, or*

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

Section 73.130 Conflicting Regulations

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

Section 73.140 Severability

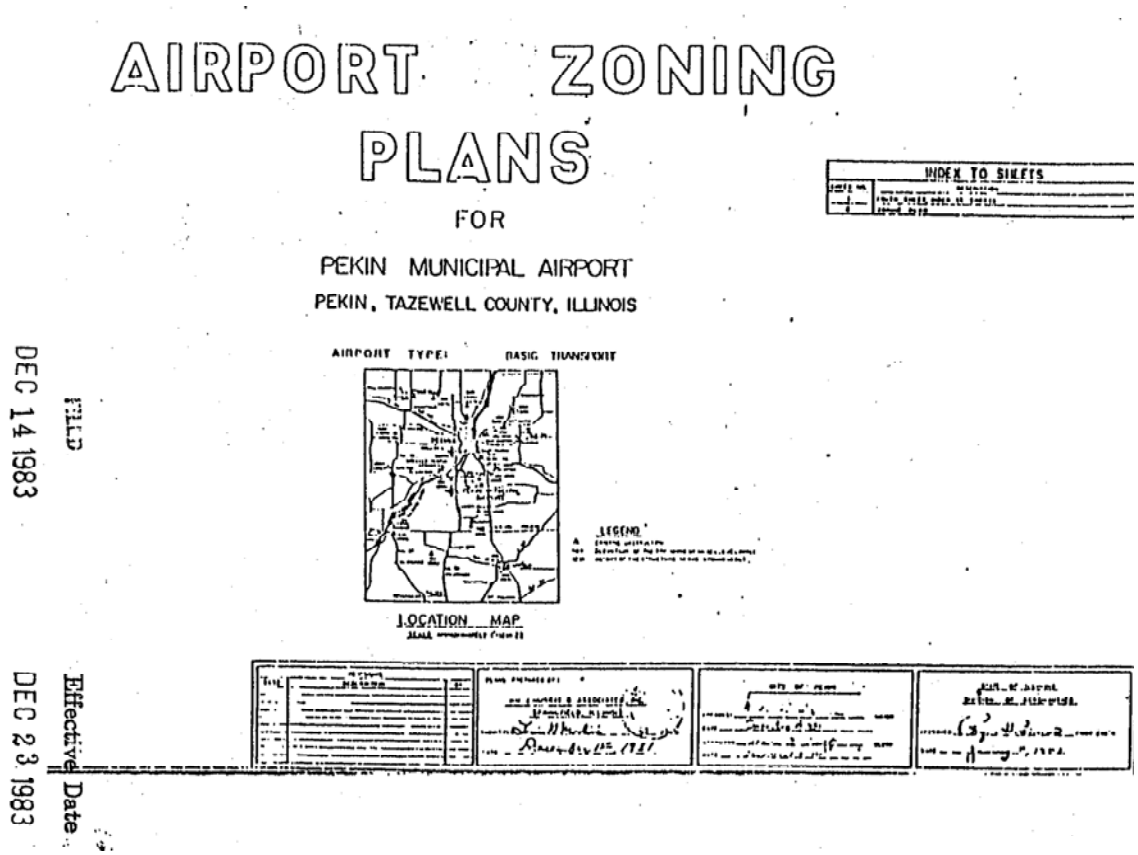
If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 73.EXHIBIT A Illustrations

Section 73.ILLUSTRATION A Location Map



DEPARTMENT OF TRANSPORTATION

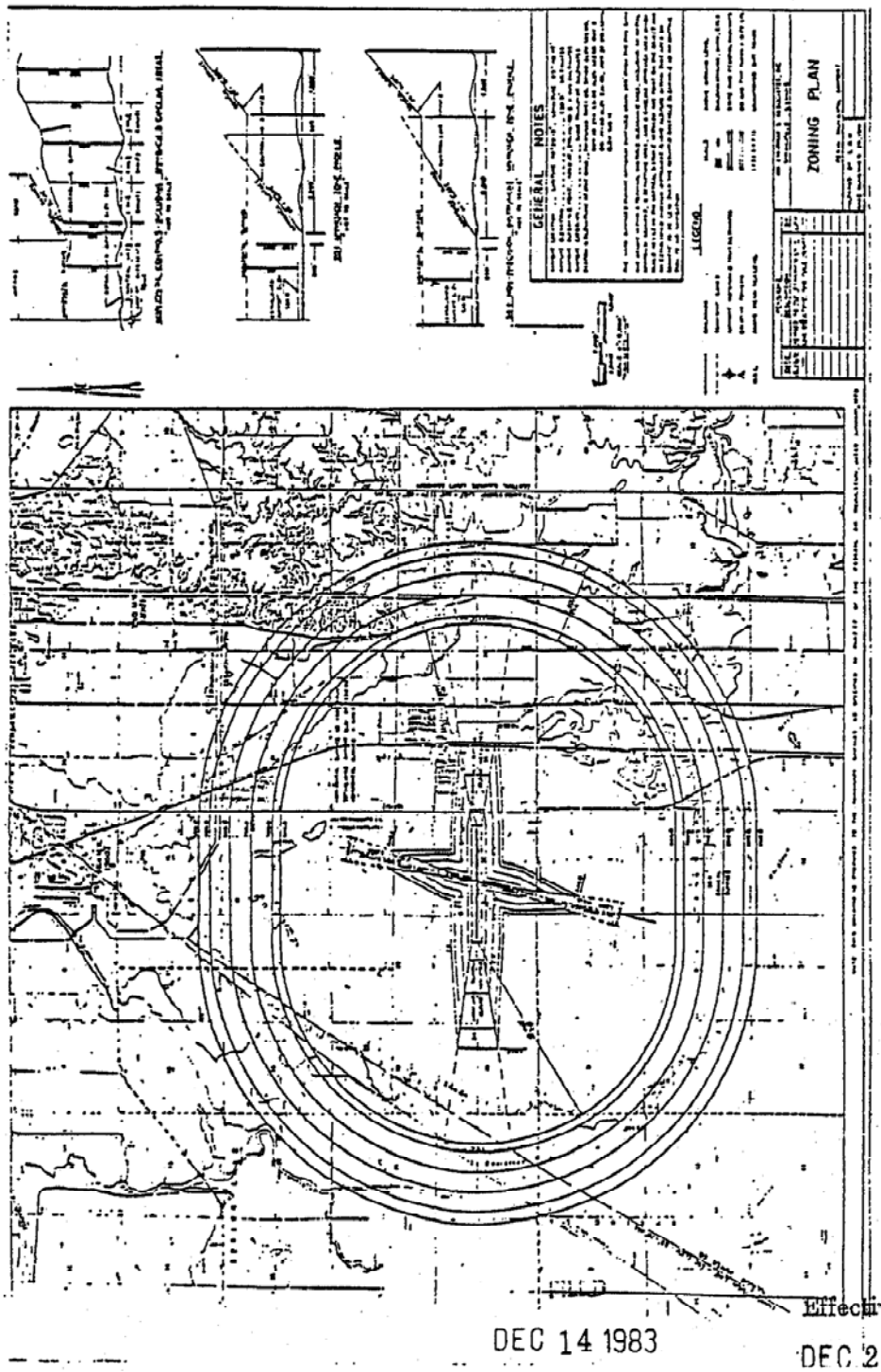
NOTICE OF PROPOSED REPEALER

Section 73.EXHIBIT A Illustrations

Section 73.ILLUSTRATION B Zoning Map

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER



Effective Date

DEC 14 1983

DEC 23 1983

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 73.EXHIBIT B Proposed Construction Permit Request

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION
DIVISION OF AERONAUTICS
PROPOSED CONSTRUCTION PERMIT REQUEST

Name of Individual or Company
Making Request _____

Address _____
Street City Zip Phone

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

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Date:	Title or Position:	Signature

Form DA 39

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Stransky Memorial Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 84

3)

Section Numbers:	Proposed Action:
84.10	Repeal
84.20	Repeal
84.30	Repeal
84.40	Repeal
84.50	Repeal
84.60	Repeal
84.70	Repeal
84.80	Repeal
84.90	Repeal
84.100	Repeal
84.110	Repeal
84.120	Repeal
84.130	Repeal
84.140	Repeal
84.150	Repeal
84.160	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Savanna-Tri-Township Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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 amendments pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed repealer: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

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

217/524-1580

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

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

217/524-3838

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

PART 84
STRANSKY MEMORIAL AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

84.10 Introduction
84.20 Short Title
84.30 Definitions
84.40 Surfaces and Height Limitations
84.50 Use Restrictions
84.60 Non-Conforming Uses
84.70 Permits
84.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
84.90 Variances
84.100 Notice of Construction or Alteration
84.110 Enforcement
84.120 Appeal and Judicial Review
84.130 Penalties
84.140 Conflicting Regulations
84.150 Severability
84.160 Effective Date

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

SOURCE: Adopted at 4 Ill. Reg. 39, p. 287, effective September 11, 1980; codified at 6 Ill. Reg. 15295; repealed at 35 Ill. Reg. _____, effective _____.

Section 84.10 Introduction

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

b) These zoning regulations are adopted at the request of the Tri-Township Municipal Airport Authority, a municipal corporation of the State of Illinois, as owner and operator of Stransky Memorial Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act as approved July 17, 1945, (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Stransky Memorial Airport and of occupants of land or to property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Stransky Memorial Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Stransky Memorial Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Stransky Memorial

Airport be adopted as follows:

Section 84.20 Short Title

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

Section 84.30 Definitions

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

"Airport" – The Stransky Memorial Airport located near Savanna in the North ½ of the Northwest ¼ and a part of the South ½ of the Northwest ¼ of Section 25, lying East of S.B.I. Route 84, Township 24, North, Range 3 East of the Fourth Principal Meridian, Carroll County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 614.00' above mean sea level (AMSL).

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

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 42º 02' 37" N and Longitude 90º 06' 26" W.

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

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

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

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

State of Illinois.

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

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

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

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

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

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

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

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 84.40 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is

planned and is so indicated by an FAA Approved Layout Plan.

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

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

"State" – The State of Illinois.

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

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

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 84.90.

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

Section 84.40 Surfaces and Height Limitations

a) Establishment and Creation

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

2) Such airport imaginary surfaces are hereby created and established, in

order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Stransky Memorial Airport prepared by A and E Engineering, Inc., of Indianapolis, Indiana, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 614.00 feet above mean sea level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal

surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of a utility runway with only visual approaches;

B) 1,500' for that end of runway other than a utility runway with only visual approaches:

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument other than utility, having visibility minimums greater than three-fourths of a statute mile;

E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90~) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 614.00' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90~) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' above ground level and above the established airport elevation, whichever is higher, within three (3) nautical miles of the established reference point of Stransky Memorial Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

Section 84.50 Use Restrictions

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

which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 84.60 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 84.60(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Tri-Township Municipal Airport Authority.

Section 84.70 Permits

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

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces

beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits prescribed by these regulations.

Section 84.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

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

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming

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

Section 84.90 Variances

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

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

Section 84.100 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 84.40 hereof with respect to Stransky Memorial Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point

of the nearest runway of the airport, with at least one runway more than 3,200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.

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

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department or these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Stransky Memorial Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

3) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of

equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a) shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, Springfield, Illinois 62705. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) above within 30 days of receipt of such notice.

2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard

to air navigation, although an application for variance pursuant to Section 84.90 of these regulations would be required; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation and an application for Variance pursuant to Section 84.90 of these regulations would be required; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 84.110 Enforcement

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

Section 84.120 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Carroll County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, par. 3-101 et seq.).

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 84.130 Penalties

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

Section 84.140 Conflicting Regulations

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

Section 84.150 Severability

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

Section 84.160 Effective Date

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

b) Concurred in by Order of the Illinois Commerce Commission dated August 6, 1980.

c) Adopted by Order of the Division of Aeronautics dated September 4, 1980.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

d) Filed with the Office of the Secretary of State on September 11, 1980 and became effective on September 11, 1980.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Residential Mortgage License Act of 1987

2) Code Citation: 38 Ill. Adm. Code 1050

3)

Section Numbers:	Adopted Action:
1050.110	Amendment
1050.210	Amendment
1050.340	Amendment
1050.410	Amendment
1050.460	Repealed
1050.490	Amendment
1050.610	Amendment
1050.660	Amendment
1050.920	Amendment
1050.1175	Amendment
1050.1176	New Section
1050.1177	New Section
1050.1335	Amendment
1050.1530	Amendment
1050.1570	Amendment
1050.1580	Amendment
1050.2112	Amendment
1050.2175	Amendment

4) Statutory Authority: Implementing and authorized by the Residential Mortgage License Act of 1987 [205 ILCS 635/4-1(g)]

5) Effective Date of Rulemaking: October 29, 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 rulemaking, including any material incorporated by reference, is on file in the principal office of the Division of Insurance and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 33 Ill. Reg. 17009; December 18, 2009

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version:

a. In the main source note, strike all text following the close citation bracket.
b. Section 1050.210(e)(2), on the third line, deleted the following proposed text "with the license renewal application" and restore "on the initial license anniversary date".
c. Section 1050.490(b), on the second line, add "or registered exempt company" following "banker". In the second sentence, add "and exempt company registrants" following "bankers" and also add "Illinois" following "dollar amount of". In the third sentence, add "and registered exempt company" following "banker" and also add "Illinois" following "upon".
d. In the paragraph under the table, add "and registered exempt companies" following "bankers" and also add "Illinois" following "reports of".
e. Section 1050.210(c)(1), add "or registration" following "license,". Also, add "or registrations" following "licensees" as well.
f. Section 1050.210(c)(2), add "or registration" following "license,".
g. Section 1050.1175(a)(2), (5), (11) and 12; and also (b)(3), change "name(s)" to "name or names".
h. Section 1050.1175(a)(3) and (4), change "Borrower(s)" to "Borrower or borrowers".
i. Section 1050.1175(a)(13), change "Appraiser(s)" to "Appraiser or appraisers".
j. Section 1050.1175(d)(4), change "borrower(s)" to "borrower or borrowers".
k. Section 1050.1177(c), change "borrower(s)" to "borrower or borrowers".

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

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of rulemaking: The Division of Banking has now adopted amendments to supplement changes in P.A. 96-0112 that implement the Nationwide Mortgage Licensing System (NMLS) pursuant to the federal SAFE Act. The surety bond provision is changed from a $20,000 coverage amount for all residential mortgage licensees to a sliding scale from $25,000 to $150,000 based upon a residential mortgage licensee's volume of Illinois loan activities and including coverage of individual

Mortgage Loan Originator employees. Fee payment methods, activity reporting, and loan originator evaluations have been revised in connection with P.A. 96-0112 and implementation of the NMLS. The Division of Banking has also adopted additional amendments to update, clarify, and enhance other provisions of this Part. These included changes to fees to conform to P.A. 95-1047, designating all fees as non-refundable, adding late and returned check fees and removing obsolete examiner's expense provisions. The Division has also provided a process for the Director to make inquiry of certain out-of-state residential mortgage licensee's compliance with full service office requirements. Additionally, changes to, and re-formatting of the following Sections occurred: current maintenance of records; loan logs; record retention and required loan application file documents are being adopted. Specifically, these included changes to create separate new loan logs for servicers and secondary purchasers and for reverse mortgage products, and to permit all residential mortgage licensees (except servicers) to electronically store records (now only mortgage brokers may do so). Finally, the administrative pre-hearing steps relating to status calls have been updated, and are now adopted.

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

Department of Financial and Professional Regulation
Alan Anderson, Senior Counsel
IDFPR Division of Banking
122 S. Michigan, Suite 1900
Chicago, IL 60603

312/793-3000

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 1050
RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

SUBPART A: DEFINITIONS

Section
1050.100 High Risk Home Loan Definitions; Applicability
1050.110 Definitions
1050.115 Administrative Decision (Repealed)
1050.120 Assisting (Repealed)
1050.125 Commissioner (Repealed)
1050.130 Control (Repealed)
1050.132 Conviction or Convicted (Repealed)
1050.135 Document (Repealed)
1050.140 Employee (Repealed)
1050.145 First Tier Subsidiary (Repealed)
1050.150 Hearing Officer (Repealed)
1050.155 High Risk Home Loan (Repealed)
1050.157 Licensee (Repealed)
1050.160 Material (Repealed)
1050.165 Other Regulatory Agencies (Repealed)
1050.170 Party (Repealed)
1050.175 Principal Place of Business (Repealed)
1050.180 Repurchase a Loan (Repealed)
1050.185 State (Repealed)
1050.190 Servicer (Repealed)
1050.195 Points and Fees (Repealed)
1050.197 Total Loan Amount (Repealed)
1050.198 Approved Credit Counselor (Repealed)
1050.199 Home Equity Loan (Repealed)

SUBPART B: FEES

Section
1050.210 Fees
1050.220 License Fees (Repealed)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1050.230 Amended License Fees – Corporate Changes (Repealed)
1050.240 Duplicate Original License Fees (Repealed)
1050.245 Loan Originator Registration Application Fee (Repealed)
1050.246 Loan Originator Registration Transfer Fee (Repealed)
1050.247 Loan Originator Registration Reactivation Fee (Repealed)
1050.248 Duplicate Loan Originator Certificate of Registration or Pocket Card Fee (Repealed)
1050.250 Examination Fees (Repealed)
1050.255 Direct Expenses of Out-of-State Examinations (Repealed)
1050.260 Additional Full-Service Office Fees (Repealed)
1050.270 Hearing Fees (Repealed)
1050.280 Late Fees (Repealed)
1050.290 Manner of Payment (Repealed)

SUBPART C: LICENSING

Section
1050.310 Application for an Illinois Residential Mortgage License
1050.320 Application for Renewal of an Illinois Residential Mortgage License
1050.330 Waiver of License Fee
1050.340 Full-Service Office
1050.350 Additional Full-Service Office
1050.360 Continuing Education Requirements for Certain Employees (Repealed)

SUBPART D: OPERATIONS AND SUPERVISION

Section
1050.410 Net Worth
1050.420 Line of Credit (Repealed)
1050.425 Examination
1050.430 Late Audit Reports
1050.440 Escrow
1050.450 Audit Workpapers
1050.460 Selection of Independent Auditor (Repealed)
1050.470 Proceedings Affecting a License
1050.475 Change in Business Activities
1050.480 Change of Ownership, Control or Name or Address of Licensee
1050.490 Bonding Requirements

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

SUBPART E: ANNUAL REPORT OF MORTGAGE ACTIVITY, MORTGAGE BROKERAGE ACTIVITY AND MORTGAGE SERVICING ACTIVITY

Section
1050.610 Filing Requirements
1050.620 Reporting Forms
1050.630 Annual Report of Mortgage Activity
1050.640 Annual Report of Brokerage Activity
1050.650 Annual Report of Servicing Activity
1050.660 Verification

SUBPART F: FORECLOSURE RATE

Section
1050.710 Computation of National Residential Mortgage Foreclosure Rate
1050.720 Computation of Illinois Residential Mortgage Foreclosure Rate
1050.730 Excess Foreclosure Rate
1050.740 Foreclosure Rate Hearing
1050.750 Director's Authority – Unusually High Rate

SUBPART G: SERVICING

Section
1050.810 New Loans
1050.820 Transfer of Servicing
1050.830 Real Property Tax and Hazard Insurance Payments
1050.840 Payment Processing
1050.850 Toll-Free Telephone Arrangement
1050.860 Payoff of Outstanding Mortgage Loan

SUBPART H: ADVERTISING

Section
1050.910 General Prohibition
1050.920 Definition of Advertisement
1050.930 Compliance with Other Laws
1050.940 Requirements
1050.950 Misleading and Deceptive Advertising Prohibition

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

SUBPART I: LOAN BROKERAGE PRACTICES

Section
1050.1010 Loan Brokerage Agreement
1050.1020 Loan Brokerage Disclosure Statement
1050.1030 Prohibited Practice

SUBPART J: LOAN APPLICATION PRACTICES

Section
1050.1100 High Risk Home Loan Application Practices; Applicability
1050.1110 Borrower Information Document
1050.1120 Description of Required Documentation
1050.1130 Maintenance of Records (Repealed)
1050.1140 Loan Application Procedures
1050.1150 Copies of Signed Documents
1050.1160 Confirmation of Statements
1050.1170 Cancellation of Application
1050.1175 Loan Log~~Maintenance of Records~~
1050.1176 Record Retention
1050.1177 Required Loan Application File Documents
1050.1180 Ability to Repay
1050.1185 Verification of Ability to Pay Loan
1050.1186 Fraudulent or Deceptive Practices
1050.1187 Prepayment Penalty

SUBPART K: GENERAL LENDING PRACTICES

Section
1050.1200 High Risk Home Loan Lending Practices; Applicability
1050.1210 Notice to Joint Borrowers
1050.1220 Inaccuracy of Disclosed Information
1050.1230 Changes Affecting Loans in Process
1050.1240 Prohibition of Unauthorized Lenders
1050.1250 Good Faith Requirements
1050.1260 Pre-paid Insurance Products and Warranties
1050.1270 Refinancing Prohibited in Certain Cases
1050.1272 Balloon Payments
1050.1275 Financing of Certain Points and Fees

1050.1276 Payments to Contractors
1050.1277 Negative Amortization
1050.1278 Negative Equity
1050.1280 Counseling Prior to Perfecting Foreclosure Proceedings

SUBPART L: COMMITMENT AND CLOSING PRACTICES

Section
1050.1305 Approval Notice
1050.1310 Inconsistent Conditions Prohibited
1050.1315 Avoidance of Commitment
1050.1320 Charges to Seller
1050.1325 Intentional Delay
1050.1330 No Duplication to Borrower of Seller's Costs
1050.1335 Fees and Charges
1050.1340 Refunds on Failure to Close
1050.1345 Representative at Closing
1050.1350 Compliance with Other Laws
1050.1355 Failure to Close – Disclosure
1050.1360 Escrow Account Agreements at Closing

SUBPART M: EXEMPTION GUIDELINES

Section
1050.1410 General
1050.1420 Interpretative Guidelines

SUBPART N: ADMINISTRATIVE HEARING PROCEDURES

Section
1050.1510 Applicability
1050.1520 Definitions (Repealed)
1050.1530 Filing
1050.1540 Form of Documents
1050.1550 Computation of Time
1050.1560 Appearances
1050.1570 Request for Hearing
1050.1580 Notice of Hearing
1050.1590 Service of the Notice of Hearing

1050.1595 Bill of Particulars or Motion for More Definite Statement
1050.1600 Motion and Answer
1050.1610 Consolidation and Severance of Matters – Additional Parties
1050.1620 Intervention
1050.1630 Postponement or Continuance of Hearing
1050.1640 Authority of Hearing Officer
1050.1650 Bias or Disqualification of Hearing Officer
1050.1660 Prehearing Conferences
1050.1670 Discovery
1050.1680 Subpoenas
1050.1690 Conduct of Hearing
1050.1700 Default
1050.1710 Evidence
1050.1720 Hostile Witnesses
1050.1730 Record of Proceedings
1050.1740 Briefs
1050.1750 Hearing Officer's Recommendation
1050.1760 Order of the Director
1050.1770 Rehearings and Reopening of Hearings
1050.1790 Costs of Hearing

SUBPART O: MORTGAGE AWARENESS PROGRAM

Section
1050.1800 Applicability
1050.1810 General
1050.1820 Guidelines
1050.1830 Offer of Mortgage Awareness Program

SUBPART P: DEFAULT AND FORECLOSURE RATES ON CONVENTIONAL LOANS

Section
1050.1900 Applicability
1050.1910 Report of Default and Foreclosure Rates on Conventional Loans
1050.1920 Director's Review and Analysis

SUBPART Q: THIRD PARTY REVIEW OF HIGH RISK HOME LOANS

Section

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1050.2000 Applicability
1050.2010 Third Party Review of High Risk Home Loans

SUBPART R: REGISTRATION OF LOAN ORIGINATORS

Section
1050.2110 Application for Registration
1050.2112 Evaluation of Applications
1050.2115 Examination
1050.2120 Continuing Education Requirements for Loan Originators
1050.2125 Certificate of Registration Issuance
1050.2130 Roster of Registered Loan Originators
1050.2135 Pocket Card
1050.2140 Certificate of Registration Renewal
1050.2145 Certificate of Registration Transfer Application or Inactive Notice
1050.2150 Inactive Registration Status; Reactivation
1050.2155 Temporary Permits
1050.2160 Confidential Information
1050.2165 Averments
1050.2170 Suspension or Revocation of Registration, Refusal to Renew, Fines
1050.2175 Loan Originator Hearings; Fees and Costs
1050.2180 Criminal Proceedings
1050.2185 Violations of Tax Acts
1050.2190 Disciplinary Action for Educational Loan Defaults
1050.2195 Nonpayment of Child Support

SUBPART S: PROVISIONAL REGISTRATION OF LOAN ORIGINATORS

Section
1050.2200 Purpose
1050.2210 Definitions
1050.2220 Registration Required
1050.2230 Exemptions
1050.2240 Application for Provisional Certificate of Registration; Contents; Amendment
1050.2250 Issuance of Provisional Certificate of Registration; Effective Date; Conditions
1050.2260 Loan Origination Practices
1050.2270 Enforcement

1050.APPENDIX A Estimated Monthly Income and Expenses Worksheet

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1050.APPENDIX B Mortgage Ratio Worksheet

AUTHORITY: Implementing and authorized by the Residential Mortgage License Act of 1987 [205 ILCS 635/4-1(g)].

SOURCE: Filed January 18, 1974; amended at 2 Ill. Reg. 2, p. 1, effective January 16, 1978; codified at 8 Ill. Reg. 4524; amended at 9 Ill. Reg. 17393, effective October 24, 1985; Part repealed by emergency rule at 12 Ill. Reg. 3041, and new Part adopted by emergency rule at 12 Ill. Reg. 3079, effective January 13, 1988, for a maximum of 150 days; Part repealed at 12 Ill. Reg. 8683, and new Part adopted at 12 Ill. Reg. 8685, effective May 10, 1988; emergency amendment at 12 Ill. Reg. 9721, effective May 18, 1988, for a maximum of 150 days; amended at 13 Ill. Reg. 17056, effective October 20, 1989; amended at 15 Ill. Reg. 8580, effective May 28, 1991; emergency amendment at 16 Ill. Reg. 2915, effective February 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10463, effective June 23, 1992; emergency amendment at 16 Ill. Reg. 12634, effective August 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 20179, effective December 9, 1992; amended at 17 Ill. Reg. 3513, effective March 2, 1993; transferred from Chapter III, 38 Ill. Adm. Code 450 (Commissioner of Savings and Loan Associations) to Chapter VIII, 38 Ill. Adm. Code 1050 (Commissioner of Savings and Residential Finance) pursuant to Savings Bank Act [205 ILCS 205] at 17 Ill. Reg. 4475; emergency amendment at 19 Ill. Reg. 11080, effective July 13, 1995, for a maximum of 150 days; emergency expired December 11, 1995; amended at 19 Ill. Reg. 15465, effective October 31, 1995; amended at 20 Ill. Reg. 388, effective January 1, 1996; recodified from Chapter VIII, Commissioner of Savings and Residential Finance, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 21 Ill. Reg. 10972, effective August 1, 1997; amended at 22 Ill. Reg. 230, effective December 19, 1997; amended at 24 Ill. Reg. 64, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 19322, effective December 15, 2000, for a maximum of 150 days; emergency repealed at 25 Ill. Reg. 3696, effective January 30, 2001 in response to an objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 1857; amended at 25 Ill. Reg. 6174, effective May 17, 2001; emergency amendment at 27 Ill. Reg. 10783, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 797, effective December 29, 2003; emergency amendment at 28 Ill. Reg. 7137, effective April 30, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 10352, effective June 29, 2004; amended at 28 Ill. Reg. 13351, effective September 21, 2004; amended at 29 Ill. Reg. 14808, effective September 26, 2005; amended at 29 Ill. Reg. 19187, effective November 10, 2005; amended at 34 Ill. Reg. 17339, effective October 29, 2010.

SUBPART A: DEFINITIONS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1050.110 Definitions

"Act" means the Residential Mortgage License Act of 1987 [205 ILCS 635].

"Administrative decision" means an order or action of the Director, such as assessment of a fine, denial of a license, suspension, or revocation of a license.

"Approved credit counselor" means a credit counselor approved by the Director of the Department of Financial and Professional Regulation-Division of Financial Institutions.

"Assisting" as used in Section 1-4(o) of the Act shall not include the following activities or services when undertaken by a person in an otherwise licensed profession or occupation provided such activities or services are undertaken by such person in pursuit of such persons licensed profession or occupation including, but not limited to insurance producer, attorney at law, certified public accountant, land surveyor, or professional engineer:

Activities or services of, or incidental to, the licensed occupation or profession;

Delivery of surveys, abstracts of title, title commitments, opinions of title, draft deeds, mortgage forms or lender sales material;

Coordinating the activities associated with the borrower's completion or submission of a loan application;

Contracting or conferring with a licensed attorney, title insurance company, insurance producer, or lender as to the status of the loan application, loan commitment, title commitment, fire or extended coverage insurance, or closing requirements.

"Control" means the power to, directly or indirectly, whether acting through one or more persons, effect the voting interest of 10 percent or more of any class of the outstanding voting shares, or partnership interest, of an entity subject to the Act.

"Conviction" or "convicted" means, with respect to a criminal charge, the final judgment, or the act of receiving final judgment, on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Banking.

"Division" means the Department of Financial and Professional Regulation-Division of Banking, with the authority delegated by the Secretary.

"Document", for purposes of Section 6-2(2) of the Act, shall include all business and financial documents and all books and records, such as, but not limited to in either type, characteristics, or function, tax returns, signature cards, writings that engage or provide information to accountants, consultants, or other agents, applications, authorizations to do business, licenses or certificates, and submissions for insurance endorsements.

"Employee" and "person employed"

As used in Section 1-4(d)(1.5) of the Act, "employee" means:

any natural person who performs activity subject to licensure or registration under the Act for an exempt entity under Section 1-4(d)(1) of the Act, provided that the exempt entity:

expressly, in a writing submitted to and approved by the Director, assumes full and direct legal responsibility for the activity of the natural person that is performed on behalf of or in the name of the exempt entity or that benefits or is intended to benefit the exempt entity; or

submits to the Director for approval a written opinion of counsel stating that the relationship between the exempt entity and the natural person is one in which the exempt entity assumes full and direct responsibility for the activity of the natural person that is performed on behalf of or in the

name of the exempt entity or that benefits or is intended to benefit the exempt entity; or

any natural person who performs activity subject to licensure or registration under the Act for an exempt entity under Section 1-4(d)(1) of the Act, provided that the natural person's performance of the activity is otherwise under statute or administrative rule, subject to comprehensive regulation and supervision, regular examination of books and records and activities and administrative agency sanctions for violation of regulatory, supervisory, or examination requirements by the State of Illinois or by a federal depository institution regulator.

As used in Section 1-4(d)(3) of the Act, "person employed" means any natural person who performs activity licensable under the Act exclusively for one licensee under the Act, provided that the licensee, expressly in writing on a form approved by the Director, assumes full and direct legal responsibility for the licensable activity performed on behalf of or in the name of the licensee or that benefits or is intended to benefit the licensee.

"First tier subsidiary", as used in Section 1-4 of the Act, means a subsidiary the stock of which is directly owned by the parent corporation, without any intervening layer of ownership by another corporation.

"Hearing Officer" means an attorney licensed in the State of Illinois, other than an attorney who is a regular employee of the Division, who is the presiding official appointed by the Director to conduct a hearing.

"High risk home loan" means a home equity loan on residential real property in which:

at the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the 15th day of the month immediately preceding the month in which the application for the loan is received by the lender; or

the total points and fees payable by the consumer at or before closing will

exceed the greater of 5% of the total loan amount or $800. The $800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However, this Part shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to 12 CFR 226 (2000, no subsequent amendments or editions are included).

"Home equity loan" means any loan secured by the borrower's primary residence when the proceeds are not used as purchase money for the residence.

"Licensee" means a person or entity licensed under the Act.

"Material", as used in Section 6-2(2) of the Act, shall include, but not be limited to, a misstatement or omission of fact that, if it had not been misstated or omitted, would have altered the decision, approval, determination, or finding made by the Director or his or her agent in reliance upon the misstatement or omission. "Material" shall also include a misstatement or omission of fact that, if it had not been misstated or omitted, would have caused the Director or his or her agent to act or consider acting pursuant to any of the powers vested in the Director or his or her agents or in the Department or the Division by the Act or the rules promulgated under the Act.

"Other regulatory agencies", as used in Section 4-2(e) of the Act, shall include the United States Department of Housing and Urban Development, state insurance commissions, any state or Federal agency having jurisdiction over the licensee, state and federal securities regulators, and the United States Department of Labor.

"Party" means any person, including the Director, named on a pleading or affected by an administrative decision.

"Petitioner" means a person affected by an administrative decision of the Division or the Department who files a request for hearing, or the Director when he or she initiates a notice for hearing to a named respondent.

"Principal place of business", as used in Section 1-4(d)(1)(ix) of the Act, shall mean the principal place of business of the subsidiary's parent bank, which must be chartered by the Comptroller of the Currency of the United States.

"Repurchase a loan":

As used in Section 2-4(w) of the Act, means those instances in which:

the licensee has demanded that another licensee repurchase a loan and the first scheduled loan payment has not been received by the licensee making the demand; or

the licensee has demanded that another licensee repurchase a loan as a result of the determination, after reasonable investigation, by the licensee making the demand, that materially false representations, documentation or information may have been provided to any person in connection with the origination or transfer of the loan.

As used in Section 2-4(x) of the Act, means those instances in which:

the licensee has received a demand that it repurchase a loan and the first scheduled loan payment has not been received by the person making the demand; or

the licensee has received a demand that it repurchase a loan as a result of the determination, after reasonable investigation, by the person making the demand, that materially false representations, documentation or information may have been provided to any person in connection with the origination or transfer of the loan.

"Points and fees" means:

all items required to be disclosed as points and fees under 12 CFR 226.32 (2000, no subsequent amendments or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table funded

transaction, not otherwise included in the points and fees disclosed under 12 CFR 226.32.

"Respondent" means a person who is named in the notice of hearing when the notice is initiated by the Director, or the Director when a petitioner files a request for hearing.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Servicer" means any entity licensed under the Act who is responsible for the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, or noteholder, or for a licensee's own account, of payments, interest, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

"State" means the State of Illinois.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

SUBPART B: FEES

Section 1050.210 Fees

a) Method of Payment of Fees
The fees listed in this Section shall be payable to the Department, or to the Nationwide Mortgage Licensing System and Registry for transfer to the Department as approved by the Director. The Director may specify the form of payment to the Department or to the Nationwide Mortgage Licensing System and Registry, which may include certified check, money order, credit card, or other forms authorized by the Director. The Director may specify that fees be paid separately or combined, and may pro-rate fees for implementation of the

Nationwide Mortgage Licensing System and Registry. The Nationwide Mortgage Licensing System and Registry shall be authorized to collect and process transaction fees or other fees related to licensees or other persons subject to the Act.~~However, in the case of direct expenses of out-of-state examinations, payments shall be made directly to the examiners, in the manner specified in subsection (d)(2).~~

b) Residential Mortgage License

1) Investigation Fee: The applicant shall pay a non-refundable fee of $1,135 or such non-refundable amount as authorized by the Director that, when combined with the license fee set forth in subsection (b)(2)(A), totals an amount equal to $2,043 annually or such amount authorized by Section 2-2 of the Act~~$1,500~~.

2) License Fee:

A) Initial Licensure: For each application for an initial Illinois Residential Mortgage License on which the Director has made the findings that a license shall be issued, the applicant shall pay a non-refundable license fee of $908~~$1,200~~, plus the investigation fee set forth in subsection (b)(1), or such non-refundable amount as authorized by the Director that, when combined with the investigation fee set forth in subsection (b)(1), totals an amount equal to $2,043 annually or such amount authorized by Section 2-2 of the Act.

B) License Renewal: For each application for an annual renewal of an Illinois Residential Mortgage License ~~on which the Director has made the finding that an annual license shall be issued~~, the applicant shall pay a non-refundable license fee of $2,043, or the total amount set forth in subsections (b)(1) and (b)(2)(A)~~$2,700~~.

C) Amended License: The licensee shall pay a non-refundable fee of $500 for each amended license that is required by Subpart D of this Part.

D) Notice of Change: The licensee shall pay a non-refundable fee of $50 with each Notice of Change of Officers or Directors or Change

of Name or Address or Change of Activity.

E) Duplicate License: The licensee shall pay a non-refundable fee of $50 for each duplicate original license issued.

c) Loan Originator Registration or Mortgage Loan Originator License

1) Application Fee: An applicant for Loan Originator registration or Mortgage Loan Originator license shall pay ~~t~~ a non-refundable fee of $125 for each individual registered or licensed on the initial application and $100 annually for each individual renewal, plus an additional $50 late fee for any renewal that is received after the expiration date of the preceding registration or license~~registered after the initial application~~.

2) ~~Exemption from Application Fee: Notwithstanding the provisions of subsection (c)(1), each applicant who is also a licensee may request and be granted an exemption from the application fee for no more than two initial Loan Originator registration applications. The request for exemption shall be filed, on an approved form, with the Director at the time of application. 3)~~ Registration or License Transfer Fee: There shall be paid by or on behalf of the Loan Originator or Mortgage Loan Originator non-refundable fee of $35 for each Certificate of Registration or license transferred~~ by mail or $25 for each Certificate of Registration transferred electronically pursuant to Subpart R of this Part~~.

3)~~4)~~ Registration or License Reactivation Fee: There shall be paid by or on behalf of the applicant a non-refundable fee of $100 for reactivating each Certificate of Registration or license on Inoperative~~Inactive Registration~~ Status~~ under Subpart R~~.

4)~~5)~~ Duplicate Documents~~Certificate of Registration or Pocket Card~~: The licensee or registrant shall pay a non-refundable fee of $50 for each duplicate~~Duplicate~~ document~~Certificate of Registration or pocket card issued for a Loan Originator employed by the licensee~~.

5) Returned Payment: Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fee of $50.

d) Examination

1) Fees: Time expended in the conduct of any examination of the affairs of any licensee or its affiliates pursuant to the provision of Section 4-2 of the Act shall be billed by the Department at a rate of $510 per examiner day. Fees will be billed following completion of the examination and shall be paid within 30 days after receipt of the billing.

2) Out-of-State Travel: When out-of-state travel occurs in the conduct of any examination, the licensee shall make arrangements to reimburse the Department~~directly to the examiners~~ all charges for services such as travel expenses, including airfare, hotel and per diem incurred by the employee. These expenses are to be in accord with applicable travel regulations published by the Department of Central Management Services and approved by the Governor's Travel Control Board (80 Ill. Adm. Code 2800).~~ Direct payment of expenses are to be made on the form and in the manner prescribed by the Director. Payment for expenses billed to licensees under this subsection (d)(2) shall be made by check payable to the examiners and sent to the Springfield office of the Department for forwarding to the examiner. The payment shall be sent by the licensee within five working days after receipt by the licensee of the bill for charges for services.~~

e) Additional Full-Service Office:

1) Initial Fee: The licensee shall pay a non-refundable fee of $250 for each Notice of Intent to Establish an Additional Full-Service Office required by Subpart C of this Part.

2) Annual Fee: After the notice filed under subsection (e)(1), the licensee shall pay an annual non-refundable Additional Full-Service Office fee of $250~~ fee~~ on the initial license anniversary date.

f) Hearing Fees: Each~~Except for hearings to which Section 1050.2175 of this Part applies, each~~ party that requests a hearing pursuant to Section 4-1(n) of the Act shall pay a non-refundable fee of $500, except that a Loan Originator or Mortgage Loan Originator requesting a hearing shall pay a non-refundable fee of $250, unless the fee is waived by the Director. In determining whether to waive the fee,

the Director shall consider the financial hardship imposed on the party.

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

SUBPART C: LICENSING

Section 1050.340 Full-Service Office

a) Each licensee shall maintain a full-service office consistent with the provisions of Sections 3-4 and 1-4(r) of the Act. At a minimum, each licensee shall:

1) Maintain a registered agent in Illinois; and

2) Provide a person or persons *reasonably adequate to handle efficiently communications, questions, and other matters relating* (Section 3-4 of the Act) to an application for a loan or existing loan and provide a toll-free telephone arrangement for doing so. In determining whether a licensee handles such matters in a reasonably adequate manner, the Director shall consider consumer complaints received regarding the licensees and information obtained from examinations conducted and reports filed pursuant to the Act. In addition, the Director shall consider whether the licensee has:

A) Provided facilities and personnel adequate to accommodate a borrower who wishes to bring all documents applicable to his or her application for or existing home mortgage to the full-service office for examination in conjunction with an inquiry, complaint or concern.

B) Maintained a supply of all documents required under Subparts G, H, I, J, K, and L of this Part, where such Subparts apply to the licensee.

b) If the Director determines that a licensee is not in compliance with Sections~~Section~~ 3-4 and 1-4(r) of the Act, the Director shall notify the licensee, in writing, detailing the requirements for bringing the licensee into compliance. The Director may require a licensee to demonstrate compliance with this Section in instances in which personnel are conducting licensable activities in Illinois without adequate facilities and/or licensed offices in Illinois. The Director, at his

or her discretion, may require documentation from licensees and hold hearings to take testimony from owners, officers, directors and employees of a licensee, as selected by the Director, and compel attendance of those so selected for the purpose of determining compliance with this Section.

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

SUBPART D: OPERATIONS AND SUPERVISION

Section 1050.410 Net Worth

a) Amount. Except as provided in subsection (c) of this Section, each licensee shall maintain ~~a minimum~~ net worth of not less than $150,000~~$100,000~~.

b) Calculation. Net worth shall be defined as total assets minus total liabilities, except that total assets shall not include the following:

1) That portion of a licensee's assets pledged to secure obligation of any person or entity other than that of the mortgagee;

2) Any asset (except construction loans receivable, secured by first mortgages from related companies) due from officers or stockholders having an interest;

3) That portion of any marketable security (listed or unlisted) not shown at the lower of cost or market, except for any shares of Federal National Mortgage Association stock required to be held under a servicing agreement, which shall be carried at cost;

4) Any real estate held for sale or investment if development will not start within 2 years from date of acquisition;

5) Any amount in excess of the lower of the cost or market value of mortgages in foreclosure, construction loans, or foreclosed property acquired through foreclosures;

6) Any amount shown on the books for investment in and advances to joint ventures, subsidiaries, affiliates, and selected companies that is greater than the value of the assets at equity;

7) Goodwill or value placed on insurance renewals or property management contract renewals or other similar intangibles;

8) Organization costs;

9) Any leasehold improvements not being amortized over the lesser of the expected life of the asset or the remaining term of the lease;

10) Commitment fees paid that are not recoverable through the closing or selling of loans;

11) The value of any servicing contracts not determined in accordance with Financial Accounting Standards Board Statement No. 65 and Financial Accounting Standards Board Technical Bulletin 87-3; and

12) Any asset may be excluded from the calculation of the licensee's net worth upon the Director's finding that including the asset undermines or may undermine, in whole or in part, any purpose of the Act, as identified at Section 1-2 of the Act. Any report or finding made under this subsection (b)(12) shall, in writing, identify which of the Act's purposes is or may be undermined and how including the asset results in that effect.

c) A licensee that engages solely in loan brokering as defined in Section 1-4(o) of the Act is excepted from complying with the net worth requirements of subsection (a) of this Section provided the licensee provides written evidence to the Director of the licensee's conformance with a net worth of $50,000~~$35,000~~, as required by Section 3-5 of the Act. The allowable components of the $50,000~~$35,000~~ net worth shall conform pro rata with the net worth requirements of the United States Department of Housing and Urban Development, as set forth in the Audit Guide for Audits of HUD Approved Nonsupervised Mortgagees for Use by Independent Public Accountants and be subject to subsection (b)(12) of this Section. The audit guide for audits of HUD approved non-supervised mortgagees for use by independent public accountants can be obtained by contacting the U.S. Department of Housing and Urban Development, Office of Inspector General, 451 Seventh Street SW, Washington, D.C. 20410. This handbook was last issued August 25, 1997 (no subsequent dates or editions), under the title: Handbook 2000.04 REV-2, Consolidated Audit Guide for Audits of HUD Programs.

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

Section 1050.460 Selection of Independent Auditor (Repealed)

~~The Director shall maintain a county-by-county registry of all certified public accounting firms that perform professional audits of licensee activities. Appointments of certified public accountants to perform audits of licensees under Section 3-2(e) of the Act shall be made from the list on a rotating basis for the appropriate county.~~

(Source: Repealed at 34 Ill. Reg. 17339, effective October 29, 2010)

Section 1050.490 Bonding Requirements

a) Each licensee shall maintain a bond in conformance with Section 3-1 of the Act in the amount of not less than $20,000, except that minimum bond amounts shall be determined annually by the Director, according to the scale in subsection (b), upon implementation of the Nationwide Mortgage Licensing System. For the purposes of this Section, the form of the indemnity bond shall be defined as a licensure, surety or any other form of bond that is individually submitted to the Director for consideration as an approved bond.

b) Each Mortgage Loan Originator must be covered by a surety bond through employment with a licensed mortgage broker or mortgage banker or registered exempt company. Licensed mortgage brokers and mortgage bankers and exempt company registrants must file a surety bond that provides coverage for each sponsored Mortgage Loan Originator in an amount that reflects the dollar amount of Illinois mortgage loans applied for or originated by its Mortgage Loan Originators during the preceding calendar year. The surety bond amount will be set for each licensed mortgage broker and mortgage banker and registered exempt company and adjusted as necessary annually by the Director in accordance with the following scale, based upon Illinois residential mortgage loans brokered, funded, originated, serviced or purchased, as the case may be, during the preceding calendar year:

Loans	Bond Amount
$0 - $5,000,000	$25,000
$5,000,001 - $20,000,000	$50,000
$20,000,001 - $50,000,000	$75,000

$50,000,001 - $100,000,000	$100,000
Over $100,000,000	$150,000

The Director may require licensed mortgage brokers and mortgage bankers and registered exempt companies to file reports of Illinois mortgage loan volumes with the Director or Nationwide Mortgage Licensing System for purposes of determining the annual minimum bond amount.

c) Each bond required pursuant to Section 3-1 of the Act shall be for a term:

1) concurrent with the term of the license or registration, commencing with licenses or registrations issued by the Department with an expiration date of December 31, 2010; and

2) concurrent with the license or registration for new or renewed bonds thereafter.

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

SUBPART E: ANNUAL REPORT OF MORTGAGE ACTIVITY, MORTGAGE BROKERAGE ACTIVITY AND MORTGAGE SERVICING ACTIVITY

Section 1050.610 Filing Requirements

On or before March 1 of each year, each licensee, except entities engaged solely in loan brokering activities and entities engaged solely in servicing activities, shall file an Annual Report of Mortgage Activity. On or before March 1 of each year, each licensee that brokers loans must file an Annual Report of Mortgage Brokerage Activity. On or before March 1 of each year, each licensee that services residential mortgage loans shall file an Annual Report of Mortgage Servicing Activity. The Director may require reporting by licensees of mortgage, mortgage brokerage, and mortgage servicing activities to the Nationwide Mortgage Licensing System and Registry, upon the dates established by the Nationwide Mortgage Licensing System and Registry.

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

Section 1050.660 Verification

A notarized affidavit or oath, affirmation or declaration under penalty of perjury, attesting to the

accuracy and truthfulness of the report must accompany each Annual Report of Mortgage Activity, Annual Report of Brokerage Activity and Annual Servicing Report submitted to the Director. This verification must be signed by the owner, if the licensee is a sole proprietorship; by all partners, if the licensee is a partnership; by two officers or all directors, if the licensee is a corporation; or by all members, if the licensee is an association.

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

SUBPART H: ADVERTISING

Section 1050.920 Definition of Advertisement

a) An advertisement is any message, except as provided in subsection (b) of this Section, conveyed in any format, including, but not limited to, the Internet, and attempting *to induce, directly or indirectly, any person to enter into a residential mortgage loan or residential mortgage loan brokerage agreement* as defined in Section 1-4(w) of the Act.

b) Small items bearing only the name, address and telephone number of the distributing entity shall not be considered messages intended to induce any person to enter into a residential mortgage loan agreement or residential loan brokerage agreement as defined in the Act and shall not be considered advertisements. Examples of these items are pencils, pens, buttons, pins, pocket calendars, balloons, and business cards.

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

SUBPART J: LOAN APPLICATION PRACTICES

Section 1050.1175 Loan Log~~Maintenance of Records~~

a) Broker/Origination Loan Log. Each licensee engaged in loan brokerage or loan origination shall maintain a Broker/Origination Loan Log that contains the following for each loan application received, except that a Broker/Origination Log for reverse mortgages shall contain the information in subsection (c)~~loan log that shall be kept current according to the record maintenance procedures of the licensee and shall be produced for examination by the Director. Any report the licensee generates may be substituted for the loan log. At a minimum, the loan log or its substitute shall contain the following with respect to each loan~~

~~application received during the previous 36 months~~:

1) Application date (sort loan log by application date);

2) Borrower name or names~~names~~;

3) Borrower or borrowers employer name~~Property purchaser names~~;

4) Borrower or borrowers employer address;

5) Property seller name or names (indicate NA in the event of a refinance)~~names~~;

6)~~5)~~ Property address;

7)~~6)~~ Loan amount;

8)~~7)~~ ~~Terms (~~APR~~),~~ loan program;

9)~~8)~~ Loan originator name~~names and registration numbers~~;

10) Loan originator license/registration number;

11)~~9)~~ Processor name or names~~names and license and/or registration numbers, if applicable~~;

12)~~10)~~ Appraiser name or names~~names and license numbers~~;

~~11)~~ ~~Corporate or full service office, and license number, where application taken;~~

~~12)~~ ~~Amount of points and fees charged; and~~

13) Appraiser or appraisers license number;

14)~~13)~~ Statement of whether the loan application was cancelled, rejected or closed or is pending and, if the loan application was closed, the closing date and name of the owner and servicer of the loan;~~.~~

15) Loan closer name and employer name; and

16) Loan closing location.

b) Servicer Loan Log. Each licensee engaged in loan servicing shall maintain a Servicer Loan Log that contains the following for each loan serviced:

1) Loan number;

2) Note date;

3) Borrower name or names;

4) Property address;

5) Loan type;

6) Lien position;

7) Original principal balance;

8) Unpaid principal balance;

9) Total monthly payment;

10) Principal/interest;

11) Property tax; and

12) Hazard insurance.

c) Reverse Mortgage Loan Log shall include the information in subsection (a) for items 1, 2 (add ages), 6, 8 (add lump sum, monthly payment, line of credit), 9, 10, 11, 12, and add information for new items of appraised value, loan to value, and counseling (yes or no; if yes, add name of agency and HUD approval status).

~~Loan File Retention.~~

~~1) With respect to each loan application, each licensee, except as provided in~~

~~subsection (b)(2) of this Section, shall maintain the following documents on file in hard copy or paper-based form, or electronic or digital form capable of legible hard copy reproduction, for 36 months from the date of closing or other termination of loan processing, as part of its books and records to be examined by the Director:~~

~~A) the Loan Brokerage Agreement and Loan Brokerage Disclosure Statement, if any mortgage loan brokerage services were utilized by the mortgage loan applicant;~~

~~B) the Borrower Information Document;~~

~~C) all documents signed by the customer, including but not limited to the initial loan application, disclosure documents and closing documents;~~

~~D) the appraisal and credit report, as well as all other third-party documents relating to the loan; and~~

~~E) all other documents in or related to the loan file.~~

~~2) Each licensee shall retain, at a minimum, the documents referenced in subsections (b)(1)(A) and (B) . With respect to subsections (b)(1)(C) through (E) , a licensee need retain only those documents originated by that licensee's activity in connection with the loan; however, the Director may require the licensee to obtain copies of the remaining documents to produce for examination of its books and records. A mortgage broker licensee may maintain the required documents in hard copy or paper-based form, or in electronic or digital form capable of legible hard copy or paper reproduction. Electronic or digital versions of documents that were originally in hard copy or paper-based form must be clear, complete and legible, and the mortgage broker licensee must accurately and authentically preserve any alterations, erasures, or similar indications of changes on the documents. The mortgage broker licensee must also retain documentation that explains the process used to convert hard copy or paper-based documents to electronic or digital formats and specifies the date of conversion, the method of conversion, and the disposition of the original hard copy or paper-based document. A mortgage banker licensee shall maintain all required original documents in hard copy or paper-based~~

~~form and shall retain hard copies or paper-based documents for all loans assigned to another mortgage banker licensee or entity.~~

d)~~c)~~ Secondary Market Loan Log~~Information~~. Each~~If a~~ licensee that sells, assigns or purchases any loans on the secondary market shall maintain a Secondary Market Loan Log that contains the following for each loan sold, assigned or purchased~~or any servicing of loans, the licensee shall retain the following documents for 36 months from the date of each transaction, as part of its books and records to be examined by the Director~~:

1) Name of loan seller or assignor;~~the contract and delivery schedules detailing loans sold, assigned or purchased; and~~

2) Name of loan buyer or assignee;~~the contract and delivery schedules detailing servicing sold, assigned or purchased.~~

3) Date of transaction;

4) Name of borrower or borrowers for underlying property;

5) Amount financed on underlying loan; and

6) Name of Loan Servicer.

e)~~d)~~ High Risk Home Loans. If a licensee performs licensable acts with respect to a loan subject to the High Risk Home Loan Act, then the licensee shall maintain a separate High Risk Home Loan Log with the information required in subsection (a) of this Section with respect to each loan application received during the previous 60 months and shall maintain the respective~~all~~ loan files ~~as required in subsection (b) of this Section~~ for 60 months from the date of closing or other termination of loan processing.

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

Section 1050.1176 Record Retention

a) Record Retention. Pursuant to Section 2-4(c) of the Act, each licensee shall retain all records prepared or received in the course of its residential mortgage business for 36 months.

1) For records pertaining to the activities of loan brokering or originating, the 36 month period shall begin on the date of the loan closing or other termination date of the loan process.

2) For records pertaining to buying/selling loans on the secondary market, the 36 month period shall begin on the date the loan was sold.

3) For records pertaining to the servicing of loans, the 36 month period shall begin on the date the loan was paid off or on the date the servicing rights were sold.

b) Format of Retention. Records pertaining to the activities of loan brokering, loan originating, or buying/selling loans on the secondary market may be retained for the 36 month period:

1) In hard copy or paper-based form; or

2) In electronic or digital form. The electronic or digital form must be capable of legible hard copy reproduction and the licensee must accurately and authentically preserve any alterations, erasures or similar indications of changes on the documents. The licensee must also retain documentation that explains the process used to convert hard copy or paper-based documents to electronic or digital formats and specifies the date of conversion, the method of conversion, and the disposition of the original hard copy or paper-based document.

c) Format of Retention – Servicing. Records pertaining to the activity of loan servicing must be retained for the 36 month period in hard copy or paper-based form.

(Source: Added at 34 Ill. Reg. 17339, effective October 29, 2010)

Section 1050.1177 Required Loan Application File Documents

For licensees engaged in loan brokering or originating, each licensee shall maintain a loan application file for each loan application. Each loan application file shall include:

a) the Loan Brokerage Agreement and Loan Brokerage Disclosure Statement, if any

mortgage loan brokerage services were utilized by the borrower;

b) the Borrower Information Document;

c) all documents signed by the borrower or borrowers, including, but not limited to, the initial loan application, disclosure documents and closing documents;

d) the appraisal and credit report, as well as other third-party documents relating to the loan; and

e) all other documents in or related to the loan file.

(Source: Added at 34 Ill. Reg. 17339, effective October 29, 2010)

SUBPART L: COMMITMENT AND CLOSING PRACTICES

Section 1050.1335 Fees and Charges

a) Except as prohibited by federal statute or regulation, a licensee shall not require a borrower to pay any fees or charges prior to the loan closing, except charges to be incurred by the licensee on behalf of the borrower for services from third parties necessary to process the application, such as for credit reports and appraisals, and:

1) Loan Fees

A) Loan fees, such as origination or commitment fees, including fees detailed in the Loan Brokerage Agreement, may be charged prior to closing only if a licensee is able to demonstrate either that:

i) The loan commitment is provided in writing by the funding entity and accepted in writing by the borrower; or

ii) The loan commitment provided in writing is consistent with a Loan Brokerage Agreement provided to the borrower pursuant to Section 1050.1010 of this Part and signed by the borrower.

B) The loan fee, including fees detailed in the Loan Brokerage Agreement, collected prior to closing shall be deposited in escrow

by the licensee in accordance with the requirements of Section 1050.440 of this Part.

C) If the loan commitment provided by the funding entity pursuant to subsection (a)(1) is subject to any condition or conditions, and any condition is not met due to an action or lack of action on the part of the borrower, the licensee may retain the loan fee. In all other cases, if the loan does not close as agreed by the licensee and the borrower, the licensee shall refund the loan fee to the borrower.

D) A loan fee, including fees detailed in the Loan Brokerage Agreement, may be collected by a licensee even if a loan does not close if:

i) Either the fee was provided for in the loan commitment accepted in writing by the borrower or the fee was disclosed in the Loan Brokerage Agreement provided to a borrower pursuant to Section 1050.1010 of this Part and signed by the borrower, and a loan commitment was obtained by the licensee consistent with the Loan Brokerage Agreement; and

ii) The borrower withdraws the loan application; or the borrower has made a material misrepresentation on the loan application; or the borrower has failed to provide documentation necessary to the processing or closing of the loan.

2) Rate-Lock Fee

A) A Rate-Lock Fee Agreement shall be in writing and signed by both the licensee and prospective borrower and provided to prospective borrowers regardless of whether a fee is collected or the interest rate is locked or floating.

B) The Rate-Lock Fee Agreement shall state all of the following:

i) The expiration date of the Rate-Lock Fee Agreement;

ii) The amount of the loan;

iii) The maximum interest rate of the loan;

iv) The term of the loan; ~~and~~

v) The maximum discount (points) to be paid; and~~.~~

vi) That the interest rate is locked or the interest rate is floating.

C) The licensee shall be able to demonstrate to the Director that:

i) The licensee is able to perform under the terms of the Rate-Lock Fee Agreement;

ii) Subject to verification, the information submitted by the borrower indicates that the loan will be approved in accordance with the Rate-Lock Fee Agreement; and

iii) The Rate-Lock Fee will be credited to the borrower at closing.

D) The Rate-Lock Fee shall be deposited in escrow by the licensee in accordance with the requirements of Section 1050.440 of this Part.

E) A Rate-Lock fee may be collected by a licensee even if a loan does not close if:

i) The fee was disclosed in the Rate-Lock Fee Agreement provided to a borrower and signed by the borrower; and

ii) A Rate-Lock was obtained by the licensee consistent with the Rate-Lock Fee Agreement and the borrower withdraws the loan application; or the borrower has made a material misrepresentation on the loan application; or the borrower has failed to provide documentation necessary to the processing or closing of the loan.

3) Assumption Fee
A licensee may charge a borrower an Assumption Fee for a Federal Housing Administration (FHA) or Department of Veterans Affairs (VA) loan assumption that, by regulation, requires full credit approval prior to closing, subject to the following requirements:

A) The applicant must qualify for the extension of credit as required under:

i) The terms and conditions of mortgages given on property in Illinois that are insured by the Federal Housing Administration and dated on or after December 15, 1989 requiring prior credit approval of the Secretary of Housing and Urban Development.

ii) The terms and conditions of mortgages given on property located in Illinois that are guaranteed by the U.S. Department of Veterans Affairs (VA) dated on or after March 1, 1988 and requiring approval of VA or its authorized agent.

B) An Assumption Fee may be collected by a licensee even if a loan does not close if:

i) The fee was disclosed in an Assumption Fee Agreement provided to a borrower and signed by the borrower; and

ii) An Assumption Fee Agreement was obtained by the licensee consistent with the Assumption Fee Agreement and the borrower withdraws the loan application; or the borrower has made a material misrepresentation on the loan application; or the borrower has failed to provide documentation necessary to the processing or closing of the loan.

b) Nothing in this Section shall be interpreted to limit the right of a licensee to recover from a borrower any fee that the borrower has agreed to pay pursuant to a Loan Brokerage Agreement, a loan commitment or other written agreement entered into between the borrower and the licensee. This subsection shall not

abridge Section 1050.1010(g) so as to permit an agreement or agreements in addition to the Rate-Lock Fee Agreement or the Loan Brokerage Agreement.

c) For each violation of this Section, the Director may fine a licensee up to $500 in addition to all other actions authorized under the Act and this Part.

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

SUBPART N: ADMINISTRATIVE HEARING PROCEDURES

Section 1050.1530 Filing

a) Documents and requests permitted or required to be filed with the Agency in connection with a hearing shall be addressed to and mailed to or filed with the Department of Financial and Professional Regulation-Division of Banking, 320 West Washington Street, 6th Floor~~500 East Monroe Street/Suite 800~~, Springfield, Illinois 6278~~62701-1509~~, in triplicate.

b) The office of the Division is open for filing and inspection and copying of public documents from 8:30 a.m. to 5:00 p.m., Monday through Friday, except on national and State legal holidays.

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

Section 1050.1570 Request for Hearing

Any person affected by an order or action of the Director may file a request for hearing with the Director. The request for hearing shall be filed within 10 days after receipt of an administrative decision and shall:

a) Clearly state the name of the petitioner;

b) Include a verified complaint identifying the administrative decision with respect to which a hearing is requested, including an explicit admission, denial or appropriate response to each allegation or issue contained in the administrative decision. Each separate cause of action upon which a separate recovery can be had shall be separately pleaded into separate paragraphs, each containing separate allegations. The verified complaint shall contain a prayer for relief for each count, as applicable.

c) Be typewritten on 8½" x 11" white paper;

d) Be signed by the petitioner or the petitioner's attorney and shall contain the address and telephone number of the individual signing the document; ~~and~~

e) Be sent by certified mail, return receipt requested, to the Director at the Department of Financial and Professional Regulation-Division of Banking, 320 West Washington Street, 6th Floor~~500 East Monroe Street/Suite 800~~, Springfield, Illinois 62786; and~~62701-1509.~~

f) Include the hearing fee required by Section 1050.210(f).

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

Section 1050.1580 Notice of Hearing

a) The Director shall issue a notice of hearing or status call prior to hearing:

1) Upon the Director's initiative pursuant to Section 4-1(n) of the Act; or

2) In response to a request for hearing, in which case the notice of hearing or status call shall be issued within 10 days after receipt of the request for hearing or by order of the hearing officer at the next available status call or hearing date. ~~The notice shall be issued within days after receipt of the request for hearing.~~

b) The notice of hearing or status call shall set the date and location of the hearing or status call, state the name ~~and address~~ of the hearing officer and identify the matter of the hearing or status call.

c) The hearing or status call shall be held within 30 days after service of the notice of hearing or status call as the case may be.

d) The hearing request will be denied when the Director makes a finding that:

1) The requested relief is not authorized by statute or regulation; ~~or~~

2) the requesting party fails to show that it has been harmed by the Director's

order or action; or.

3) the requesting party fails to comply with all requirements of Section 1050.1570

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

SUBPART R: REGISTRATION OF LOAN ORIGINATORS

Section 1050.2112 Evaluation of Applications

a) Evaluations of Applications – Criminal History

1) Criminal history record information is defined as information collected by criminal justice agencies as defined in the Illinois Uniform Conviction Information Act [20 ILCS 2635] regarding individuals, consisting of identifiable descriptions and notation of arrests, detention, indictments, information, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision and release. The individual records must contain both information sufficient to identify the subject of the record and notations regarding any formal criminal justice transaction involving the identified individual.

2) In determining whether an applicant for a Loan Originator Certificate of Registration is fit for registration because of criminal history record information, the Division shall consider the following standards:

A) Whether the crime was a felony;

B) An applicant shall not be considered fit for registration if the applicant has been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court at any time preceding the date of application, if the felony involved an act of~~Whether the crime was financial in nature or involved monies, including but not limited to~~ fraud, dishonesty or a breach of trust, ~~embezzlement,~~ forgery~~,~~ or~~counterfeiting,~~ money laundering~~, and theft~~;

C) For felonies not subject to subsection (a)(2)(B), an applicant shall not be considered fit for registration if the applicant has been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court during the 7-year period preceding the date of the application for registration~~Whether the crime was one of moral turpitude, breach of trust, or misfeasance or malfeasance, including but not limited to drug offenses under the Illinois Controlled Substances Act [720 ILCS 570] and Federal Drug Enforcement Laws [21 USC 801], sex offenses listed in Article 11 of the Criminal Code of 1961 [720 ILCS 5/Art. 11], dishonesty, false statement or some other element of deceit, untruthfulness or falsification, and perjury or inducement to perjury~~;

~~D)~~ ~~Whether in the case of a felony more than 10 years have elapsed since the date of completion of imposed sentence;~~

D~~E~~) Whether, in the case of a misdemeanor related to finances or moral turpitude, more than 5 years have elapsed since the date of completion of imposed sentence;

E~~F~~) Whether the conviction was from a city ordinance violation or conviction for which a jail sentence was not imposed; and

F~~G~~) For crimes not subject to subsection (a)(2)(B) or (C), whether~~Whether~~ the applicant has been sufficiently rehabilitated to warrant public trust. The Division shall consider the following factors in considering whether an applicant has been presumed to be rehabilitated:

i) Completion of probation;

ii) Completion of parole supervision;

iii) In the case of a felony not subject to parole supervision, if more than 10 years have elapsed after final discharge or release from any term of imprisonment without any subsequent conviction; or

iv) In the case of a misdemeanor related to finances and moral turpitude, if more than 5 years have elapsed after final discharge or release from any term of imprisonment without any subsequent conviction.

3) For crimes not subject to subsection (a)(2)(B) or (C), any~~Any~~ one of the following factors may outweigh the presumption of rehabilitation:

A) Lack of compliance with terms of punishment (i.e., failure to pay fines or make restitution, violation of the terms of probation or parole);

B) Unwillingness to undergo, or lack of cooperation in, medical or psychiatric treatment/counseling;

C) Falsification of an application for registration with the Division; and

D) Failure to furnish to the Division additional information or failure to appear for a conference with the Division in relation to the applicant's application for registration.

4) The following criminal history records shall not be considered in connection with an application for registration:

A) Juvenile adjudications;

B) Records of arrest not followed by a conviction;

C) Convictions overturned by a higher court; and

D) Convictions that have been the subject of a pardon or expungement.

b) Evaluation of Applications – Civil Judgment and Credit History
In determining whether an applicant for a Loan Originator Certificate of Registration is fit for registration because of civil judgments identified in the applicant's credit history or otherwise that involve finances, breach of trust, moral turpitude, or misfeasance or malfeasance, the Division shall consider the totality

of the circumstances of any outstanding and unpaid civil judgments against the applicant and any civil judgments where satisfaction of the judgment has occurred 5 years or less before the date of application.

c) Evaluation of Applications – Disciplinary Actions taken by Regulatory Agencies
In determining whether an applicant for a Loan Originator Certificate of Registration is fit for registration because of a disciplinary action taken by a regulatory agency, the Division shall consider the following standards:

1) An applicant shall not be considered fit for registration if the applicant has ever had a Mortgage Loan Originator license, or an equivalent Loan Originator registration, revoked in any governmental jurisdiction, except that a subsequent formal vacation of a revocation shall not be deemed a revocation.

2) Whether a professional license or registration held by the applicant that is financially related, including but not limited to residential mortgage, banking, securities, insurance, real estate, and appraisal, has been disciplined by a state or Federal regulator.

3)~~2)~~ Whether the applicant has been barred, removed, and/or prohibited by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the U.S. Department of Housing and Urban Development or the Illinois Department of Financial and Professional Regulation, or appears on a list maintained by the Office of Foreign Asset Control of the United States Department of the Treasury.

d) Determination and Hearing
The applicant/registrant may be given an opportunity to appear at a Division conference regarding the matter. If the applicant is afforded an opportunity to appear at a Division conference, the applicant/registrant will be notified in writing by the Division. Failure to appear at the conference shall result in denial or refusal to issue or renew an applicant's/registrant's Loan Originator Certificate of Registration. If the applicant chooses not to attend the conference or was not afforded the opportunity of a conference, he/she may request a formal hearing regarding such determination prior to final action by the Division in accordance with 38 Ill. Adm. Code 1050.

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

Section 1050.2175 Loan Originator Hearings; Fees and Costs

a) A hearing can be requested and will be conducted by the procedure described in Subpart N.

b) The Director shall receive and there shall be paid to the Director a fee of $250 for each party that requests a hearing pursuant to this Subpart R, unless waived by the Director. In determining whether to waive the fee, the Director shall consider the financial hardship imposed on the party.

c)~~b)~~ In addition to filing fees set forth in subsection (b)~~(a)~~, each party to the hearing shall be required to pay its pro rata share of expenses, including, but not limited to, hearing officer expenses, witness and mileage fees, transcript costs and such other incidental costs as may be authorized by the hearing officer or by the Director, unless waived by the Director. In determining whether to waive the costs or a portion of the costs, the Director shall consider the financial hardship on the party.

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Standards for the Management of Used Oil

2) Code Citation: 35 Ill. Adm. Code 739

3) Section Number: 739.100 — Adopted Action: Amended

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, 27]

5) Effective Date of Amendment: October 29, 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 Board's Chicago office at the James R. Thompson Center, 100 W. Randolph St., Suite 11-500, and is available there for public inspection.

9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 1257; January 22, 2010

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: Although amendments adopted by the Board in Part 739 do not differ from those proposed for first notice, the Board's opinion and order addresses changes made in other Parts in proceeding from first notice to final adoption in this docket. See In the Matter of: Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809, R06-20(B) (Oct. 21, 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 Board docket number R6-20(B) in your request. The Board's order is also available through 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? No agreements were necessary.

13) Will this rulemaking replace emergency rulemaking currently in effect? No

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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 October 21, 2010, opinion and order: In the Matter of: Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil, R6-20(B) (Oct. 21, 2010).

On December 17, 2009, the Board in docket R06-20(A) adopted a second notice opinion and order proposing to amend its used oil management standards and special waste regulations: Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809, R06-20(A) (Dec. 17, 2009). The Board's opinion noted that first-notice comments had suggested adding a definition of "classification" at Section 739.100. Because the Board's first notice opinion and order in docket A had not included those sections, the Board opened this subdocket B to provide first notice publication of the proposed definition.

16) Information and questions regarding the adopted amendment 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 R6-20(B) 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:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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(A) at 34 Ill. Reg. 3296, effective February 25, 2010; amended in R06-20(B) at 34 Ill. Reg. 17381, effective October 29, 2010.

SUBPART A: DEFINITIONS

Section 739.100 Definitions

Terms that are defined in 35 Ill. Adm. Code 720.110, 721.101, and 731.112 have the same meanings when used in this Part.

"Aboveground tank" means a tank used to store or process used oil that is not an

underground storage tank, as defined in 35 Ill. Adm. Code 280.12.
BOARD NOTE: This definition is different from the definition for "aboveground tank" given in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the main distinction is that the definition for this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks that contain hazardous wastes. This definition of aboveground tank is limited to this Part only.

"Classification", as used in this Part, means a short description of the waste generating activity and designation as either hazardous waste with the appropriate hazardous waste code, nonhazardous used oil, nonhazardous used oil mixture, or nonhazardous other special waste.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Do-it-yourselfer used oil collection center" means any site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.

"Existing tank" means a tank that is used for the storage or processing of used oil and that is in operation, or for which installation had commenced on or prior to October 4, 1996. Installation will be considered to have commenced if the owner or operator had obtained all federal, state, and local approvals or permits necessary to begin installation of the tank and if either of the following had occurred:

A continuous on-site installation program had begun, or

The owner or operator had entered into contractual obligations that cannot be canceled or modified without substantial loss for installation of the tank to be completed within a reasonable time.

BOARD NOTE: This definition is similar to the definition for "Existing tank system" in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the definition given above for "existing tank" in this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks systems that contain hazardous wastes. This definition of existing tank is limited to this Part only.

"Household 'do-it-yourselfer' used oil" means oil that is derived from households,

such as used oil generated by individuals who generate used oil through the maintenance of their personal vehicles.
BOARD NOTE: Household "do-it-yourselfer" used oil is not subject to the State's special waste hauling permit requirements under Part 809.

"Household 'do-it-yourselfer' used oil generator" means an individual who generates household "do-it-yourselfer" used oil.

"New tank" means a tank that will be used to store or process used oil and for which installation had commenced after October 4, 1996.
BOARD NOTE: This definition is similar to the definition given for "New tank system" given in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the definition given above for "new tank" in this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates new tanks systems that contain hazardous wastes. This definition of new tank is limited to this Part only.

"Petroleum refining facility" means an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes (i.e., facilities classified as SIC 2911).

"Processing" means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived product. Processing includes, but is not limited to the following: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation, and re-refining.

"Re-refining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition of still bottoms varies with column operation and feedstock.

"Tank" means any stationary device, designed to contain an accumulation of used oil that is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

"Used oil" means any oil that has been refined from crude oil or any synthetic oil

that has been used and as a result of such use is contaminated by physical or chemical impurities.

"Used oil aggregation point" means any site or facility that accepts, aggregates, or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons. Used oil aggregation points may also accept used oil from household do-it-yourselfers.

"Used oil burner" means a facility where used oil not meeting the specification requirements in Section 739.111 is burned for energy recovery in devices identified in Section 739.161(a).

"Used oil collection center" means any site or facility that is registered by the Agency to manage used oil and accepts or aggregates and stores used oil collected from used oil generators regulated under Subpart C of this Part that bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of Section 739.124. Used oil collection centers may also accept used oil from household do-it-yourselfers.

"Used oil fuel marketer" means any person that conducts either of the following activities:

Directs a shipment of off-specification used oil from their facility to a used oil burner; or

First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111.

"Used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

"Used oil processor" means a facility that processes used oil.

"Used oil transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to

Section 739.120(b)(2). Transfer facilities that store used oil for more than 35 days are subject to regulation under Subpart F of this Part.

"Used oil transporter" means any person that transports used oil, any person that collects used oil from more than one generator and that transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but, with the following exception, may not process used oil. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products or used oil fuel.

(Source: Amended at 34 Ill. Reg. 17339, effective October 29, 2010)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Special Waste Classifications

2) Code Citation: 35 Ill. Adm. Code 808

3) Section Number: 808.110 — Adopted Action: Amended

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, 27]

5) Effective Date of Amendment: October 29, 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 Board's Chicago office at the James R. Thompson Center, 100 W. Randolph St., Suite 11-500, and is available there for public inspection. The adopted amendment is also available through the Board's Web site (www.ipcb.state.il.us).

9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 1267; January 22, 2010

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version:

a) The Board added a definition providing that "Washwater", as used in this Subpart, means a mixture of water, nonhazardous cleaning compounds, and residue that results from cleaning surfaces and equipment and that is collected separately from sewage.".

b) The Board amended the definition of "wastewater" by providing that, as used in this Subpart, it means "stormwater, surface water, groundwater or nonhazardous washwater that has been contaminated with used oil but has not been mixed with sewage, industrial waste or any other waste.".

The Board's opinion and order addresses changes made in other Parts in proceeding from first notice to final adoption in this docket. See In the Matter of: Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

808, 809, R06-20(B) (Oct. 21, 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 Board docket number R6-20(B) in your request. The Board's order is also available through 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 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 October 21, 2010, opinion and order: In the Matter of: Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil, R6-20(B) (Oct. 21, 2010).

On December 17, 2009, the Board in docket R06-20(A) adopted a second notice opinion and order proposing to amend its used oil management standards and special waste regulations: Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809, R06-20(A) (Dec. 17, 2009). The Board's opinion noted that first-notice comments had suggested adding definitions of "Btu" and "wastewater" at Section 808.110. Because the Board's first notice opinion and order in docket A had not included that section, the Board opened this subdocket B in order to provide first notice publication of the proposed definition.

16) Information and questions regarding this adopted amendment 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 R6-20(B) in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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

POLLUTION CONTROL BOARD

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

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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(A) at 34 Ill. Reg. 3310, effective February 25, 2010; amended in R06-20(B) at 34 Ill. Reg. 17390, effective October 29, 2010.

SUBPART A: GENERAL PROVISIONS

Section 808.110 Definitions

"Act" means the Environmental Protection Act [415 ILCS 5]~~(Ill. Rev. Stat. 1989, ch. 111½, pars. 1001 et seq.)~~.

"Agency" means the Illinois Environmental Protection Agency.

"Btu" or "British thermal unit" means the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

"Board" means the Illinois Pollution Control Board.

"Carcinogen" means a chemical, or complex mixture of closely related chemicals, which has been determined in accordance with USEPA Guidelines for Carcinogenic Risk Assessment, incorporated by reference at Section 808.111, to have either sufficient or limited human evidence or sufficient animal evidence supporting a causal association between exposure to the chemical and an increase in incidence of benign or malignant neoplasms or substantial decrease in the latancy period between exposure and onset of neoplasms.

"Declassified waste" means a waste which has been determined pursuant to Section 808.245 to not be a special waste.

"Degree of hazard" is determined pursuant to Section 808.245.

"Hazardous waste" or "RCRA hazardous waste" is as defined in 35 Ill. Adm.

Code 721.

"LC_{50}" means that concentration of a substance administered to test organisms that is lethal to 50 percent of a population of exposed organisms in a given time period. "Inhalation rat" means that the substance is administered by inhalation and the test organisms are laboratory rats. "Aquatic toxicity" means that the substance is administered in water to specified free-swimming test organisms.

"LD_{50}" means that dose of a substance administered to test organisms that is lethal to 50 percent of a population of exposed organisms in a given time period. "LD_{50}-oral rat" or "oral rat" means that dose of a substance, administered orally, that is lethal to 50 percent of a population of exposed rats in a given time period.

"Mutagen" means a chemical, or complex mixture of closely related chemicals or ionizing radiation which has been determined, in accordance with USEPA Guidelines for Mutagenic Risk Assessment, incorporated by reference at Section 808.111, to have sufficient evidence supporting a causal association between exposure to the chemical and point mutations (i.e., submicroscopic changes in the base sequence of DNA) or structural or numerical chromosome aberrations. Structural aberrations include deficiencies, duplications, insertions, inversions, and translocations, whereas numerical aberrations are gains or losses of whole chromosomes (e.g., trisomy, monosomy) or sets of chromosomes (haploidy, polyploidy).

"Special handling waste" is a declassified waste which, due to its form and mode of containment in transport or storage, presents a danger to a person handling the waste such that the person needs information about the waste to safely transport or store the waste. "Special handling waste" includes any such waste which would pose a danger if handled in a manner similar to household waste. "Dangers" include, but are not limited to, the following: fire, explosion, and emission of toxic or carcinogenic gas or dust. "Special handling waste" also includes any special waste which, because of appearance or packaging, resembles waste which would be a special handling waste. Such waste includes, but is not limited to, any special waste contained in a sealed drum. Irrespective of its degree of hazard ranking under Section 808.245, a special handling waste is a special waste.
BOARD NOTE: Section 808.245(d) provides that special handling waste which would otherwise be declassified is at least a Type B special waste.

"Special (non-RCRA) waste" is any special waste that is not hazardous waste as defined in this Section.

"*Special waste" means any hazardous waste, and any industrial process waste or pollution control waste which has not been declassified* pursuant to Section 808.245. (Section 3.45 of the Act.)
BOARD NOTE: The definition of "hazardous waste" at Section 3.15 of the Act differs from the definition of the same term as used in this Part. The Board intends that the Section 3.15 definition apply to this Part only for the purposes of this definition of special waste. The Board intends that the definition given in this Section apply to all other appearances for the term "hazardous waste" throughout this Part.

"TC_{50}" means that dose of a substance administered to test organisms that produces toxic effects in 50 percent of a population of exposed organisms in a given time period. "TD_{50}-oral rat" means that the test organisms are laboratory rats.

"Washwater", as used in this Subpart, means a mixture of water, nonhazardous cleaning compounds, and residue that results from cleaning surfaces and equipment and that is collected separately from sewage.

"Wastewater", as used in this Subpart, means stormwater, surface water, groundwater or nonhazardous washwater that has been contaminated with used oil but has not been mixed with sewage, industrial waste or any other waste.

(Source: Amended at 34 Ill. Reg. 17390, effective October 29, 2010)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Nonhazardous Special Waste Hauling and the Uniform Program

2) Code Citation: 35 Ill. Adm. Code 809

3) Section Number: 809.103 — Adopted Action: Amended

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, and 22.2 and 27]

5) Effective Date of Amendment: October 29, 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 Board's Chicago office at the James R. Thompson Center, 100 W. Randolph St., Suite 11-500, and is available there for public inspection. The adopted amendment is also available through the Board's Web site (www.ipcb.state.il.us).

9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 1275; January 22, 2010

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version:

a) The Board added a definition providing that "Washwater", as used in this Part, means a mixture of water, nonhazardous cleaning compounds, and residue that results from cleaning surfaces and equipment and that is collected separately from sewage.".

b) The Board amended the definition of "wastewater" by providing that, as used in this Part, it means "stormwater, surface water, groundwater or nonhazardous washwater that has been contaminated with used oil but has not been mixed with sewage, industrial waste or any other waste.".

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

The Board's opinion and order addresses changes made in other Parts in proceeding from first notice to final adoption in this docket. See In the Matter of: Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809, R06-20(B) (Oct. 21, 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 Board docket number R6-20(B) in your request. The Board's order is also available through 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 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 October 21, 2010, opinion and order: In the Matter of: Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil, R6-20(B) (Oct. 21, 2010).

On December 17, 2009, the Board in docket R06-20(A) adopted a second notice opinion and order proposing to amend its used oil management standards and special waste regulations: Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809, R06-20(A) (Dec. 17, 2009). The Board's opinion noted that first-notice comments had suggested adding a definition of "Btu" and "wastewater" at Section 809.103. Because the Board's first notice opinion and order in docket A had not included those in that section, the Board opened this subdocket B in order to provide first notice publication of the proposed definition.

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

Timothy Fox
Illinois Pollution Control Board 312/814-6085
100 W. Randolph 11-500
Chicago, IL 60601

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 R6-20(B) 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:

POLLUTION CONTROL BOARD

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 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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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(A) 34 Ill. Reg. 3317, effective February 25, 2010; amended in R06-20(B) 34 Ill. Reg. 17398, effective October 29, 2010.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

SUBPART A: GENERAL PROVISIONS

Section 809.103 Definitions

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

"Agency" means the Illinois Environmental Protection Agency.

"Base state" means the state in which a hazardous waste transporter must obtain a uniform registration, if required by the base state, and uniform permit.

"Board" means the Illinois Pollution Control Board.

"Btu" or "British thermal unit" means the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste or special waste into or on any land or water so that such waste or special waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters. [415 ILCS 5/3.08] (See "Waste", "Special Waste~~.~~".)

"Garbage" means the waste resulting from the handling, processing, preparation, cooking, and consumption of food, and wastes from the handling, processing, storage and sale of produce. [415 ILCS 5/3.11] (See "Waste~~.~~".)

"Hazardous waste" means a waste, or combination of wastes, which because of quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential threat to human health or to the environment when improperly treated, stored, transported or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or pursuant to agency guidelines consistent with the requirements of the Act and Board regulations. Potentially infectious medical waste is not a hazardous waste, except for those potentially infectious medical wastes identified by characteristics or listing as hazardous under Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to

Board regulations. [415 ILCS 5/3.15]

"Hazardous waste transporter" means any person who transports hazardous waste as defined in Section 3.15 of the Act.

"Industrial process waste" means any liquid, solid, semi-solid or gaseous waste, generated as a direct or indirect result of the manufacture of a product or the performance of a service, which poses a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. "Industrial process waste" includes but is not limited to spent pickling liquors, cutting oils, chemical catalysts, distillation bottoms, etching acids, equipment cleanings, paint sludges, incinerator ashes, core sands, metallic dust sweepings, asbestos dust, hospital pathological wastes and off-specification, contaminated or recalled wholesale or retail products. Specifically excluded are uncontaminated packaging materials, uncontaminated machinery components, general household waste, landscape waste and construction or demolition debris. [415 ILCS 5/3.17]

"Manifest" means the form provided or prescribed by the Agency and used for identifying name, quantity, and the origin, routing, and destination of special waste during its transportation from the point of generation to the point of disposal, treatment, or storage, as required by this Part, 35 Ill. Adm. Code: Subtitle G, or by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or regulations thereunder.

"Nonhazardous special waste" means any special waste, as defined in this Section, that has not been identified, by characteristics or listing, as hazardous pursuant to section~~Section~~ 3001 of the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or pursuant to Board regulations.

"Nonhazardous special waste hauling vehicle" means any self-propelled motor vehicle, except a truck tractor without a trailer, used to transport nonhazardous special waste in bulk or packages, tanks, or other containers.

"Nonhazardous special waste transporter" means any person who transports nonhazardous special waste.

"Off-site" means any site that is not "on-site", as defined in this Section.

"On-site" means (for the purpose of transporting hazardous waste) on the same or geographically contiguous property under the control of the same person even if such contiguous property is divided by a public or private right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way that the person controls, and to which the public does not have access, is also considered on-site property.

"Participating state" means a state that has elected to participate in the uniform program and has entered into a reciprocal agreement.

"Permitted disposal site" means a sanitary landfill or other type of disposal site, including but not limited to a deep well, a pit, a pond, a lagoon or an impoundment that has a current, valid operating permit issued by the Agency and a supplemental permit issued by the Agency specifically permitting the site to accept a special waste tendered for disposal.

"Permitted storage site" means any site used for the interim containment of special waste prior to disposal or treatment that has a current, valid operating permit issued by the Agency and a supplemental permit issued by the Agency specifically permitting the site to accept a special waste tendered for storage.

"Permitted treatment site" means any site used to change the physical, chemical or biological character or composition of any special waste, including but not limited to a processing center, a reclamation facility or a recycling center that has a current, valid operating permit issued by the Agency and a supplemental permit issued by the Agency specifically permitting the site to accept a special waste tendered for treatment.

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity or their legal representative, agent or assignee. [415 ILCS 5/3.26]

"Pollution control waste" means any liquid, solid, semi-solid or gaseous waste generated as a direct or indirect result of the removal of contaminants from the air, water or land, and which pose a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. "Pollution control waste" includes but is not limited to water and wastewater treatment plant

sludges, baghouse dusts, scrubber sludges and chemical spill cleanings. [415 ILCS 5/3.27]

"Principal place of business" means the state in which a person owning vehicles used for transporting hazardous waste maintains its central records or majority of its records relating to the transportation of hazardous materials; or the state in which the person owning vehicles used for transporting hazardous waste has the plurality of its mileage.

"Reciprocal agreement" means an agreement between Illinois and another state to participate in the Uniform Program.

"Reclamation" means the recovery of material or energy from waste for commercial or industrial use.

"Refuse" means any garbage or other discarded materials, with the exception of radioactive materials discarded in accordance with the provisions of the Radiation Protection Act [420 ILCS 40] and Radioactive Waste Storage Act [420 ILCS 35]. (See "Waste~~.~~".)

"Septic tank pumpings" means the liquid portions and sludge residues removed from septic tanks.

"Site" means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations under the Act. [415 ILCS 5/3.43]

"Solid waste~~.~~" (see "Waste~~.~~").

"Special waste" means *any of the following*:

Potentially infectious medical waste;

Hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in 35 Ill. Adm. Code 722.111, including a residue from burning or processing hazardous waste in a boiler or industrial furnace unless the residue has been tested in accordance with 35 Ill. Adm. Code 726 and proven to be nonhazardous;

Industrial process waste or pollution control waste, except:

Any such waste certified by its generator, pursuant to Section 22.48 of the Act, not to be any of the following:

A liquid, as determined using the paint filter test set forth in 35 Ill. Adm. Code 811.107(m)(3)(a);

Regulated asbestos-containing waste materials, as defined under the National Emission Standards for Hazardous Air Pollutants in 40 CFR 61.141;

Polychlorinated biphenyls (PCBs) regulated pursuant to 40 CFR 761;

An industrial process waste or pollution control waste subject to the waste analysis and recordkeeping requirements of 35 Ill. Adm. Code 728.107 under the land disposal restrictions of 35 Ill. Adm. Code 728; and

A waste material generated by processing recyclable metals by shredding and required to be managed as a special waste under Section 22.29 of the Act;

Any empty portable device or container, including but not limited to a drum, in which a special waste has been stored, transported, treated, disposed of, or otherwise handled, provided that the generator has certified that the device or container is empty and does not contain a liquid, as determined using the paint filter test set forth in 35 Ill. Adm. Code 811.107(m)(3)(a). "Empty portable device or container" means a device or container in which removal of special waste, except for a residue that shall not exceed one inch in thickness, has been accomplished by a practice commonly employed to remove materials of that type. An inner liner used to prevent contact between the special waste and the container shall be removed and managed as a special waste; or

As may otherwise be determined under Section 22.9 of the Act. [415 ILCS 5/3.45]

"Special waste transporter" means any person who transports special waste (as defined in Section 3.45 of the Act) from any location.

"Spill" means any accidental discharge of special waste.

"Storage" means the interim containment of special waste prior to disposal or treatment.

"Tank" means any bulk container placed on or carried by a vehicle to transport special waste, including wheel mounted tanks.

"Treatment" means any method, technique or process, including neutralization designed to change the physical, chemical or biological character or composition of any special waste so as to neutralize that waste or so as to render that waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. "Treatment" includes any activity or processing designed to change the physical form or chemical composition of special waste to render it less dangerous or nonhazardous. [415 ILCS 5/3.49] Treatment also includes reclamation, re-use and recycling of special waste.

"Truck" means any unitary vehicle used to transport special waste.

"Truck tractor" means any motor vehicle used to transport special waste that is designed and used for drawing other devices and not so constructed as to carry a load other than a part of the weight of the device and load so drawn.

"Uniform application" means the uniform registration and uniform permit application form established under the Uniform Program and provided by the Agency.

"Uniform permit" means the permit issued by a base state under Part II of the uniform application.

"Uniform Program" means the program established pursuant to the directive of the Hazardous Materials Transportation Uniform Safety Act of 1990 (49 USC 1 et seq.) and the Hazardous Materials Transportation Authorization Act of 1994 (49 USCS 5101 et seq.) and implemented pursuant to the Final Report: Uniform Program Pilot Project and the State Program Administrator's Manual, Uniform

Program, Alliance for Uniform HazMat Transportation Procedures, incorporated by reference in Section 809.104.

"Uniform registration" means the annual registration issued by a base state under Part I of the uniform application, if the base state has a registration requirement.

"Vehicle" means any *self-propelled motor vehicle, except a truck tractor without a trailer, designed or used for the transportation of hazardous waste.* [415 ILCS 5/22.2(l-5)(1)]

"Waste" means any garbage, *sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities*, *but does not include solid or dissolved material in domestic sewage*, *or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.94 of the Act*, or *industrial discharges which are point sources subject to permits under section~~Section~~ 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or byproduct materials as defined by the Atomic Energy Act of 1954, as amended* (*42 USC 2011 et seq.*) *or any solid or dissolved material from any facility subject to The Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto.* [415 ILCS 5/3.53]

"Washwater", as used in this Part, means a mixture of water, nonhazardous cleaning compounds, and residue that results from cleaning surfaces and equipment and that is collected separately from sewage.

"Wastewater", as used in this Part, means stormwater, surface water, groundwater or nonhazardous washwater that has been contaminated with used oil but has not been mixed with sewage, industrial waste or any other waste.

(Source: Amended at 34 Ill. Reg. 17398, effective October 29, 2010)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision

2) Code Citation: 23 Ill. Adm. Code 1

3) Section Number: 1.APPENDIX D
Adopted Action: Amendment

4) Statutory Authority: 105 ILCS 5/2-3.6

5) Effective Date of Amendment: October 28, 2010

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? Yes

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 9, 2010; 34 Ill. Reg. 8957

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreements letter was issued.

13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes

14) Are there any other proposed rulemakings pending on this Part? No

15) Summary and Purpose of the Amendment: The State Board of Education adopted the Illinois Learning Standards (ILS) in 1997. In the last several years, the agency and others recognized that the ILS no longer adequately addressed the knowledge and skills that students must have in order to be successful in college and their careers. In response, the agency in October 2008, through the American Diploma Project (ADP), began an external and internal review of the ILS for English Language Arts and Mathematics. As this work was under way, Illinois joined the Common Core State Standards Initiative, a

project led by the National Governors Association Center for Best Practices (NGA Center) and the Council of Chief State School Officers (CCSSO) in partnership with Achieve, ACT, and the College Board. The initiative's charge was the development of internationally benchmarked standards in English language arts and mathematics.

With its participation in the Common Core State Standards Initiative, Illinois made a commitment to adopt the common core standards to serve as at least 85 percent of the State's standards for English language arts and mathematics. To fulfill this commitment, the current State goals and standards for these learning areas, as set forth in Appendix D to Part 1, have been replaced with the common core standards by incorporating them by reference into the rules.

The common core provides standards in kindergarten through grade 12 that are:

- Fewer, clearer and higher to best drive executive policy and practice;
- Aligned with college and work expectations so that all students are prepared for success upon graduating from high school;
- Inclusive of rigorous content and application of knowledge through higher-order skills so that all students are prepared for the 21st century;
- Benchmarked to international standards so that all students are prepared for succeeding in a global economy and society; and
- Research- and evidence-based.

The common core standards for English language arts and math also include information on their application for English language learners and students with disabilities. Additionally, it is anticipated that these standards will provide opportunities for State Board staff to share experiences and best practices within Illinois and across other participating states that can lead to an improved ability for them to best serve these populations of students.

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

Susie Morrison, Deputy Superintendent and Chief of Staff
Illinois State Board of Education
100 North First Street, S-405
Springfield, Illinois 62777

217/728-2223

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1
PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: RECOGNITION REQUIREMENTS

Section
1.10 Public School Accountability Framework
1.20 Operational Requirements
1.30 State Assessment
1.40 Adequate Yearly Progress
1.50 Calculation of Participation Rate
1.60 Subgroups of Students; Inclusion of Relevant Scores
1.70 Additional Indicators for Adequate Yearly Progress
1.75 Student Information System
1.77 Educator Certification System
1.80 Academic Early Warning and Watch Status
1.85 School and District Improvement Plans; Restructuring Plans
1.88 Additional Accountability Requirements for Districts Serving Students of Limited English Proficiency Under Title III
1.90 System of Rewards and Recognition − The Illinois Honor Roll
1.95 Appeals Procedure
1.100 Waiver and Modification of State Board Rules and School Code Mandates

SUBPART B: SCHOOL GOVERNANCE

Section
1.210 Powers and Duties (Repealed)
1.220 Duties of Superintendent (Repealed)
1.230 Board of Education and the School Code (Repealed)
1.240 Equal Opportunities for all Students
1.242 Temporary Exclusion for Failure to Meet Minimum Academic or Attendance Standards
1.245 Waiver of School Fees
1.250 District to Comply with 23 Ill. Adm. Code 180 (Repealed)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

1.260 Commemorative Holidays to be Observed by Public Schools (Repealed)
1.270 Book and Material Selection (Repealed)
1.280 Discipline
1.285 Requirements for the Use of Isolated Time Out and Physical Restraint
1.290 Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

Section
1.310 Administrative Qualifications and Responsibilities
1.320 Evaluation of Certified Staff in Contractual Continued Service
1.330 Hazardous Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section
1.410 Determination of the Instructional Program
1.420 Basic Standards
1.430 Additional Criteria for Elementary Schools
1.440 Additional Criteria for High Schools
1.445 Required Course Substitute
1.450 Special Programs (Repealed)
1.460 Credit Earned Through Proficiency Examinations
1.462 Uniform Annual Consumer Education Proficiency Test
1.465 Ethnic School Foreign Language Credit and Program Approval
1.470 Adult and Continuing Education
1.480 Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

Section
1.510 Transportation
1.515 Training of School Bus Driver Instructors
1.520 School Food Services (Repealed)
1.530 Health Services
1.540 Pupil Personnel Services (Repealed)

SUBPART F: STAFF CERTIFICATION REQUIREMENTS

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

Section
1.610 Personnel Required to be Qualified
1.620 Accreditation of Staff (Repealed)
1.630 Noncertificated Personnel
1.640 Requirements for Different Certificates (Repealed)
1.650 Transcripts of Credits
1.660 Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS

Section
1.705 Requirements for Supervisory and Administrative Staff
1.710 Requirements for Elementary Teachers
1.720 Requirements for Teachers of Middle Grades
1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades Six (6) and Above through June 30, 2004
1.735 Requirements to Take Effect from July 1, 1991, through June 30, 2004
1.736 Requirements to Take Effect from July 1, 1994, through June 30, 2004
1.737 Minimum Requirements for the Assignment of Teachers in Grades 9 through 12 Beginning July 1, 2004
1.740 Standards for Reading through June 30, 2004
1.745 Requirements for Reading Teachers and Reading Specialists at all Levels as of July 1, 2004
1.750 Standards for Media Services through June 30, 2004
1.755 Requirements for Library Information Specialists Beginning July 1, 2004
1.760 Standards for Pupil Personnel Services
1.762 Supervision of Speech-Language Pathology Assistants
1.770 Standards for Special Education Personnel
1.780 Standards for Teachers in Bilingual Education Programs
1.781 Requirements for Bilingual Education Teachers in Grades K-12
1.782 Requirements for Teachers of English as a Second Language in Grades K-12
1.790 Substitute Teacher

1.APPENDIX A Professional Staff Certification
1.APPENDIX B Certification Quick Reference Chart (Repealed)
1.APPENDIX C Glossary of Terms (Repealed)
1.APPENDIX D State Goals for Learning
1.APPENDIX E Evaluation Criteria – Student Performance and School Improvement Determination (Repealed)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

1.APPENDIX F Criteria for Determination – Student Performance and School Improvement (Repealed)
1.APPENDIX G Criteria for Determination – State Assessment (Repealed)

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-3.5, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3, and 27-23.8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-3.5, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3, 27-23.8, and 2-3.6].

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255, effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 6111, effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg. 16073, effective November 28, 2001; amended at 26 Ill. Reg. 1157, effective January 16, 2002; amended at 26 Ill. Reg. 16160, effective October 21, 2002; amended at 28 Ill. Reg. 8486, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 13637, effective September 27, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1891, effective January 24, 2005; amended at 29 Ill. Reg. 11811, effective July 13, 2005; amended at 29 Ill. Reg. 12351, effective July 28, 2005; amended at 29 Ill. Reg. 15789, effective October 3, 2005; amended at 29 Ill. Reg. 19891, effective November 23, 2005; amended at 30 Ill. Reg. 8480, effective April 21, 2006; amended at 30 Ill. Reg. 16338, effective September 26, 2006; amended at 30 Ill. Reg. 17416, effective October 23, 2006; amended at 31 Ill. Reg. 5116, effective March 16, 2007; amended at 31 Ill. Reg. 7135, effective April 25, 2007; amended at 31 Ill. Reg. 9897, effective June 26, 2007; amended at 32 Ill. Reg. 10229, effective June 30, 2008; amended at 33 Ill. Reg. 5448, effective March 24, 2009; amended at 33 Ill. Reg. 15193, effective October 20, 2009; amended at 34 Ill. Reg. 2959, effective February 18, 2010; emergency amendment at 34 Ill. Reg. 9533, effective June 24, 2010, for a maximum of 150 days; amended at 34 Ill. Reg. 17411, effective October 28, 2010.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

Section 1. APPENDIX~~Appendix~~ D State Goals for Learning

The State Goals for Learning are broad statements of what students should know and be able to do as a result of their public education. The Illinois Learning Standards provide more specific definition of the essential knowledge and skills desired of Illinois students. The state assessment is designed to measure students' mastery of the Illinois Learning Standards, so that a clear connection will emerge between students' learning and the goals and standards of the State of Illinois.

ENGLISH LANGUAGE ARTS AND LITERACY IN HISTORY/SOCIAL STUDIES, SCIENCE, AND TECHNICAL SUBJECTS

There are no State Goals for Learning in this area. The applicable standards shall be the "Common Core State Standards for English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects" (2010) published by the Common Core State Standards Initiative and posted at http://www.corestandards.org/the-standards/english-language-arts-standards. No later amendments to or editions of these standards are incorporated by this Section.

~~State Goal 1: Read with understanding and fluency.~~

~~Standards:~~

~~Apply word analysis and vocabulary skills to comprehend selections.~~

~~Apply reading strategies to improve understanding and fluency.~~

~~Comprehend a broad range of reading materials.~~

~~State Goal 2: Read and understand literature representative of various societies, eras and ideas.~~

~~Standards:~~

~~Understand how literary elements and techniques are used to convey meaning.~~

~~Read and interpret a variety of literary works.~~

~~State Goal 3: Write to communicate for a variety of purposes.~~

~~Standards:~~

~~Use correct grammar, spelling, punctuation, capitalization and structure.~~

~~Compose well-organized and coherent writing for specific purposes and audiences.~~

~~Communicate ideas in writing to accomplish a variety of purposes.~~

~~State Goal 4: Listen and speak effectively in a variety of situations.~~

~~Standards:~~

~~Listen effectively in formal and informal situations.~~

~~Speak effectively using language appropriate to the situation and audience.~~

~~State Goal 5: Use the language arts to acquire, assess and communicate information.~~

~~Standards:~~

~~Locate, organize, and use information from various sources to answer questions, solve problems and communicate ideas.~~

~~Analyze and evaluate information acquired from various sources.~~

~~Apply acquired information, concepts and ideas to communicate in a variety of formats.~~

MATHEMATICS

There are no State Goals for Learning in this area. The applicable standards shall be the "Common Core State Standards for Mathematics" (2010) published by the Common Core State Standards Initiative and posted at http://www.corestandards.org/the-standards/mathematics. No later amendments to or editions of these standards are incorporated by this Section.

~~State Goal 6: Demonstrate and apply a knowledge and sense of numbers, including numeration and operations (addition, subtraction, multiplication, division), patterns, ratios and proportions.~~

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

~~Standards:~~

~~Demonstrate knowledge and use of numbers and their representations in a broad range of theoretical and practical settings.~~

~~Investigate, represent and solve problems using number facts, operations (addition, subtraction, multiplication, division) and their properties, algorithms and relationships.~~

~~Compute and estimate using mental mathematics, paper-and-pencil methods, calculators and computers.~~

~~Solve problems using comparison of quantities, ratios, proportions and percents.~~

~~State Goal 7: Estimate, make and use measurements of objects, quantities and relationships and determine acceptable levels of accuracy.~~

~~Standards:~~

~~Measure and compare quantities using appropriate units, instruments and methods.~~

~~Estimate measurements and determine acceptable levels of accuracy.~~

~~Select and use appropriate technology, instruments and formulas to solve problems, interpret results and communicate findings.~~

~~State Goal 8: Use algebraic and analytical methods to identify and describe patterns and relationships in data, solve problems and predict results.~~

~~Standards:~~

~~Describe numerical relationships using variables and patterns.~~

~~Interpret and describe numerical relationships using tables, graphs and symbols.~~

~~Solve problems using systems of numbers and their properties.~~

~~Use algebraic concepts and procedures to represent and solve problems.~~

~~State Goal 9: Use geometric methods to analyze, categorize and draw conclusions about points, lines, planes and space.~~

~~Standards:~~

~~Demonstrate and apply geometric concepts involving points, lines, planes and space.~~

~~Identify, describe, classify and compare relationships using points, lines, planes and solids.~~

~~Construct convincing arguments and proofs to solve problems.~~

~~Use trigonometric ratios and circular functions to solve problems.~~

~~State Goal 10: Collect, organize and analyze data using statistical methods; predict results; and interpret uncertainty using concepts of probability.~~

~~Standards:~~

~~Organize, describe and make predictions from existing data.~~

~~Formulate questions, design data collection methods, gather and analyze data and communicate findings.~~

~~Determine, describe and apply the probabilities of events.~~

SCIENCE

State Goal 11: Understand the processes of scientific inquiry and technological design to investigate questions, conduct experiments and solve problems.

Standards:

Know and apply the concepts, principles and processes of scientific

inquiry.

Know and apply the concepts, principles and processes of technological design.

State Goal 12: Understand the fundamental concepts, principles and interconnections of the life, physical and earth/space sciences.

Standards:

Know and apply concepts that explain how living things function, adapt and change.

Know and apply concepts that describe how living things interact with each other and with their environment.

Know and apply concepts that describe properties of matter and energy and the interactions between them.

Know and apply concepts that describe force and motion and the principles that explain them.

Know and apply concepts that describe the features and processes of the Earth and its resources.

Know and apply concepts that explain the composition and structure of the universe and Earth's place in it.

State Goal 13: Understand the relationships among science, technology and society in historical and contemporary contexts.

Standards:

Know and apply the accepted practices of science.

Know and apply concepts that describe the interaction between science, technology and society.

SOCIAL SCIENCE

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

State Goal 14: Understand political systems, with an emphasis on the United States.

Standards:

Understand and explain basic principles of the United States government.

Understand the structures and functions of the political systems of Illinois, the United States and other nations.

Understand election processes and responsibilities of citizens.

Understand the roles and influences of individuals and interest groups in the political systems of Illinois, the United States and other nations.

Understand United States foreign policy as it relates to other nations and international issues.

Understand the development of United States political ideas and traditions.

State Goal 15: Understand economic systems, with an emphasis on the United States.

Standards:

Understand how different economic systems operate in the exchange, production, distribution and consumption of goods and services.

Understand that scarcity necessitates choices by consumers.

Understand that scarcity necessitates choices by producers.

Understand trade as an exchange of goods or services.

Understand the impact of government policies and decisions on production and consumption in the economy.

State Goal 16: Understand events, trends, individuals and movements shaping the history of Illinois, the United States and other nations.

Standards:

Apply the skills of historical analysis and interpretation.

Understand the development of significant political events.

Understand the development of economic systems.

Understand Illinois, United States and world social history.

Understand Illinois, United States and world environmental history.

State Goal 17: Understand world geography and the effects of geography on society, with an emphasis on the United States.

Standards:

Locate, describe and explain places, regions and features on the Earth.

Analyze and explain characteristics and interactions of the Earth's physical systems.

Understand relationships between geographic factors and society.

Understand the historical significance of geography.

State Goal 18: Understand social systems, with an emphasis on the United States.

Standards:

Compare characteristics of culture as reflected in language, literature, the arts, traditions and institutions.

Understand the roles and interactions of individuals and groups in society.

Understand how social systems form and develop over time.

PHYSICAL DEVELOPMENT AND HEALTH

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

State Goal 19: Acquire movement skills and understand concepts needed to engage in health-enhancing physical activity.

Standards:

Demonstrate physical competency in individual and team sports, creative movement and leisure and work-related activities.

Analyze various movement concepts and applications.

Demonstrate knowledge of rules, safety and strategies during physical activity.

State Goal 20: Achieve and maintain a health-enhancing level of physical fitness based upon continual self-assessment.

Standards:

Know and apply the principles and components of health-related fitness.

Assess individual fitness levels.

Set goals based on fitness data and develop, implement and monitor an individual fitness improvement plan.

State Goal 21: Develop team-building skills by working with others through physical activity.

Standards:

Demonstrate individual responsibility during group physical activities.

Demonstrate cooperative skills during structured group physical activity.

State Goal 22: Understand principles of health promotion and the prevention and treatment of illness and injury.

Standards:

Explain the basic principles of health promotion, illness prevention and

safety.

Describe and explain the factors that influence health among individuals, groups and communities.

Explain how the environment can affect health.

State Goal 23: Understand human body systems and factors that influence growth and development.

Standards:

Describe and explain the structure and functions of the human body systems and how they interrelate.

Explain the effects of health-related actions on the body systems.

Describe factors that affect growth and development.

State Goal 24: Promote and enhance health and well-being through the use of effective communication and decision-making skills.

Standards:

Demonstrate procedures for communicating in positive ways, resolving differences and preventing conflict.

Apply decision-making skills related to the protection and promotion of individual health.

Demonstrate skills essential to enhancing health and avoiding dangerous situations.

FINE ARTS

State Goal 25: Know the language of the arts.

Standards:

Understand the sensory elements, organizational principles and expressive qualities of the arts.

Understand the similarities, distinctions and connections in and among the arts.

State Goal 26: Through creating and performing, understand how works of art are produced.

Standards:

Understand processes, traditional tools and modern technologies used in the arts.

Apply skills and knowledge necessary to create and perform in one or more of the arts.

State Goal 27: Understand the role of the arts in civilizations, past and present.

Standards:

Analyze how the arts function in history, society and everyday life.

Understand how the arts shape and reflect history, society and everyday life.

(Source: Amended at 34 Ill. Reg. 17411, effective October 28, 2010)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

1) Heading of the Part: Code of Ethics for Illinois Educators

2) Code Citation: 23 Ill. Adm. Code 22

3)

Section Numbers:	Adopted Action:
22.10	New Section
22.20	New Section

4) Statutory Authority: 105 ILCS 5/2-3.6

5) Effective Date of Rulemaking: October 28, 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 rulemaking, 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: July 9, 2010; 34 Ill. Reg. 8961

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 agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreements letter was issued.

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any other proposed rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: These rules were developed in response to a need identified in the process of developing another part of agency rules (Illinois Professional Teaching Standards, Part 24). Codes of ethics for educators from several states, education agencies, and associations were evaluated, and an advisory group to the State Board of Education chose Rhode Island's Code of Professional Responsibility as a model

for developing the Code of Ethics for Illinois Educators. The Code is founded on five core principles for educators:

- Responsibility to students;
- Responsibility to self;
- Responsibility to colleagues and the profession;
- Responsibility to parents, families, and communities; and
- Responsibility to the Illinois State Board of Education.

The principles set expectations for guiding practice and inspiring professional excellence in relation to federal, State and local policies and rules, and in establishing and implementing locally established collective bargaining agreements.

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

Patrick Murphy
Educator and School Development Division
Illinois State Board of Education
100 North First Street, E-310
Springfield, Illinois 62777-0001

217/782-2948

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 22
CODE OF ETHICS FOR ILLINOIS EDUCATORS

Section
22.10 Purpose and Applicability
22.20 Code of Ethics

AUTHORITY: Implementing Article 21 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21 and 2-3.6].

SOURCE: Adopted at 34 Ill. Reg. 17427, effective October 28, 2010.

Section 22.10 Purpose and Applicability

This Part establishes core principles, values and responsibilities that shall apply to all Illinois educators.

a) The purpose of this Part is to set expectations for educators; guide educational practice; and inspire professional excellence in relation to federal, State, and local policies and rules, and locally established collective bargaining agreements.

b) For the purpose of this Part, "educator" refers to individuals who:

1) hold or are applying for a valid Illinois teaching or administrative certificate issued pursuant to Article 21 [105 ILCS 5/Art. 21];

2) are not required to hold a certificate but who hold or are applying for approval (e.g., paraprofessionals, teacher aides, educational interpreters) for their positions issued pursuant to requirements set forth in 23 Ill. Adm. Code 25; and

3) are enrolled in an Illinois preservice education preparation program.

c) Neither this Part nor any provisions within this Part shall be construed to in any way affect the State Superintendent of Education's authority to initiate an action under Article 21 of the School Code to suspend or revoke an educator's certificate.

Section 22.20 Code of Ethics

a) Responsibility to Students
The Illinois educator is committed to creating, promoting, and implementing a learning environment that is accessible to each student, enables students to achieve the highest academic potential, and maximizes their ability to succeed in academic and employment settings as a responsible member of society. Illinois educators:

1) Embody the Standards for the School Service Personnel Certificate (23 Ill. Adm. Code 23), the Illinois Professional Teaching Standards (23 Ill. Adm. Code 24), and Standards for Administrative Certification (23 Ill. Adm. Code 29), as applicable to the educator, in the learning environment;

2) Respect the inherent dignity and worth of each student by assuring that the learning environment is characterized by respect and equal opportunity for each student, regardless of race, color, national origin, sex, sexual orientation, disability, religion, language or socio-economic status;

3) Maintain a professional relationship with students at all times;

4) Provide a curriculum based on high expectations for each student that addresses individual differences through the design, implementation, and adaptation of effective instruction; and

5) Foster in each student the development of attributes that will enhance skills and knowledge necessary to be a contributing member of society.

b) Responsibility to Self
Illinois educators are committed to establishing high professional standards for their practice and striving to meet these standards through their performance. Illinois educators:

1) Assume responsibility and accountability for their performance and continually strive to demonstrate proficiency and understanding of current trends in both content knowledge and professional practice;

2) Develop and implement personal and professional goals with attention to professional standards through a process of self-assessment and professional development;

3) Represent their professional credentials and qualifications accurately; and

4) Demonstrate a high level of professional judgment.

c) Responsibility to Colleagues and the Profession
The Illinois educator is committed to collaborating with school and district colleagues and other professionals in the interest of student learning. Illinois educators:

1) Collaborate with colleagues in their respective schools and districts to meet local and State educational standards;

2) Work together to create a respectful, professional, and supportive school climate that allows all educators to maintain their individual professional integrity;

3) Seek out and engage in activities that contribute to the ongoing development of the profession;

4) Promote participation in educational decision-making processes;

5) Encourage promising candidates to enter the education profession; and

6) Support the preparation, induction, mentoring, and professional development of educators.

d) Responsibility to Parents, Families and Communities
The Illinois educator will collaborate, build trust, and respect confidentiality with parents, families, and communities to create effective instruction and learning environments for each student. Illinois educators:

1) Aspire to understand and respect the values and traditions of the diversity represented in the community and in their learning environments;

2) Encourage and advocate for fair and equal educational opportunities for each student;

3) Develop and maintain professional relationships with parents, families, and communities;

4) Promote collaboration and support student learning through regular and meaningful communication with parents, families, and communities; and

5) Cooperate with community agencies that provide resources and services to enhance the learning environment.

e) Responsibility to the Illinois State Board of Education
Illinois educators are committed to compliance with the School Code and its implementing regulations, and to State and federal laws and regulations relevant to their profession. Illinois educators:

1) Provide accurate communication to the Illinois State Board of Education concerning all certification matters;

2) Maintain appropriate certification for employment; and

3) Comply with State and federal laws and regulations.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Special Education

2) Code Citation: 23 Ill. Adm. Code 226

3)

Section Numbers:	Adopted Action:
226.50	Amendment
226.180	Amendment
226.220	Amendment
226.300	Amendment
226.360	New Section
226.530	Amendment
226.540	Amendment
226.720	Amendment
226.780	New Section
226.800	Amendment
226.840	Amendment

4) Statutory Authority: 105 ILCS 5/Art. 14 and 2-3.6

5) Effective Date of Rulemaking: October 28, 2010

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? Yes; see Section 226.840, "Orientation/Mobility".

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: July 9, 2010; 34 Ill. Reg. 8967

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: In Section 226.300(g), the title of the cross-reference to 23 Ill. Adm. Code 1.610 was changed to "Personnel Required to be Qualified".

In Section 226.780(c), a change was made to require that withdrawal petitions be provided to "the school boards of the member school districts that would fall under the

oversight of the governance of the abolished regional board of school trustees", rather than to the successor entity to the abolished regional board of school trustees.

Sections 226.780(c)(1) through (c)(3) were added to set forth the process for the school boards' consideration of the withdrawal petition.

In Section 226.840, "Medical Review", reference to a "license to practice medicine in all of its branches" was restored and one to the Nurse Practice Act [225 ILCS 65] was added.

Other minor clarifications and nonsubstantive technical changes also were made.

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

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any other proposed rulemakings pending on this Part? No

15) Summary and Purpose of Amendments: The amendments address several different subject areas, each of which is discussed separately below.

Home/Hospital Instruction. P.A. 96-257, effective August 11, 2009, sets forth the criteria for a student's receipt of instruction either at home or in the hospital and requires that the agency establish by rule the qualifications of staff providing this instruction. Current rules at Section 226.300 mirror the criteria in the law for the provision of home or hospital instruction, but do not address the qualifications of staff who will provide the instruction, so new subsection (h) cross-references the rules where general requirements for staff can be found (Section 1.610 of rules governing Public Schools Evaluation, Recognition and Supervision).

Remote Educational Programs. P.A. 96-684, effective August 25, 2009, authorizes school districts to establish remote educational programs (i.e., instruction delivered to students at home or a location other than the school building). New Section 226.360 reminds school districts that place students with disabilities into these programs of their obligations relative to the provision of programming and related services as specified in the child's Individualized Education Program (IEPs).

Consent. Section 226.540 sets forth the conditions under which a parent may revoke consent for any action by the district or cooperative entity serving his or her child. The

changes align the agency's rules to federal regulations found at 34 CFR 300.9 and 300.300. These regulations make explicit that if a parent opts to revoke consent for an existing special education placement, the school district must now honor the revocation and return the child to general education. The revocation may not be challenged through due process.

Special Education Cooperatives. P.A. 96-769, effective August 28, 2009, directs the agency to establish procedures for regional boards of school trustees' consideration of petitions for the withdrawal of one or more school districts from a special education joint agreement. New Section 226.780 addresses three scenarios under which these petitions are considered:

- Only one regional board of school trustees has oversight or governance over the districts subject to the joint agreement; or
- One or more regional boards of school trustees have oversight or governance over the districts subject to the joint agreement; or
- One or more regional boards of school trustees with oversight or governance over the districts subject to the joint agreement have been dissolved.

The rules set forth notice requirements and the factors (i.e., special education needs and conditions of the petitioning district) that boards must consider in determining whether the withdrawal is in the best interest of the petitioning district and those districts subject to the joint agreement.

Miscellaneous. Other changes include:

- specifying that notices regarding IEPs be provided in writing, as well as those for parental participation in other meetings with the school district;
- requiring that interpreters provided for parents who are deaf or hard of hearing be individuals licensed under the Interpreter for the Deaf Licensure Act of 2007;
- clarifying that requirements for facilities pertain only to facilities of school districts, cooperatives and joint agreements rather than for facilities of organizations that provide special education and/or residential services to students with disabilities under contract to one or more Illinois school districts pursuant to Section 14-7.02 of the School Code; and
- removing two references to Section 25.40 of rules governing Certification since that section of the rules has been repealed.

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

David Andel, Division Administrator

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Illinois State Board of Education
100 North First Street, N-253
Springfield, Illinois 62777

217/782-5589

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

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

PART 226
SPECIAL EDUCATION

SUBPART A: GENERAL

Section
226.10 Purpose
226.50 Requirements for a Free Appropriate Public Education (FAPE)
226.60 Charter Schools
226.75 Definitions

SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN

Section
226.100 Child Find Responsibility
226.110 Evaluation Procedures
226.120 Reevaluations
226.130 Additional Procedures for Students Suspected of or Having a Specific Learning Disability
226.135 Additional Procedures for Students Suspected of or Having a Cognitive Disability
226.140 Modes of Communication and Cultural Identification
226.150 Evaluation to be Nondiscriminatory
226.160 Determination of Eligibility (Repealed)
226.170 Criteria for Determining the Existence of a Specific Learning Disability (Repealed)
226.180 Independent Educational Evaluation
226.190 Reevaluation (Repealed)

SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Section
226.200 General Requirements
226.210 IEP Team

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

226.220 Development, Review, and Revision of the IEP
226.230 Content of the IEP
226.240 Determination of Placement
226.250 Child Aged Three Through Five
226.260 Child Reaching Age Three

SUBPART D: PLACEMENT

Section
226.300 Continuum of Placement Options
226.310 Related Services
226.320 Service to Students Living in Residential Care Facilities
226.330 Placement by School District in State-Operated or Nonpublic Special Education Facilities
226.340 Nonpublic Placements by Parents Where FAPE is at Issue
226.350 Service to Parentally-Placed Private School Students
226.360 Placement by School Districts in Remote Educational Programs

SUBPART E: DISCIPLINE

Section
226.400 Disciplinary Actions
226.410 Manifestation Determination Review (Repealed)
226.420 Appeals (Repealed)
226.430 Protection for Children Not Yet Eligible for Special Education (Repealed)
226.440 Referral to and Action by Law Enforcement and Judicial Authorities (Repealed)

SUBPART F: PROCEDURAL SAFEGUARDS

Section
226.500 Language of Notifications
226.510 Notification of Parents' Rights
226.520 Notification of District's Proposal
226.530 Parents' Participation
226.540 Consent
226.550 Surrogate Parents
226.560 Mediation
226.570 State Complaint Procedures

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

SUBPART G: DUE PROCESS

Section
226.600 Calculation of Timelines
226.605 Request for Hearing; Basis (Repealed)
226.610 Information to Parents Concerning Right to Hearing
226.615 Procedure for Request
226.620 Denial of Hearing Request (Repealed)
226.625 Rights of the Parties Related to Hearings
226.630 Qualifications, Training, and Service of Impartial Due Process Hearing Officers
226.635 Appointment, Recusal, and Substitution of Impartial Due Process Hearing Officers
226.640 Scheduling the Hearing and Pre-Hearing Conference
226.645 Conducting the Pre-Hearing Conference
226.650 Child's Status During Due Process Hearing (Repealed)
226.655 Expedited Due Process Hearing
226.660 Powers and Duties of Hearing Officer
226.665 Record of Proceedings
226.670 Decision of Hearing Officer; Clarification
226.675 Monitoring and Enforcement of Decisions; Notice of Ineligibility for Funding
226.680 Reporting of Decisions (Repealed)
226.690 Transfer of Parental Rights

SUBPART H: ADMINISTRATIVE REQUIREMENTS

Section
226.700 General
226.710 Policies and Procedures
226.720 Facilities and Classes
226.730 Class Size for 2009-10 and Beyond
226.731 Class Size Provisions for 2007-08 and 2008-09
226.735 Work Load for Special Educators
226.740 Records; Confidentiality
226.750 Additional Services
226.760 Evaluation of Special Education
226.770 Fiscal Provisions
226.780 Procedures for Withdrawal Hearings before the Regional Board of School Trustees

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

SUBPART I: PERSONNEL

Section
226.800 Personnel Required to be Qualified
226.810 Special Education Teaching Approval
226.820 Authorization for Assignment
226.830 List of Independent Evaluators
226.840 Qualifications of Evaluators

AUTHORITY: Implementing Article 14 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art.14 and 2-3.6].

SOURCE: Adopted August 12, 1976; rules repealed and new emergency rules adopted at 2 Ill. Reg. 37, p. 29, effective September 1, 1978, for a maximum of 150 days; rules repealed and new rules adopted at 3 Ill. Reg. 5, p. 932, effective February 1, 1979; emergency amendment at 4 Ill. Reg. 38, p. 328, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 8021, effective July 22, 1981; amended at 6 Ill. Reg. 558, effective December 23, 1981; emergency amendment at 7 Ill. Reg. 6511, effective May 6, 1983, for a maximum of 150 days; emergency amendment at 7 Ill. Reg. 8949, effective July 15, 1983, for a maximum of 150 days; codified at 8 Ill. Reg. 6669; amended at 8 Ill. Reg. 7617, effective May 17, 1984; emergency amendment at 10 Ill. Reg. 3292, effective January 27, 1986, for a maximum of 150 days; emergency expired June 24, 1986; amended at 10 Ill. Reg. 18743, effective October 22, 1986; amended at 10 Ill. Reg. 19411, effective October 31, 1986; amended at 13 Ill. Reg. 15388, effective September 14, 1989; emergency amendment at 14 Ill. Reg. 11364, effective June 26, 1990, for a maximum of 150 days; emergency expired November 23, 1990; amended at 15 Ill. Reg. 40, effective December 24, 1990; amended at 16 Ill. Reg. 12868, effective August 10, 1992; emergency amendment at 17 Ill. Reg. 13622, effective August 3, 1993, for a maximum of 150 days; emergency expired December 31, 1993; amended at 18 Ill. Reg. 1930, effective January 24, 1994; amended at 18 Ill. Reg. 4685, effective March 11, 1994; amended at 18 Ill. Reg. 16318, effective October 25, 1994; amended at 19 Ill. Reg. 7207, effective May 10, 1995; amended at 20 Ill. Reg. 10908, effective August 5, 1996; amended at 21 Ill. Reg. 7655, effective July 1, 1997; Part repealed, new Part adopted at 24 Ill. Reg. 13884, effective August 25, 2000; amended at 27 Ill. Reg. 8126, effective April 28, 2003; amended at 31 Ill. Reg. 9915, effective June 28, 2007; amended at 32 Ill. Reg. 4828, effective March 21, 2008; amended at 34 Ill. Reg. 17433, effective October 28, 2010.

SUBPART A: GENERAL

Section 226.50 Requirements for a Free Appropriate Public Education (FAPE)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

A "free appropriate public education ("FAPE")" as defined at 34 CFR 300.17, must be made available by school districts to children with disabilities in accordance with 34 CFR 300.101 through 300.103, unless otherwise specified in this Section.

a) Transfer Students
Provision of FAPE to students who transfer into a local school district shall be made in accordance with the requirements of 20 USC 1414(d)(2)(C). The additional requirements of this subsection (a) shall also apply.

1) In the case of an eligible student transferring into a district from another district within Illinois, when the new district obtains a copy of the student's IEP before or at the time the child is presented for enrollment:

A) The district may adopt the IEP of the former local school district without an IEP meeting if:

i) the parents indicate, either orally or in writing, satisfaction with the current IEP; and

ii) the new district determines that the current IEP is appropriate and can be implemented as written.

B) If the district does not adopt the former IEP and seeks to develop a new IEP for the child, within ten days after the date of the child's enrollment the district must provide written notice to the parent, including the proposed date of the IEP meeting, in conformance with Section 226.530 of this Part. While the new IEP is under development, the district shall implement services comparable to those described in the IEP from the former district.

2) If the new school district does not receive a copy of the child's current IEP or a verbal or written confirmation of the requirements of that IEP from the previous school district when the child is presented for enrollment, the child shall be enrolled and served in the setting that the receiving district believes will meet the child's needs until a copy of the current IEP is obtained or a new IEP is developed by the school district.

A) In no case shall a child be allowed to remain without services

during this interim.

B) The new district shall request the student's records from the sending district or school by the end of the next business day after the date of enrollment.

C) No later than ten days after expiration of the time allotted under Section 2-3.13a of the School Code [105 ILCS 5/2-3.13a] for the sending district or school to forward the child's records, the new district shall provide written notice to the parent of an IEP meeting~~initiate an IEP meeting~~ for the purpose of developing a new IEP, unless the sending district's or school's IEP arrives before this time elapses, the student has transferred from a district within Illinois, and the new district adopts the previously held IEP.

b) Jurisdictional Disputes
Each school district is responsible for ensuring that no eligible child for whom services are sought is denied FAPE due to jurisdictional disputes among Illinois agencies. Provision of FAPE to such a student shall not preclude a district from seeking repayment for costs incurred from any other school district or entity that is determined responsible for such costs.

c) Eligibility; Graduation or Completion of Program

1) An eligible student who requires continued public school educational experience to facilitate his or her integration into society shall be eligible for such services through age 21, inclusive (i.e., through the day before the student's 22nd birthday) (see 34 CFR 300.101(a)).

2) The provision of FAPE is not required with respect to a student with a disability who has graduated with a regular high school diploma.

3) A student with a disability who has fulfilled the minimum State graduation requirements set forth in Section 27-22 of the School Code [105 ILCS 5/27-22] shall be eligible for a regular high school diploma.

A) If the student's individualized education program prescribes special education, transition planning, transition services, or related services beyond that point, issuance of that diploma shall be

deferred so that the student will continue to be eligible for those services.

B) If the student is to receive a regular high school diploma, at least one year prior to the anticipated date of its issuance, both the parent and the student shall receive written notification in conformance with the requirements of 34 CFR 300.503 that eligibility for public school special education services ends following the granting of a diploma and that the parent (or the student, if Section 226.690 of this Part applies) may request an IEP meeting to review the recommendation that the student receive a regular diploma.

4) Students who have participated in a graduation ceremony but have not been awarded regular high school diplomas continue to be eligible to receive FAPE through age 21, inclusive.

d) Exception for Certain Students Incarcerated as Adults
Pursuant to 34 CFR 300.102(a)(2), the right to receive FAPE does not extend to students from 18 through 21 years of age who are incarcerated and who were not identified as eligible and did not have IEPs in their educational placements immediately prior to incarceration.

(Source: Amended at 34 Ill. Reg. 17433, effective October 28, 2010)

SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN

Section 226.180 Independent Educational Evaluation

Parents have the right to obtain an independent educational evaluation of their child at public expense in accordance with 34 CFR 300.502 and Section 14-8.02(b) of the School Code. The following rights and requirements shall also apply.

a) If the parents disagree with the district's evaluation and wish to obtain an independent educational evaluation at public expense, their request to that effect shall be submitted in writing to the local school district superintendent.

b) When an independent evaluation is obtained at public expense, the party chosen to perform the evaluation shall be either:

1) an individual whose name is included on the list of independent educational evaluators developed by the State Board of Education pursuant to Section 226.830 of this Part with regard to the relevant types of evaluation; or

2) another individual possessing the credentials required by Section 226.840 of this Part.

c) If the parent wishes an evaluator to have specific credentials in addition to those required by Section 226.840 of this Part, the parent and the school district shall agree on the qualifications of the examiner and the specific evaluations to be completed prior to the initiation of an independent educational evaluation at public expense. If agreement cannot be reached, the school district shall initiate a due process hearing subject to the time constraints set forth in this Section, as applicable.

d) The district shall provide written~~send the~~ notice convening the IEP Team's meeting within ten days after receiving the report of an evaluation conducted at public expense. In the case of an evaluation conducted at private expense, the district shall send the notice within ten days after the parent requests a meeting to consider the results.

(Source: Amended at 34 Ill. Reg. 17433, effective October 28, 2010)

SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Section 226.220 Development, Review, and Revision of the IEP

The development, review, and revision of each child's IEP shall conform to the requirements of 34 CFR 300.324 and 300.328. The additional requirements of this Section shall also apply.

a) When an IEP has been developed or revised, the district shall provide~~a~~ notice in accordance with 34 CFR 300.503(b) and (c) ~~shall be provided~~ immediately to the parents, and implementation of the IEP shall occur no later than ten days after the provision of this notice.

b) Either a child's educational provider or a child's parent may request an IEP meeting at any time. Within ten days after receipt of such a request, the district

shall either agree and notify the parent in accordance with 34 CFR 300.503 or notify the parents in writing of its refusal, including an explanation of the reason no meeting is necessary to ensure the provision of FAPE for the child.

c) The development of an IEP for a child who has a disability on the autism spectrum shall include consideration of the factors specified in Section 14-8.02(b)(1) through (7) of the School Code.

(Source: Amended at 34 Ill. Reg. 17433, effective October 28, 2010)

SUBPART D: PLACEMENT

Section 226.300 Continuum of Placement Options

Each local school district shall, in conformance with the requirements of 34 CFR 300.39 and 300.115, ensure that a continuum of placements is available to meet the needs of children with disabilities for special education and related services. With respect to the home instruction and instruction in hospitals and institutions referenced in 34 CFR 300.39 and 300.115:

a) The child receives services at home or in a hospital or other setting because he or she is unable to attend school elsewhere due to a medical condition.

b) When an eligible student has a medical condition that will cause an absence for two or more consecutive weeks of school or ongoing intermittent absences, the IEP Team for that child shall consider the need for home or hospital services. Such consideration shall be based upon a written statement from a physician licensed to practice medicine in all its branches which specifies:

1) the child's medical condition;

2) the impact on the child's ability to participate in education (the child's physical and mental level of tolerance for receiving educational services); and

3) the anticipated duration or nature of the child's absence from school.

c) If an IEP Team determines that home or hospital services are medically necessary, the team shall develop or revise the child's IEP accordingly.

d) The amount of instructional or related service time provided through the home or hospital program shall be determined in relation to the child's educational needs and physical and mental health needs. The amount of instructional time shall not be less than five hours per week unless the physician has certified in writing that the child should not receive as many as five hours of instruction in a school week.

e) A child whose home or hospital instruction is being provided via telephone or other technological device shall receive not less than two hours per week of direct instructional services.

f) Instructional time shall be scheduled only on days when school is regularly in session, unless otherwise agreed to by all parties.

g) Home or hospital instructors shall meet the requirements of 23 Ill. Adm. Code 1.610 (Personnel Required to be Qualified).

h) Services required by the IEP shall be implemented as soon as possible after the district receives the physician's statement.

(Source: Amended at 34 Ill. Reg. 17433, effective October 28, 2010)

Section 226.360 Placement by School Districts in Remote Educational Programs

A school district that places a student into a remote educational program authorized under Section 10-29 of the School Code [105 ILCS 5/10-29] shall ensure that the educational programming and related services as specified in the child's IEP are provided to the student. The placement of the student in a remote educational program does not relieve the school district of the responsibility for ensuring that the student will receive all programming and related services required by the IEP, whether from one source or from multiple sources. Each local school district shall be responsible for monitoring the performance of the remote educational program to ensure that the implementation of each IEP conforms to the applicable requirements of this Part.

(Source: Added at 34 Ill. Reg. 17433, effective October 28, 2010)

SUBPART F: PROCEDURAL SAFEGUARDS

Section 226.530 Parents' Participation

With respect to parents' participation in meetings, school districts shall conform to the requirements of 34 CFR 300.322 and 300.501. For purposes of 34 CFR 300.322(a)(1), "notifying parents of the meeting early enough to ensure that they will have an opportunity to attend" means the district shall provide written~~shall mean~~ notification no later than ten days prior to the proposed date of the meeting. In addition, the district shall take whatever action is necessary to facilitate the parent's understanding of and participation in the proceedings at a meeting, including arranging for and covering the expense of an interpreter for parents ~~who are deaf or~~ whose native language is other than English or for an interpreter licensed pursuant to the Interpreter for the Deaf Licensure Act of 2007 [225 ILCS 443] for parents who are deaf.

(Source: Amended at 34 Ill. Reg. 17433, effective October 28, 2010)

Section 226.540 Consent

Consent, as defined in 34 CFR 300.9, shall be obtained and may be revoked in accordance with the requirements of 34 CFR 300.154(e), 300.300, 300.323, and 300.622. In addition, the following requirements shall apply:

a) A parent may revoke consent for any action by the district or cooperative entity serving his or her child that requires parental consent. If a parent desires to revoke consent, he or she may do so either in writing or orally. If the revocation of consent is communicated orally, the district or cooperative entity shall commit the parent's request to writing and provide a copy of this written summary to the parent within five days.

b) Any revocation of consent is effective immediately, ~~subject to the provisions of subsection (c) of this Section, but is not retroactive,~~ i.e., it does not negate an action that occurred after the consent was given and before it was revoked. For purposes of this subsection (b), a district shall be considered to have given immediate effect to a parent's revocation of consent when it either discontinues the action that is the subject of the revocation prior to its next scheduled occurrence or provides to the parent a written explanation of the timeline for the district's action and the reasons for that timeline. The district or cooperative entity shall ensure that each staff member whose activities are affected by the revocation of consent is promptly informed of the revocation.

~~c) If a district disagrees with a parent's revocation of consent, the district may request a due process hearing pursuant to Subpart G of this Part.~~

~~1) If the parent's revocation of consent pertains to an evaluation or re-evaluation of the student, the district shall not proceed with the evaluation or re-evaluation during the pendency of due process.~~

~~2) If the parent's revocation of consent pertains to a special education placement for the student that is already in effect, the district's request for a due process hearing shall have the effect of staying that placement, provided that the district submits the request in writing to the State Board of Education in keeping with the provisions of Section 226.615 of this Part and within five business days after the parent's revocation occurred.~~

(Source: Amended at 34 Ill. Reg. 17433, effective October 28, 2010)

SUBPART H: ADMINISTRATIVE REQUIREMENTS

Section 226.720 Facilities and Classes

a) Facilities of school districts, special education cooperatives, or joint agreements used for special education services shall be appropriate to, and adequate for, the specific programs or services for which they are used and, pursuant to Section 14-8.01 of the School Code, shall be subject to the applicable provisions of 23 Ill. Adm. Code 180 (Health/Life Safety Code for Public Schools). The facilities shall be comparable to those provided to the students in the general education environment. The facilities of special education providers under Section 14-7.02 of the School Code [105 ILCS 5/14-7.02] are governed by 23 Ill. Adm. Code 401.

b) The age range of students within a special education grouping shall not exceed four years at the elementary level and six years at the secondary level. Early childhood classes and services shall serve only children from three through five years of age, except that a district shall not be prohibited from permitting a child who reaches his or her sixth birthday during a year to complete that year.

c) Special education classes and services shall be delivered in age-appropriate settings.

(Source: Amended at 34 Ill. Reg. 17433, effective October 28, 2010)

Section 226.780 Procedures for Withdrawal Hearings before the Regional Board of School Trustees

This Section sets forth the procedures for a hearing by one or more regional boards of school trustees to consider a school district's petition to withdraw from a special education joint agreement pursuant to Section 10-22.31 of the School Code [105 ILCS 5/10-22.31]. The procedures set forth in this Section shall not apply to school district withdrawals from a special education joint agreement agreed upon by all remaining member districts.

a) Upon receipt of the petition for withdrawal, a regional board of school trustees that exercises oversight or governance over all member school districts of the joint agreement shall conduct the hearing.

1) The Regional Superintendent of Schools, acting in her or his role as ex officio secretary of the regional board of school trustees, shall cause a copy of the petition to be delivered to the board of each member district and shall cause notice of the petition to be published once in a newspaper having general circulation in the educational service region. The notice shall include the following:

A) The date the petition was filed;

B) The name of each school district that is a member of the joint agreement;

C) The effective date on which the petitioning district would be withdrawn from the joint agreement if the petition is granted; and

D) The return date on which the hearing upon the petition will be held, which shall be no less than 10 and no more than 15 days after the publication of the notice.

2) Prior to the hearing on the petition for withdrawal, the ex officio secretary of the regional board of school trustees shall submit to the regional board of school trustees a written report of the educational and administrative conditions of the districts involved relative to the provision of special education services.

3) The regional board of school trustees shall hear evidence as to the special education needs and conditions of the petitioning school district and of the special education cooperative from which it wishes to withdraw and shall

determine whether it is in the best interest of the students with disabilities in the petitioning district that the petition for withdrawal from the joint agreement be granted.

4) The regional board of school trustees shall enter an order granting or denying the petition within 30 days after the hearing. *Approval of the petition shall be by a two-thirds majority of the school trustees* (Section 10-22.31 of the School Code). A certified copy of such an order shall be sent to the petitioning district, the special education cooperative, the regional superintendent of education in whose region the cooperative is located, and the State Board of Education's Division of Special Education Services at 100 North First Street, Springfield, Illinois 62777.

b) Upon receipt of the petition for withdrawal from a special education joint agreement in which more than one regional board of school trustees exercises oversight or governance over any of the school districts participating in the agreement, a joint hearing will be held on the petition.

1) The petition for withdrawal shall be filed concurrently with each regional board of school trustees exercising oversight or governance over any of the member districts.

2) The regional board of school trustees for the region where the administrative office of the special education cooperative is located shall be responsible for the coordination of all activities related to the joint hearing.

A) The coordinating regional board of school trustees shall comply with all provisions of subsection (a) of this Section, and shall provide copies of all notices and reports required under subsection (a) of this Section to the ex officio secretaries of each of the regional boards of school trustees whose school districts are parties to the special education joint agreement.

B) The joint hearing shall be held in the region of the coordinating regional board of school trustees.

3) *Approval of the petition shall be by a two-thirds majority of all those school trustees present and voting at the joint hearing* (Section 10-22.31 of the School Code).

c) In instances in which one or more of the competent regional boards of school trustees have been abolished, petitions for withdrawal shall be made to the school boards of those member districts that would fall under the oversight or governance of the abolished regional board of school trustees.

1) Upon receipt of the petition for withdrawal, the remaining member districts shall place the petition on their respective school board agenda for the next regularly scheduled board meeting.

2) Each member district shall afford the petitioning district the opportunity to address the school board at the time the petition is considered by the board.

3) Each member district shall act upon a resolution, either approving or denying the petition for withdrawal. Approval of a petition shall be by a two-thirds majority of those districts unless the joint agreement's articles of agreement provide otherwise.

(Source: Added at 34 Ill. Reg. 17433, effective October 28, 2010)

SUBPART I: PERSONNEL

Section 226.800 Personnel Required to be Qualified

a) General

1) Each school district, or the cooperative entity of which it is a member, shall employ sufficient professional and noncertified personnel to deliver and supervise the full continuum of special education and related services needed by the eligible students who reside in the district. The number and types of personnel employed shall be based on students' need rather than administrative convenience.

2) Each district or cooperative entity shall periodically submit to the State Board of Education, on forms supplied by the State Board, the roster of

the individuals who will be or are providing special education or related services. The State Board may request any additional documentation needed in order to verify that each individual holds the qualifications that are required for his or her assignments.

3) Reimbursement for personnel expenditures shall be made by the State Board only with respect to individuals who are qualified pursuant to this Section or pursuant to Section 226.810 or 226.820 of this Part.

4) Each district or cooperative entity shall develop and implement a comprehensive personnel development program for all personnel involved with the education of children with disabilities.

b) Professional Instructional Personnel
Each individual employed in a professional instructional capacity shall hold either:

1) a valid special certificate and the qualifications required for the teaching area pursuant to 23 Ill. Adm. Code ~~25.40 and~~ 25.43; or

2) another valid teaching certificate and approval issued by the State Board of Education specific to the area of responsibility (see Section 226.810 of this Part).

c) An individual assigned as a vocational coordinator shall be required to hold approval for this position, which shall be granted provided that the individual submits an application demonstrating that he or she:

1) has two years' teaching experience;

2) holds either a special preschool-age 21 certificate or a high school certificate; and

3) has completed at least 16 semester hours of college coursework, which shall at least include each of the areas identified in subsections (c)(3)(A) through (D) and may include one or more of the areas identified in subsections (c)(3)(E) through (I) of this Section:

A) Survey of the exceptional child;

B) Characteristics of the mentally retarded student;

C) Characteristics of the socially and/or emotionally maladjusted student;

D) Vocational programming for students with disabilities;

E) Characteristics of other exceptionalities;

F) Methods course in special education;

G) Guidance and counseling;

H) Educational and psychological diagnosis;

I) Vocational and technical education.

d) An individual assigned as a teacher coordinator shall be required to hold approval for this position, which shall be granted provided that the individual submits an application demonstrating that he or she:

1) holds either a special preschool-age 21 certificate endorsed for the disability area of assignment or a high school certificate with special education approval in the applicable disability area issued pursuant to Section 226.810 of this Part;

2) has completed a course in vocational programming for students with disabilities; and

3) has at least one year's work experience outside the field of education or has completed at least one course in either guidance and counseling or vocational and technical education.

e) An individual assigned as a business manager's assistant shall hold an administrative certificate endorsed for chief school business official pursuant to 23 Ill. Adm. Code 25.345~~25.344~~.

f) Qualified Bilingual Specialists

Professional staff otherwise qualified pursuant to this Section shall be considered "qualified bilingual specialists" if they meet the applicable requirements set forth in this subsection (f).

1) A holder of a special certificate endorsed in the area of responsibility pursuant to 23 Ill. Adm. Code ~~25.40 or~~ 25.43 shall successfully complete a language examination in the non-English language of instruction and shall have completed coursework covering:

   A) Psychological/educational assessment of students with disabilities who have limited English proficiency;

   B) Theoretical foundations of bilingual education and English as a second language, including the study of first and second language acquisition; and

   C) Methods and materials for teaching students of limited English proficiency or students with disabilities who have limited English proficiency.

2) A holder of an early childhood, elementary, ~~or~~ high school, or special certificate who also holds special education approval in the area of responsibility (see Section 226.810 of this Part) shall successfully complete a language examination in the non-English language of instruction and shall have completed the coursework listed in subsections (f)(1)(A), (B), and (C) of this Section.

3) A holder of an early childhood, elementary, ~~or~~ high school, or special certificate who also holds approval to teach bilingual education or English as a second language shall have completed coursework covering:

   A) Methods for teaching in the special education area of assignment;

   B) Psychological/educational assessment of students with disabilities who have limited English proficiency, or psychological diagnosis for children with all types of disabilities; and

   C) Characteristics of students, or characteristics of students with limited English proficiency specifically, in the special education

area of assignment.

4) A holder of a transitional bilingual certificate issued pursuant to 23 Ill. Adm. Code 25.90 and endorsed for the language of assignment shall have completed two years of successful teaching experience and have completed coursework covering:

A) Survey of children with all types of disabilities;

B) Assessment of the bilingual student, or psychological/educational assessment of the student with disabilities who has limited English proficiency;

C) Theoretical foundations of bilingual education and English as a second language, including the study of first and second language acquisition;

D) Methods for teaching in the special education area of assignment; and

E) Characteristics of students, or characteristics of students with limited English proficiency specifically, in the special education area of assignment.

5) A holder of a school service personnel certificate endorsed for guidance, school social work, or school psychology shall successfully complete an examination in the non-English language and shall have completed coursework in assessment of the bilingual student or psychological/educational assessment of the student with disabilities who has limited English proficiency.

g) Directors and Assistant Directors of Special Education
Each school district, or the cooperative entity of which it is a member, shall employ a full-time director of special education, who shall be the chief administrative officer of the special education programs and services of the district or cooperative entity. The provisions of subsections (g)(1) and (2) of this Section shall apply through June 30, 2005. Beginning July 1, 2005, directors and assistant directors of special education shall be subject to the requirements of 23 Ill. Adm. Code 29.140 and 29.150.

1) Each director or assistant director of special education shall hold a valid administrative certificate issued pursuant to 23 Ill. Adm. Code 25.365~~25.315~~ and a master's degree, including 30 semester hours of coursework distributed among all the following areas:

A) Survey of exceptional children;

B) Special methods courses (3 areas of exceptionality);

C) Educational and psychological diagnosis and remedial techniques;

D) Guidance and counseling; and

E) Supervision of programs for exceptional children.

2) Each individual who will function as a director or assistant director of special education shall submit an application for special education administrative approval on a form supplied by the State Board of Education.

3) Each school district, or the cooperative entity of which it is a member, shall submit to the State Board of Education a letter identifying the individual employed as the director of special education. If the individual is qualified as required, the State Board shall confirm that the individual is the State-approved director of special education for the district or cooperative entity.

h) Supervisors

1) Each district or cooperative entity shall employ sufficient supervisory personnel to provide consultation to and coordination of special education services.

2) Each individual performing a supervisory function shall hold a master's degree, including at least 15 semester hours of coursework distributed among all the following areas:

A) Survey of exceptional children;

B) Characteristics courses in the areas to be supervised;

C) Methods courses in the areas to be supervised;

D) Educational and psychological diagnosis and remedial techniques; and

E) Supervision of programs for exceptional children.

3) Each individual performing a supervisory function shall also hold either:

A) a valid special certificate in the area to be supervised, endorsed for supervision pursuant to 23 Ill. Adm. Code 25.497~~25.322~~, with two years' teaching experience in that area; or

B) a valid school service personnel certificate endorsed for supervision and two years' experience in the area to be supervised; or

C) a valid administrative certificate and either a valid special certificate endorsed for the area to be supervised or special education approval in that area.

i) Chief Administrator of Special School
The chief administrator of a special school shall hold an administrative certificate with a general administrative endorsement issued pursuant to 23 Ill. Adm. Code 25.335 or 25.365~~25.344~~ and either:

1) the qualifications required under 23 Ill. Adm. Code 25.43 in at least one disability area served by the school; or

2) approval issued by the State Board of Education pursuant to Section 226.810 of this Part for at least one disability area served by the school.

j) Other Professional Personnel
Each individual employed in a professional capacity not specified in subsections (a) through (i) of this Section shall, as appropriate to his or her assignment, hold:

1) the school service personnel certificate endorsed as appropriate to the area of responsibility (see 23 Ill. Adm. Code 25, Subpart D); or

2) a valid license or permission to practice, if the individual's profession is governed by such a requirement and either no educational credential in the same or a related field is issued by the State Board of Education (e.g., for a physical therapist) or the School Code permits the individual to perform the functions assigned; or

3) a credential, regardless of title, issued by a professional association or organization in the relevant field, when no educational credential in the same or a related field is issued by the State Board of Education and no license or permission to practice is required by the State (e.g., for a music therapist or a daily living skills specialist).

k) Noncertified Personnel

1) Each noncertified professional individual employed in a special education class, program, or service, and each individual providing assistance at a work site, shall function under the general direction of a professional staff member.

2) Each program assistant/aide, as well as each nonemployee providing any service in the context of special education, shall function under the direct supervision of a professional staff member.

3) Each district shall provide training experiences appropriate to the nature of their responsibilities to the individuals discussed in subsections (k)(1) and (2) of this Section. Training shall be in lieu of the requirements for noncertified personnel set forth in 23 Ill. Adm. Code 1, Subpart G.

(Source: Amended at 34 Ill. Reg. 17433, effective October 28, 2010)

Section 226.840 Qualifications of Evaluators

The following list identifies the credentials required to administer certain types of evaluations. Where no requirements are established, an evaluation may be performed by an individual who is qualified to administer it according to the technical specifications of the publisher.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TYPE	REQUIRED QUALIFICATIONS
Academic Performance	Teaching certificate/approval appropriate for the age or disability of the child, or School Service Personnel Certificate endorsed for school psychology or guidance. (See Article 21 of the School Code [105 ILCS 5/Art. 21] and the State Board's rules at 23 Ill. Reg. Adm. Code 1 and 23 Ill. Adm. Code 25.)
Adapted Physical Education	Special Certificate endorsed for physical education with approval in adapted physical education (23 Ill. Adm. Code ~~25.40 and~~ 25.43).
Assistive Technology	To the extent that a test is used in performing this assessment, qualification for administering the test according to the instructions provided by the test's publisher.
Audiological	License to practice as an Audiologist issued by the Department of Financial and Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].
Clinical Psychological	License issued pursuant to the Clinical Psychologist Licensing Act [225 ILCS 15].
Cultural Background Assessment	School Service Personnel Certificate endorsed for school psychology, school social work, or school counseling.
Hearing Screening	License to practice as an Audiologist issued by the Department of Financial and Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110], Special Certificate endorsed for speech and language impairment (23 Ill. Adm. Code 25.45), or certificate of training issued by the Department of Public Health (77 Ill. Adm. Code

	675).
Learning Processes Evaluation	School Service Personnel Certificate endorsed for school psychology or Special Certificate endorsed for learning disabilities.
Medical Review	School Service Personnel Certificate endorsed for school nursing (23 Ill. Adm. Code 25.245~~25.240~~), or a license to practice medicine in all of its branches, or under Section 60 or 65 of the Nurse Practice Act [225 ILCS 65].
Neurological Evaluation	Licensure/registration issued by the Department of Financial and Professional Regulation pursuant to the Medical Practice Act of 1987 [225 ILCS 60].
Occupational Therapy Evaluation	Certificate/Registration issued by the Department of Financial and Professional Regulation pursuant to the Illinois Occupational Therapy Practice Act [225 ILCS 75].
Orientation/Mobility	Certification for orientation/mobility instruction and evaluation (Certification for Orientation and Mobility, Orientation and Mobility Division, Association for Education and Rehabilitation of the Blind and Visually Impaired, 4600 Duke Street, #430, P.O. Box 22397, Alexandria, Virginia 22304; 1984; no later amendments or editions are included).
Physical Therapy Evaluation	Certificate/registration issued by the Department of Financial and Professional Regulation pursuant to the Illinois Physical Therapy Act [225 ILCS 90].
Psychiatric Evaluation	Licensure/registration issued by the Department of Financial and Professional Regulation pursuant to the Medical Practice Act of 1987.

School Psychological	School Service Personnel Certificate endorsed for school psychology.
Social Developmental Study (Adaptive Behavior, Cultural Background, Family History)	School Service Personnel Certificate endorsed for social work, guidance, or school psychology (23 Ill. Adm. Code 25.215, 25.225, or 25.335~~25.210, 25.220, or 25.230~~).
Speech and Language Assessment	Special Certificate endorsed for speech and language impairment (23 Ill. Adm. Code 25.45).
Vision Screening	Certificate of training issued by the Department of Public Health (77 Ill. Adm. Code 675).

(Source: Amended at 34 Ill. Reg. 17433, effective October 28, 2010)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Long Term Care Reimbursement Changes

2) Code Citation: 89 Ill. Adm. Code 153

3) Section Number: 153.125 — Emergency Action: Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date: November 1, 2010

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment will expire the end of 150 days or upon adoption of a permanent amendment, whichever comes first.

7) Date Filed with the Index Department: October 29, 2010

8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: Non-Medicaid funding to support ICFs/DD that serve people with exceptional care needs has been cut in past years and due to the financial situation of the State, will end on October 31, 2010. The lack of this funding could result in the closure of two facilities that serve a high percentage of people with developmental disabilities and high medical needs. This emergency amendment will allow these facilities, to continue providing this service and will increase the amount of funding eligible for federal, Medicaid matching funds. Therefore, the agency finds that the threat to the public interest, safety and welfare of the people served by these facilities will be addressed by this rulemaking.

10) Complete Description of the Subjects and Issues Involved: HFS is filing this rulemaking to coincide with the following emergency rule filed by the Department of Human Services (DHS), Division of Developmental Disabilities. 89 Ill. Adm. Code 144.102, High Medical/High Personal Care Needs of Individuals with Developmental Disabilities, will provide increased rates to ICFs/DD serving higher need residents. The increased rates will be effective November 1, 2010. DHS will be responsible for the filing of this rule. However, it is necessary to amend HFS' "rate freeze" rule to allow these increased rates.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

11) Are there any other proposed rulemakings pending on this Part? No

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

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

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 153
LONG TERM CARE REIMBURSEMENT CHANGES

Section
153.100 Reimbursement for Long Term Care Services
153.125 Long Term Care Facility Rate Adjustments
EMERGENCY
153.126 Long Term Care Facility Medicaid Per Diem Adjustments
153.150 Quality Assurance Review (Repealed)

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

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

27 Ill. Reg. 18880, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 10218, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15584, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 1026, effective January 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4740, effective March 18, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 6979, effective May 1, 2005; amended at 29 Ill. Reg. 12452, effective August 1, 2005; emergency amendment at 30 Ill. Reg. 616, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified pursuant to the Joint Committee on Administrative Rules Objection at 30 Ill. Reg. 7817, effective April 7, 2006, for the remainder of the maximum 150 days; amended at 30 Ill. Reg. 10417, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11853, effective July 1, 2006, for a maximum of 150 days; emergency expired November 27, 2006; amended at 30 Ill. Reg. 14315, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 18779, effective November 28, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 6954, effective April 26, 2007; emergency amendment at 32 Ill. Reg. 535, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 4105, effective March 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 7761, effective May 5, 2008; amended at 32 Ill. Reg. 9972, effective June 27, 2008; amended at 33 Ill. Reg. 9347, effective July 1, 2009; emergency amendment at 34 Ill. Reg. 17462, effective November 1, 2010, for a maximum of 150 days.

Section 153.125 Long Term Care Facility Rate Adjustments
EMERGENCY

a) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates established on July 1, 1996 shall be increased by 6.8 percent for services provided on or after January 1, 1997.

b) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1998, for services provided on or after that date, shall be increased by three percent. For nursing facilities (SNF/ICF) only, $1.10 shall also be added to the nursing component of the rate.

c) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1999, for services provided on or after that date, shall include:

1) an increase of 1.6 percent for SNF/ICF, ICF/MR and developmental training rates;

2) an additional increase of $3.00 per resident day for ICF/MR rates; and

3) an increase of $10.02 per person, per month for developmental training rates.

d) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF rates shall be increased by $4.00 per resident day for services provided on or after October 1, 1999.

e) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF, ICF/MR and developmental training rates shall be increased 2.5 percent per resident day for services provided on or after July 1, 2000.

f) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2001 shall be computed using the most recent cost reports on file with the Department no later than April 1, 2000, updated for inflation to January 1, 2001.

1) The Uniform Building Value shall be as defined in 89 Ill. Adm. Code 140.570(b)(10), except that, as of July 1, 2001, the definition of current year is the year 2000.

2) The real estate tax bill that was due to be paid in 1999 by the nursing facility shall be used in determination of the capital component of the rate. The real estate tax component shall be removed from the capital rate if the facility's status changes so as to be exempt from assessment to pay real estate taxes.

3) For rates effective July 1, 2001 only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.

4) All accounting records and other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under Section 153.125(f) shall be kept for a minimum of two years after the Department's final payment using rates that were based in part on that cost report.

g) Notwithstanding the provisions set forth in Section 153.100, intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled

nursing facilities for persons under 22 years of age (SNF/Ped), shall receive an increase in rates for residential services equal to a statewide average of 7.85 percent. Residential rates taking effect March 1, 2001, for services provided on or after that date, shall include an increase of 11.01 percent to the residential program rate component and an increase of 3.33 percent to the residential support rate component, each of which shall be adjusted by the geographical area adjuster, as defined by the Department of Human Services (DHS).

h) For developmental training services provided on or after March 1, 2001, for residents of long term care facilities, rates shall include an increase of 9.05 percent and rates shall be adjusted by the geographical area adjuster, as defined by DHS.

i) Notwithstanding the provisions set forth in Section 153.100, daily rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 2.247 percent for services provided during the period beginning on April 11, 2002, and ending on June 30, 2002.

j) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2002, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be reduced to the level of the rates in effect on April 10, 2002.

k) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2002 will be 5.9 percent less than the rates in effect on June 30, 2002.

l) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2003, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3.59 percent.

m) Notwithstanding the provisions set forth in Section 153.100, developmental training rates effective on July 1, 2003 shall be increased by 4 percent.

n) Notwithstanding the provisions set forth in Section 153.100, pending the approvals described in this subsection (n), nursing facility (SNF/ICF) rates

effective July 1, 2004 shall be 3.0 percent greater than the rates in effect on June 30, 2004. The increase is contingent on approval of both the payment methodologies required under Article 5A-12 of the Public Aid Code [305 ILCS 5/5A-12] and the waiver granted under 42 CFR 433.68.

o) Notwithstanding the provisions set forth in Section 153.100, the "Original Building Base Cost" for nursing facilities (SNF/ICF) which have been rented continuously from an unrelated party since prior to January 1, 1978, effective on July 1, 2004, shall be added to the capital rate calculation using the most recent cost reports on file with the Department no later than June 30, 2004. The "Original Building Base Cost" as defined in 89 Ill. Adm. Code 140.570 shall be calculated from the original lease information that is presently on file with the Department. This original lease information will be used to capitalize the oldest available lease payment from the unrelated party lease that has been in effect since prior to January 1, 1978, and continued to be in effect on December 31, 1999. Before the lease payment is capitalized, a 15 percent portion will be removed from the oldest available lease payment for movable equipment costs. After the lease payment is capitalized, a portion of the capitalized amount will be removed for land cost. The land cost portion is 4.88 percent. The remaining amount will be the facility's building cost. The construction/acquisition year for the building will be the date the pre-1978 lease began. The allowable cost of subsequent improvements to the building will be included in the original building base cost. The original building base cost will not change due to sales or leases of the facility after January 1, 1978.

p) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on January 1, 2005 will be 3.0 percent more than the rates in effect on December 31, 2004.

q) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates shall be increased by the difference between a facility's per diem property, liability and malpractice insurance costs as reported in the cost report that was filed with the Department and used to establish rates effective July 1, 2001, and those same costs as reported in the facility's 2002 cost report. These costs shall be passed through to the facility without caps or limitations.

r) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on January 1, 2006 for intermediate care facilities for persons with developmental

disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3 percent.

s) Notwithstanding the provisions set forth in Section 153.100, developmental training rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), effective on January 1, 2006 shall be increased by 3 percent.

t) Notwithstanding the provisions set forth in Section 153.100, for facilities that are federally defined as Institutions for Mental Disease (see Section 145.30), a socio-development component rate equal to 6.6% of the nursing component rate as of January 1, 2006 shall be established and paid effective July 1, 2006. This rate shall become a part of the facility's nursing component of the Medicaid rate. While this rate may be adjusted by the Department, the rate shall not be reduced.

u) Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the support component of the rates taking effect on January 1, 2008 shall be computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006.

1) Support rates taking effect on January 1, 2008 shall be adjusted based on audits of cost report data in accordance with 89 Ill. Adm. Code 140.582(b) and 140.590. The audited cost report data will be used to retroactively update the resulting support rate effective January 1, 2008, after the 45-day appeal period from Section 140.582(b) has passed.

2) All accounting records and other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under this subsection (u) shall be kept for a minimum of two years after the Department's final payment using rates that were based in part on that cost report.

v) Notwithstanding the provisions set forth in Section 153.100, pursuant to Public Act 95-0744, for services beginning August 1, 2008, the socio-development component for facilities that are federally defined as Institutions for Mental

Disease (see 89 Ill. Adm. Code 145.30) shall equal 6.6% of the facility's nursing component rate as of January 1, 2006, multiplied by a factor of 3.53.

w) Notwithstanding the provisions set forth in Section 153.100, pursuant to Public Act 95-0744, for services beginning January 1, 2009, the support component for skilled and intermediate care facilities that was effective on January 1, 2008, computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006, shall be increased to the amount that would have been derived using standard Department of Healthcare and Family Services methods, procedures and inflators described in Sections 140.533, 140.551, 140.553 and 140.561.

x) Notwithstanding the provisions set forth in Section 153.100, effective November 1, 2010, the program and support components of the per diem rate for ICF/MR qualifying under 89 Ill. Adm. Code 144.102 shall be adjusted in accordance with that Section.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 17462, effective November 1, 2010, for a maximum of 150 days)

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

1) Heading of the Part: Miscellaneous

2) Code Citation: 50 Ill. Adm. Code 7110

3) Section Number: 7110.90 — Emergency Action: Amendment

4) Statutory Authority: Implementing and authorized by the Workers' Compensation Act [820 ILCS 305]

5) Effective Date of Emergency Repeal: October 28, 2010

6) If this emergency repeal is to expire before the end of the 150-day period, please specify the date on which it is to expire: December 2, 2010

7) Date Filed with the Index Department: October 28, 2010

8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: The Joint Committee on Administrative Rules objected to the WCC's emergency rule (adopted 7/6/10 and being repealed in this emergency repeal of emergency amendment) at its 9/10 and 10/10 meetings. In response to the JCAR Objections, WCC is repealing the underlying emergency amendment for the remainder of the 150 days, which expires December 2, 2010.

10) A Complete Description of the Subjects and Issues Involved: The emergency rule allowed reimbursement under WCC's medical fee schedule of unlicensed but accredited ambulatory surgical treatment facilities and changed the reimbursement for medical implants.

11) Are there any proposed rulemakings to this Part Pending? No

12) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

Darrell Widen
Asst. General Counsel
Workers' Compensation Commission
8-281 James R. Thompson Center
100 West Randolph Street
Chicago IL 60601

Darrell.Widen@Illinois.gov

312/814-8770

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

TITLE 50: INSURANCE
CHAPTER II: ILLINOIS WORKERS' COMPENSATION COMMISSION

PART 7110
MISCELLANEOUS

Section

7110.5 Definitions
7110.10 Vocational Rehabilitation
7110.20 Petitions under Sections 19(h), 8(a), and 7(a) of the Act
7110.30 Commission Meetings: Minutes
7110.40 Petition to Suspend Compensation for Failure to Submit to Proper Medical Treatment
7110.50 Petitions under Section 19(o) of the Act
7110.60 Distribution of Commission Handbook
7110.70 Explanation of Basis of Non-Payment, Termination or Suspension of Temporary Total Compensation or Denial of Liability or Further Responsibility for Medical Care
7110.80 Rate Adjustment Fund and Second Injury Fund Contributions: Compliance
7110.90 Illinois Workers' Compensation Commission Medical Fee Schedule
EMERGENCY

AUTHORITY: Implementing and authorized by the Workers' Compensation Act [820 ILCS 305].

SOURCE: Filed and effective March 1, 1977; amended at 5 Ill. Reg. 5533, effective May 12, 1981; amended at 6 Ill. Reg. 8040, effective July 1, 1982; codified at 7 Ill. Reg. 2352; emergency amendment at 14 Ill. Reg. 4929, effective March 9, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13161, effective August 1, 1990; emergency amendment at 30 Ill. Reg. 1912, effective February 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 11743, effective June 22, 2006; amended at 33 Ill. Reg. 2850, effective February 1, 2009; emergency amendment at 34 Ill. Reg. 10222, effective July 6, 2010, for a maximum of 150 days; emergency amendment repealed in response to an Objection by the Joint Committee on Administrative Rules at 34 Ill. Reg. 17471, effective October 28, 2010, for the remainder of the 150 days.

Section 7110.90 Illinois Workers' Compensation Commission Medical Fee Schedule
EMERGENCY

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

a) In accordance with Sections 8(a), 8.2 and 16 of the Workers' Compensation Act [820 ILCS 305/8(a), 8.2 and 16] (the Act), the Illinois Workers' Compensation Commission Medical Fee Schedule, including payment rates, instructions, guidelines, and payment guides and policies regarding application of the schedule, is adopted as a fee schedule to be used in setting the maximum allowable payment for a medical procedure, treatment or service covered under the Act. The fee schedule is published on the Internet at no charge to the user via a link from the Commission's website at www.iwcc.il.gov. The fee schedule may be examined at any of the offices of the Illinois Workers' Compensation Commission.

b) The payment rates for procedures, services or treatments in the fee schedule were established in accordance with Section 8.2 of the Act by determining 90% of the 80th percentile of charges utilizing health care provider and hospital charges from August 1, 2002 through August 1, 2004. The charges were adjusted by the Consumer Price Index-U for the period August 1, 2004 through September 30, 2005. The payment rates in the fee schedule are designated by geozip (geographic area in which all zip codes have the same first 3 digits).

c) The fee schedule applies to any medical procedure, treatment or service covered by the Act and rendered on or after February 1, 2006, regardless of the date of injury.

d) Under the fee schedule, the employer pays the lesser of the rate set forth in the schedule or the provider's actual charge. If an employer or insurance carrier contracts with a provider for the purpose of providing services under the Act, the rate negotiated in the contract shall prevail.

e) Whenever the fee schedule does not set a specific fee for a procedure, treatment or service in the schedule, the amount of reimbursement shall be at 76% of actual charge, except where this Section provides that ~~the following~~revenue codes~~/category descriptions~~ (codes~~/categories~~ that identify a specific accommodation or ancillary charge on a UB-04/CMS 1450 ~~or CMS 1500~~uniform billing form used by hospitals~~for hospital or facility-based billing~~) are to be deducted~~carved out~~ from the ~~total~~ charge and reimbursed ~~separately (pass-through charges). The carve-out revenue codes categories) are: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens implant); 0278 (implants); 0540 and 0545 (ambulance); 0624 (investigational devices) and 0636 (drugs requiring detailed coding). Implants within the carve-out revenue codes/categories or implants otherwise identified by any individual or grouped~~

~~revenue codes/categories are to be reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges. Non-implantable devices or supplies within the aforementioned carve-out revenue codes/categories shall be reimbursed~~ at 65% of ~~actual~~ charge billed at ~~(~~the provider's normal rates under its standard chargemaster~~)~~. A standard chargemaster is the provider's list of charges for procedures, services and supplies used to bill payers in a consistent manner. ~~All implant charges are to be paid at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges whether or not the implant charge is submitted by a provider in conjunction with a bill for all other services associated with the implant, submitted by a provider on a separate claim form, submitted by a distributor, or is submitted by the manufacturer of the implant.~~

f) Reimbursement under the fee schedule for a procedure, treatment or service, as designated by the geozip where the treatment occurred, shall be based on the place of service.

g) Out-of-State Treatment

1) If the procedure, treatment or service is rendered outside the State of Illinois, the amount of reimbursement shall be the greater of 76% of actual charge or the amount set forth in a workers' compensation medical fee schedule adopted by the state in which the procedure, treatment or service is rendered, if such a schedule has been adopted. Charges for a procedure, treatment or service outside the State shall be subject to the instructions, guidelines, and payment guides and policies in this fee schedule.

2) Where the charges are for facility fees (ambulatory surgical treatment center, ~~ambulatory surgical treatment facility,~~ hospital inpatient (standard and trauma), and hospital outpatient services), the following revenue codes are pass-through charges to be deducted from the charge and reimbursed at 65% of actual charge: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens implant); 0278 (implants); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding).~~revenue code/category items as defined in subsection (e) are carved out and associated pass through charges to be deducted from the total charge and reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual and reasonable and customary shipping charges for implants.~~ Charges ~~for non-implantable items~~ billed

under these~~the~~ revenue codes ~~identified in subsection (e) above~~ shall be billed~~reimbursed~~ at ~~65% of~~ the provider's normal rates under its standard chargemaster ~~as defined in subsection (e)~~.

h) The fee schedule includes the following service categories:

1) Ambulatory Surgical Treatment Center (ASTC)

A) This schedule applies to licensed ambulatory surgical treatment centers as defined by the Illinois Department of Public Health (77 Ill. Adm. Code 205.110) ~~or ambulatory surgical treatment facilities accredited by one of the following organizations; American Association for the Accreditation of Ambulatory Surgical Facilities (AAAASF), Joint Commission on Healthcare Organizations (JCAHO), or Accreditation Association for Ambulatory Health Care (AAAHC)~~.

B) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515 North State Street, Chicago, Illinois 60610, 2006, no later dates or editions.

C) This schedule provides the maximum fee schedule amount for surgical services administered in an ASTC ~~or accredited ambulatory surgical treatment facility~~ setting for codes 10021 through 69990. The schedule is a partial global reimbursement schedule in that all charges rendered during the operative session are subject to a single fee schedule amount, except as provided in subsections (h)(1)(D) and (h)(1)(F).

D) The following revenue codes are pass-through charges to be deducted from the charge and reimbursed at 65% of actual charge: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens implant); 0278 (implants); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding).~~Revenue code items/categories as defined in subsection (e) are carved out and associated pass through charges to be deducted from the total charge and reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable~~

~~and customary shipping charges for implants.~~ Charges ~~for non-implantable items~~ billed under these~~the~~ revenue codes ~~identified in subsection (e) above~~ shall be billed~~reimbursed~~ at ~~65% of~~ the provider's normal rates under its standard chargemaster ~~as defined in subsection (e)~~.

E) All professional services performed in an ASTC setting are subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8).

F) This schedule does not apply to the professional or technical components of radiology and pathology and laboratory services performed in an ASTC setting. Charges for these services must be submitted on a separate claim form and shall be subject to the professional services schedule in subsection (h)(8).

G) Surgery services under this schedule shall be reimbursed in accordance with the Multiple Procedure and Bilateral Surgery provisions of the Payment Guide in Section 8B of the instructions and guidelines in the fee schedule and the applicable modifiers in Section 8F of the instructions and guidelines in the fee schedule.

2) Anesthesia

A) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515 North State Street, Chicago, Illinois 60610, 2006, no later dates or editions, and the Relative Value Guide, American Society of Anesthesiologists, 520 North Northwest Highway, Park Ridge, Illinois 60068-2573, 2006, no later dates or editions.

B) This schedule was established utilizing health care provider charges from August 1, 2002 through August 1, 2004 from which a conversion factor was established. The maximum fee schedule reimbursement amount is determined by multiplying the conversion factor set forth in the schedule by the sum of all units according to guidelines set forth in the Relative Value Guide as follows:

i) Base Value + Time Units + Modifying Units = Total Units

Total Units x Conversion Factor = Total Fee

ii) Physical status modifying units may be added to the basic value and time units and, in addition, units may be added for qualifying circumstances (extraordinary circumstances) in accordance with the Relative Value Guide.

C) Special coding situations, such as those involving multiple procedures, additional procedures, unusual monitoring, prolonged physician services, postoperative pain management, monitored (stand-by) anesthesia, invasive anesthesia and chronic pain management services, require application of the fee schedule in a manner consistent with the Relative Value Guide.

D) Anesthesia time begins when an anesthesiologist or certified registered nurse anesthetist (CRNA) physically starts to prepare the patient for the induction of anesthesia in the operating room (or its equivalent) and ends when the anesthesiologist is no longer in constant attendance (when the patient is safely put under postoperative supervision).

3) Dental
All procedures, treatments and services are reimbursed at 76% of actual charge unless services are billed under the HCPCS Level II schedule in subsection (h)(5) or professional fee schedule in subsection (h)(8).

4) Emergency Room

A) This schedule applies to any department or facility of a hospital licensed by the Illinois Department of Public Health pursuant to the Hospital Licensing Act [210 ILCS 85] that:

i) operates as an emergency room or emergency department, whether situated on or off the main hospital campus; and

ii) is held out to the public as providing care for emergency medical conditions without requiring an appointment, or

has provided at least one-third of all its outpatient visits for the treatment of emergency medical conditions on an urgent basis during the previous calendar year.

B) All procedures, treatments and services subject to this schedule are reimbursed at 76% of actual charge.

C) Radiology, pathology and laboratory and physical medicine and rehabilitation services performed in an emergency room shall be reimbursed in accordance with the radiology schedule in subsection (h)(7)(C), the pathology and laboratory schedule in subsection (h)(7)(D) and the physical medicine and rehabilitation schedule in subsection (h)(7)(E).

D) Emergency room facility charges, and professional services delivered in an emergency room facility billed by the facility using the facility's tax identification number, shall be subject to the emergency room facility schedule and are not subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8). Health care professionals who perform services in an emergency room facility and bill for services using their own tax identification number on a separate claim form shall be subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8) and are not covered under the emergency room facility schedule.

5) HCPCS (Healthcare Common Procedure Coding System) Level II
The use of this schedule is in accordance with the HCPCS Level II, U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, 2006, no later dates or editions. Level II of the HCPCS is a standardized coding system used to identify products and services not included in the Current Procedural Terminology codes.

6) Hospital Inpatient: Standard and Trauma

A) The use of these schedules is in accordance with the Diagnosis-Related Group (DRG) classification system established by the U.S.

Department of Health and Human Services, Centers for Medicare and Medicaid Services, 42 CFR 405 (2005), no later dates or editions. A DRG is a diagnosis-related group code that groups patients into homogeneous classifications that demonstrate similar length-of-stay patterns and use of hospital resources. The DRG determines the maximum fee schedule amount for an inpatient hospital stay, except as provided in subsections (h)(6)(F) and (h)(6)(G).

B) No later than June 30, 2009, the use of these schedules will be in accordance with the Medicare Severity Diagnosis Related Group (MS-DRG) classification system established by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 42 CFR 411 (2007), no later dates or editions. An MS-DRG is a diagnosis related group code that groups patients based on the severity of a patient's condition and resource consumption. The MS-DRG determines the maximum fee schedule amount for an inpatient hospital stay, except as provided in subsections (h)(6)(F) and (h)(6)(G).

C) Inpatient care shall be defined as when a patient is admitted to a hospital where services include, but are not limited to, bed and board, nursing services, diagnostic or therapeutic services, and medical or surgical services.

D) Inpatient hospital bills are subject to the hospital inpatient standard schedule. Inpatient hospital bills from trauma centers designated as Level I and Level II trauma centers by the Illinois Department of Public Health pursuant to 77 Ill. Adm. Code 515.2030 and 515.2040 and that contain an admission type of "5" on a UB-04/CMS 1450 FL 14 (uniform billing form used by hospitals; FL 14 is the form locator number that indicates where the codes are to be listed on the UB-04/CMS 1450 form) are subject to the hospital inpatient trauma schedule.

E) Hospital providers must identify the DRG code on each bill (UB-04/CMS 1450 claim form). The DRG assignment should be made in a manner consistent with the grouping practices used by the hospital when billing both government and private carriers.

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

F) The following revenue codes/pass-through charges are deducted from the DRG charge and reimbursed at 65% of actual charge: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens implant); 0278 (implants); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding). If the maximum amount of payment for an inpatient hospital stay is 76% of actual charge, the DRG charge is determined after the pass-through charges are removed.~~Revenue code items/categories as defined in subsection (e) are carved out and associated pass through charges to be deducted from the total charge and reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges for implants.~~ Charges~~ for non-implantable items~~ billed under these~~the~~ revenue codes ~~identified in subsection (e) above~~ shall be billed~~reimbursed~~ at ~~65% of~~ the provider's normal rates under its standard chargemaster~~ as defined in subsection (e)~~.

G) In the case of cost outliers (extraordinary treatment in which the bill for an inpatient stay is at least two times the fee schedule amount for the assigned DRG after pass-through revenue code charges referred to in subsection (h)(6)(F) have been deducted), the maximum reimbursement amount will be the assigned DRG fee schedule amount plus 76% of the charges that exceed that DRG amount. The pass-through revenue code charges are reimbursed at 65% of actual charge and~~Revenue code items/categories as defined in subsection (e) are carved out and associated pass through charges to be deducted from the total charge and reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges for implants. Charges for non-implantable items billed under the revenue codes identified in subsection (e) above~~ shall be billed~~reimbursed~~ at ~~65% of~~ the provider's normal rates under its standard chargemaster~~ as defined in subsection (e)~~.

H) Charges for professional services performed in conjunction with charges for other services associated with the hospitalization and billed by a hospital on a UB-04/CMS 1450 or a 1500 claim form (billing form established by Centers for Medicare and Medicaid

Services for use by physicians) using the hospital's own tax identification number shall be reimbursed at 76% of actual charge in addition to the amount listed in this schedule for the assigned code. Health care professionals who perform services and bill for services using their own tax identification number on a separate claim form shall be subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8).

7) Hospital Outpatient

A) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515 North State Street, Chicago, Illinois 60610, 2006, no later dates or editions.

B) This schedule includes radiology, pathology and laboratory, and physical medicine and rehabilitation as well as surgical services performed in a hospital outpatient setting that were not performed during an emergency room encounter or inpatient hospital admission. The radiology, pathology and laboratory, and physical medicine and rehabilitation schedules shall be applied to the number of units billed on the UB-04.

C) Radiology

i) This schedule provides the maximum fee schedule amount for radiology services performed in a hospital outpatient setting for codes 70010 through 79999. The schedule applies to the technical component of radiology services that are billed in conjunction with revenue codes 320 through 359, 400 through 409 and 610 through 619.

ii) This schedule does not apply when the bill type requires the application of the hospital inpatient schedule in subsection (h)(6) or the hospital outpatient surgical facility schedule in subsection (h)(7)(F).

iii) Professional radiology services billed by a hospital using the hospital's tax identification number are reimbursed at 76% of actual charge. Radiologists or radiology groups who perform services using their own tax identification number shall be subject to the HCPCS Level II in subsection (h)(5) or the professional services schedule in subsection (h)(8) even though the technical component is performed in a hospital setting.

D) Pathology and Laboratory

i) This schedule provides the maximum fee schedule amount for pathology and laboratory services performed in a hospital outpatient setting for codes 80048 through 89356. This schedule applies to the technical component of pathology and laboratory services that are billed in conjunction with revenue codes 300 through 319.

ii) This schedule does not apply when the bill type requires the application of the hospital inpatient schedule in subsection (h)(6) or the hospital outpatient surgical facility schedule in subsection (h)(7)(F).

iii) Professional pathology and laboratory services billed by a hospital using the hospital's tax identification number are reimbursed at 76% of actual charge. Pathologists who perform services using their own tax identification number shall be subject to the HCPCS Level II in subsection (h)(5) or the professional services schedule in subsection (h)(8) even though the technical component is performed in a hospital setting.

E) Physical Medicine and Rehabilitation

i) This schedule provides the maximum fee schedule amount for physical therapy services performed in a hospital outpatient setting for codes 97001 through 97799. This schedule applies to all physical and occupational therapy

services that are billed in conjunction with revenue codes 420 through 439.

ii) This schedule does not apply when the bill type requires the application of the hospital inpatient schedule in subsection (h)(6) or the hospital outpatient surgical facility schedule in subsection (h)(7)(F).

iii) All physical medicine and rehabilitation services provided in a hospital outpatient setting are subject to this schedule.

F) Hospital Outpatient Surgical Facility (HOSF)

i) This schedule provides a global maximum fee schedule amount for surgical services performed in a hospital outpatient setting for codes 10021 through 69990. All services performed in an operative session shall be reimbursed at a single fee schedule amount, except as provided in subsection (h)(7)(F)(ii). The single fee schedule amount shall represent the maximum amount payable for the total charges on a claim form that represents the total charges derived from all line items/revenue codes contained in the form. Except for the carve-out revenue codes listed in subsection (h)(7)(F)(ii), this fee schedule shall not be applied on a line item basis.

ii) The following revenue codes are pass-through charges to be deducted from the charge and reimbursed at 65% of actual charge: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens implant); 0278 (implants); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding).~~Revenue code items/categories as defined in subsection (e) are carved out and associated pass through charges to be deducted from the total charge and reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges for implants.~~ Charges ~~for non-implantable items~~ billed under these~~the~~ revenue codes ~~identified in subsection (e) above~~ shall be

billed~~reimbursed~~ at ~~65% of~~ the provider's normal rates under its standard chargemaster~~ as defined in subsection (e)~~.

iii) Surgery services under this schedule shall be reimbursed in accordance with the Multiple Procedure and Bilateral Surgery provisions of the Payment Guide in Section 8B of the instructions and guidelines in the fee schedule and the applicable modifiers in Section 8F of the instructions and guidelines in the fee schedule.

iv) In the case of cost outliers (extraordinary treatment in which the bill for hospital outpatient facility surgical charges is at least two times the fee schedule amount for the assigned code after pass-through revenue code charges referred to in subsection (h)(7)(F)(ii) have been deducted) the maximum reimbursement amount will be the assigned code fee schedule amount plus 76% of the charges that exceed the code amount. The pass-through revenue charges are~~Revenue code items/categories as defined in subsection (e) and referred to in subsection (h)(7)(F)(ii) are carved out and associated pass through charges to be deducted from the total charge and reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges for implants. Charges for non-implantable items billed under the revenue codes identified in subsection (e) above shall be~~ reimbursed at 65% of actual charge and shall be billed at the provider's normal rates under its standard chargemaster~~as defined in subsection (e)~~.

v) Surgical services performed in the emergency room (revenue codes 450 through 459) are not subject to this schedule and shall be subject to the emergency room facility schedule in subsection (h)(4).

vi) Charges for professional services performed in conjunction with charges for other services associated with the surgery and billed by a hospital on a UB-04/CMS 1450 or a 1500

claim form (billing form established by Centers for Medicare and Medicaid Services for use by physicians) using the hospital's own tax identification number shall be reimbursed at 76% of actual charge in addition to the amount listed in this schedule for the assigned surgical code. Health care professionals who perform services and bill for services using their own tax identification number on a separate claim form shall be subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8).

8) Professional Services

A) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515 North State Street, Chicago, Illinois 60610, 2006, no later dates or editions.

B) Services in this schedule include evaluation and management, surgery, physician, medicine, radiology, pathology and laboratory, chiropractic, physical therapy, and any other services covered under the Current Procedural Terminology.

C) Reimbursement for services under this schedule shall be in accordance with the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.

D) Surgery services under this schedule shall be reimbursed in accordance with the Payment Guide to Global Days, Multiple Procedures, Bilateral Surgeries, Assistant Surgeons, Co-Surgeons, and Team Surgery in Section 8B of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.

E) Medicine services under this schedule shall be reimbursed in accordance with the professional, technical and total component categories outlined in Section 8E of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.

F) Pathology and laboratory services under this schedule shall be reimbursed in accordance with the professional, technical and total component categories outlined in Section 8D of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.

G) Radiology services under this schedule shall be reimbursed in accordance with the professional, technical and total component categories outlined in Section 8C of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.

9) Rehabilitation Hospitals

A) This schedule applies to inpatient rehabilitation hospitals that are freestanding.

B) This schedule reimburses a rehabilitation hospital one per diem rate per day, on the basis of the assigned primary diagnosis code. The single per diem rate shall reimburse the rehabilitation hospital for all services provided in the course of a day.

C) The use of this schedule is in accordance with The International Classification of Diseases, Ninth Revision, Clinical Modification, (ICD-9-CM), Volume 2, U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, 2007, no later dates or editions.

i) The fee schedule requires that services be reported with the HCPCS Level II or Current Procedural Terminology codes that most comprehensively describe the services performed. Proprietary bundling edits more restrictive than the National Correct Coding Policy Manual in Comprehensive Code Sequence for Part B Medicare Carriers, Version 12.0, U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, 2006, no later dates or editions, are prohibited. Bundling edits is the process of reporting codes so that they most comprehensively describe the services performed.

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

j) An allied health care professional, such as a certified registered nurse anesthetist (CRNA), physician assistant (PA) or nurse practitioner (NP), is to be reimbursed at the same rate as other health care professionals when the allied health care professional is performing, coding and billing for the same services as other health care professionals.

k) Charges of an independently operated diagnostic testing facility shall be subject to the professional services and HCPCS Level II fee schedules where applicable. An independent diagnostic testing facility is an entity independent of a hospital or physician's office, whether a fixed location, a mobile entity, or an individual nonphysician practitioner, in which diagnostic tests are performed by licensed or certified nonphysician personnel under appropriate physician supervision.

l) No later than September 30, 2006 and each year thereafter, the Commission shall make an automatic adjustment to the maximum payment for a procedure, treatment or service in effect in January of that year. The Commission shall increase or decrease the maximum payment by the percentage change of increase or decrease in the Consumer Price Index-U for the 12-month period ending August 31 of that year. The change shall be effective January l of the following year. *The Consumer Price Index-U means the index published by the Bureau of Labor Statistics of the U.S. Department of Labor that measures the average change in prices of all goods and services purchased by all urban consumers, U.S. city average, all items, 1982-84=100*. (Section 8.2 of the Act)

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 10222, effective July 6, 2010, for a maximum of 150 days; emergency amendment repealed by emergency amendment at 34 Ill. Reg. 17471, effective October 28, 2010, for the remainder of the 150 days)

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF WITHDRAWAL TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

1) Heading of the Part: Miscellaneous

2) Code Citation: 50 Ill. Adm. Code 7110

3) Section Number: 7110.90 — Proposed Action: Withdrawal

4) Date Notice of Proposed Amendment Published in the Illinois Register: July 16, 2010; 34 Ill. Reg. 9756

5) Date JCAR Statement of Objection Published in the Illinois Register: November 5, 2010; 34 Ill. Reg. 16990

6) Summary of Action Taken by the Agency: Withdrawal of proposed amendment

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Pursuant to 35 Ill. Adm. Code 302.595 and 302.669, the following water quality criteria have been derived as listed. This listing updates revisions to existing criteria for the period July 1, 2010 through September 30, 2010.

A cumulative listing of criteria as of July 31, 1993 was published in 17 Ill. Reg. 18904, October 29, 1993. Listings of waterbodies for which water quality criteria were used during subsequent three month periods were published in 18 Ill. Reg. 318, January 7, 1994; 18 Ill. Reg. 4457, March 18, 1994; 18 Ill. Reg. 8734, June 10, 1994; 18 Ill. Reg. 14166, September 9, 1994; 18 Ill. Reg. 17770, December 9, 1994; 19 Ill. Reg. 3563, March 17, 1995; 19 Ill. Reg. 7270, May 26, 1995: 19 Ill. Reg. 12527, September 1, 1995; 20 Ill. Reg. 649, January 5, 1996; 20 Ill. Reg. 4829, March 22, 1996; 20 Ill. Reg. 7549, May 30, 1996; 20 Ill. Reg. 12278, September 6, 1996; 20 Ill. Reg. 15619, December 6, 1996; 21 Ill. Reg. 3761, March 21, 1997; 21 Ill. Reg. 7554, June 13, 1997; 21 Ill. Reg. 12695, September 12, 1997; 21 Ill. Reg. 16193, December 12, 1997; 22 Ill. Reg. 5131, March 13, 1998; 22 Ill. Reg. 10689, June 12, 1998; 22 Ill. Reg. 16376, September 11, 1998; 22 Ill. Reg. 22423, December 28, 1998; 23 Ill. Reg. 3102, March 12, 1999; 23 Ill. Reg. 6979, June 11, 1999; 23 Ill. Reg. 11774, September 24, 1999; 23 Ill. Reg. 14772, December 27, 1999; 24 Ill. Reg. 4251, March 17, 2000; 24 Ill. Reg. 8146, June 9, 2000; 24 Ill. Reg. 14428, September 29, 2000; 25 Ill. Reg. 270, January 5, 2001; 25 Ill. Reg. 4049, March 16, 2001; 25 Ill. Reg. 7367, June 8, 2001; 25 Ill. Reg. 12186, September 21, 2001; 25 Ill. Reg. 16175, December 14, 2001; 26 Ill. Reg. 4974, March 29, 2002; 26 Ill. Reg. 13370, September 6, 2002; 27 Ill. Reg. 1736, January 31, 2003; 27 Ill. Reg. 7350, April 18, 2003; 27 Ill. Reg. 17128, November 7, 2003; 28 Ill. Reg. 5038, March 19, 2004; 28 Ill. Reg. 8363, June 11, 2004; 28 Ill. Reg. 12943, September 17, 2004; 29 Ill. Reg. 1449, January 21, 2005; 29 Ill. Reg. 7239, May 20, 2005; 29 Ill. Reg. 12672, August 12, 2005; 29 Ill. Reg. 18963, November 18, 2005; 30 Ill. Reg. 5458, March 17, 2006, 30 Ill. Reg. 9195, May 12, 2006 and 30 Ill. Reg. 14377, September 1, 2006; 31 Ill Reg. 4941, March 23, 2007; 31 Ill. Reg. 7477, May 25, 2007; 31 Ill. Reg. 13233, September 14, 2007; 31 Ill. Reg. 15875, November 26, 2007; 32 Ill. Reg. 4271, March 21, 2008; 32 Ill. Reg. 8454, June 6, 2008; 32 Ill. Reg. 13595, August 15, 2008; 32 Ill. Reg. 19961, December 19, 2008; 33 Ill. Reg. 3683, February 27, 2009; 33 Ill. Reg. 9191, June 26, 2009; 33 Ill. Reg. 13526, September 25, 2009; 33 Ill. Reg. 17178, December 18, 2009; 34 Ill. Reg. 6546, May 7, 2010; 34 Ill. Reg. 7811, June 4, 2010 and 34 Ill. Adm. Code 13565, September 17, 2010.

Aquatic life and human health criteria for General Use (35 Ill. Adm. Code 303.201) and Lake Michigan Basin (35 Ill. Adm. Code 303.443) waters are listed below. General Use human health criteria are derived for protection of primary contact waters, criteria derived for waters not supportive of primary contact recreation are specified, where applicable. General Use and Lake Michigan Basin waters used as Public and Food Processing Water Supplies (35 Ill. Adm. Code 303.202) are subject to more stringent human health criteria as specified in their respective

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

derivation procedures (35 Ill. Adm. Code 302.648 and 302.657 and 35 Ill. Adm. Code 302.585 and 302.590, respectively). Newly derived criteria or criteria used in NPDES permitting this quarter are highlighted in bold print.

General Use Criteria

Chemical: Acenaphthene CAS #83-32-9 **Acute criterion: 120 ug/l Chronic criterion: 62 ug/l** **Date criteria derived: November 14, 1991; revised February 1999** **Applicable waterbodies: Segment JJ of Palmer Creek.**
Chemical: Acenaphthylene CAS # 208-96-8 **Acute criterion: 190 ug/L Chronic criterion: 15 ug/L** **Date criteria derived: March 1, 1998** **Applicable waterbodies: Segment JJ of Palmer Creek.**
Chemical: Acetochlor CAS #34256-82-1 Acute criterion: 150 ug/l Chronic criterion: 12 ug/l Date criteria derived: September 26, 2007 Applicable waterbodies: Not used during this period.
Chemical: Acetone CAS #67-64-1 Acute criterion: 1,500 mg/l Chronic criterion: 120 mg/l Date criteria derived: May 25, 1993 Applicable waterbodies: Not used during this period.
Chemical: Acetonitrile CAS #75-05-8 Acute criterion: 380 mg/l Chronic criterion: 30 mg/l Human health criterion (HTC): non-primary contact, 20 mg/L Date criteria derived: December 7, 1993; revised January 23, 2007 Applicable waterbodies: Not used during this period.
Chemical: Acrolein CAS #107-02-8 Acute criterion: 2.7 µg/l Chronic criterion: 0.22 µg/l Date criteria calculated: February 1999; reviewed January 2008 Applicable waterbodies: Not used during this period.
Chemical: Acrylonitrile CAS #107-13-4 Acute criterion: 910 ug/l Chronic criterion: 73 ug/l Human health criterion (HNC): 0.21 ug/l

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Date criteria derived: November 13, 1991 Applicable waterbodies: Not used during this period.
Chemical: Aniline CAS #62-53-3 Acute criterion: 120 µg/l Chronic criterion: 15 µg/l Date criteria calculated: July 24, 1998; reviewed April 15, 2009 Applicable waterbodies: Not used during this period.
Chemical: Anthracene CAS #120-12-7 **Acute criterion: 0.66 ug/L Chronic Criterion: 0.53 ug/L** **Human health criterion (HTC): 35 mg/l** **Date criteria derived: August 18, 1993, revised May 30, 2007** **Applicable waterbodies: Segment JJ of Palmer Creek.**
Chemical: Antimony CAS #7440-36-0 Acute criterion: 1,200 ug/L Chronic Criterion: 320 ug/L Human health criterion (HTC): 12,000 ug/l Non-primary contact: 1,200 ug/l Public and food processing water supply: 6 ug/l Date criteria derived: September 29, 2008 Applicable waterbodies: Not used during this period.
Chemical: Atrazine CAS #1912-24-9 Acute criterion: 82 ug/l Chronic criterion: 9.0 ug/L Date criteria derived: May 2, 2005 Applicable waterbodies: Not used during this period.
Chemical: Benzo(a)anthracene CAS #56-55-3 **Human health criterion (HNC): 0.16 ug/l** **Date criteria derived: August 10, 1993; revised February 1999** **Applicable waterbodies: Segment JJ of Palmer Creek.**
Chemical: Benzo(a)pyrene CAS #50-32-8 **Human health criterion (HNC): 0.016 ug/l** **Date criteria derived: August 10, 1993; revised February 1999** **Applicable waterbodies: Segment JJ of Palmer Creek.**
Chemical: Benzo(b)fluoranthene CAS # 205-99-2 **Human health criterion (HNC): 0.16 ug/l** **Date criteria derived: August 10, 1993; revised February 1999** **Applicable waterbodies: Segment JJ of Palmer Creek.**
Chemical: Benzo(k)fluoranthene CAS #207-08-9 **Human health criterion (HNC): 1.6 ug/l**

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Date criteria derived: August 10, 1993; revised February 1999 **Applicable waterbodies: Segment JJ of Palmer Creek.**
Chemical: Bis(2-ethylhexyl)phthalate CAS #117-81-7 Human health criterion (HNC): 1.9 ug/l Date criteria derived: February, 1999; reviewed: June 2009 Applicable waterbodies: Not used during this period.
Chemical: Carbon tetrachloride CAS #56-23-5 Acute criterion: 3,500 ug/l Chronic criterion: 280 ug/l Human health criterion (HNC): 1.4 ug/l Date criteria derived: June 18, 1993 Applicable waterbodies: Not used during this period.
Chemical: 2-Chloroaniline CAS #95-51-2 Acute criterion: 75 ug/l Chronic criterion: 6 ug/l Date criteria derived: June 21, 1996; reviewed April 15, 2009 Applicable waterbodies: Not used during this period.
Chemical: 4-Chloroaniline CAS #106-47-8 Acute criterion: 2.4 ug/l Date criteria derived: February 26, 1992; reviewed April 15, 2009 Applicable waterbodies: Not used during this period.
Chemical: Chlorobenzene CAS #108-90-7 Acute criterion: 990 ug/l Chronic criterion: 79 ug/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.
Chemical: Chloroethane CAS #75-00-3 Acute criterion: 13 mg/l Chronic criterion: 1 mg/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.
Chemical: Chloromethane CAS #74-87-3 Acute criterion: 16 mg/l Chronic criterion: 1.3 mg/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.
Chemical: Chloroform CAS #67-66-3 Acute criterion: 1,900 ug/l Chronic criterion: 150 ug/l Human health criterion (HNC): 130 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Chrysene CAS #218-01-9 **Human health criterion (HNC): 16 ug/l** **Date criteria derived: August 10, 1993; revised February 1999** **Applicable waterbodies: Segment JJ of Palmer Creek.**
Chemical: 2,4-D CAS #94-75-7 Acute criterion: 100 ug/l Chronic criterion: 8 ug/l Date criteria derived: July 1, 1993; reviewed April 15, 2009 Applicable waterbodies: Not used during this period.
Chemical: Dibenz(a,h)anthracene CAS #53-70-3 **Human health criterion (HNC): 0.016 ug/l** **Date criteria derived : February, 1999, reviewed June 2007** **Applicable waterbodies: Segment JJ of Palmer Creek.**
Chemical: 1,2-dichlorobenzene CAS #95-50-1 Acute criterion: 210 ug/l Chronic criterion: 17 ug/l Date criteria derived: December 1, 1993 Applicable waterbodies: Not used during this period.
Chemical: 1,3-dichlorobenzene CAS #541-73-1 Acute criterion: 500 ug/l Chronic criterion: 200 ug/l Date criteria derived: July 31, 1991 Applicable waterbodies: Not used during this period.
Chemical: 1,1-dichloroethane CAS #75-34-3 Acute criterion: 20 mg/l Chronic criterion: 2 mg/l Date criteria derived: July 31, 1991 Applicable waterbodies: Not used during this period.
Chemical: 1,2-dichloroethane CAS #107-06-2 Acute criterion: 25 mg/l Chronic criterion: 4.5 mg/l Human health criterion (HNC): 23 ug/l Date criteria derived: March 19, 1992 Applicable waterbodies: Not used during this period.
Chemical: 1,1-dichloroethylene CAS #75-35-4 Acute criterion: 3,000 ug/l Chronic criterion: 240 ug/l Human health criterion (HTC): 110 ug/l Non-primary contact: 120 ug/l Public and food processing water supply: 6.6 ug/l Date criteria derived: March 20, 1992; revised May 04, 2009 Applicable waterbodies: Not used during this period.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: 1,2-dichloroethylene CAS #540-59-0 Acute criterion: 14 mg/l Chronic criterion: 1.1 mg/l Date criteria derived: November 18, 2008 Applicable waterbodies: Not used during this period.
Chemical: 2,4-dichlorophenol CAS #120-83-2 Acute criterion: 630 ug/l Chronic criterion: 83 ug/l Date criteria derived: November 14, 1991 Applicable waterbodies: Not used during this period.
Chemical: 1,2-dichloropropane CAS #78-87-5 Acute criterion: 4,800 ug/l Chronic criterion: 380 ug/l Date criteria derived: December 7, 1993 Applicable waterbodies: Not used during this period.
Chemical: 1,3-dichloropropylene CAS #542-75-6 Acute criterion: 99 ug/l Chronic criterion: 7.9 ug/l Date criteria derived: November 13, 1991 Applicable waterbodies: Not used during this period.
Chemical: 2,4-dimethyl phenol CAS #105-67-9 Acute criterion: 740 ug/l Chronic criterion: 220 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.
Chemical: 4,6-dinitro-o-cresol = 2-methyl-4,6-dinitrophenol CAS #534-52-1 Acute criterion: 29 ug/l Chronic criterion: 2.3 ug/l Date criteria derived: November 14, 1991 Applicable waterbodies: Not used during this period.
Chemical: 2,4-dinitrophenol CAS #51-28-5 Acute criterion: 85 ug/l Chronic criterion: 4.1 ug/l Date criteria derived: December 1, 1993 Applicable waterbodies: Not used during this period.
Chemical: 2,6-dinitrotoluene CAS #606-20-2 Acute criterion: 1,900 ug/l Chronic criterion: 150 ug/l Date criteria derived: February 14, 1992 Applicable waterbodies: Not used during this period.
Chemical: Diquat CAS #85-00-7 Acute criterion: 990 ug/l Chronic criterion: 80 ug/l Date criteria derived: January 30, 1996 Applicable waterbodies: Not used during this period.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Ethyl mercaptan (ethanethiol) CAS #75-08-1 Acute criterion: 17 ug/l Chronic criterion: 2 ug/l Date criteria derived: April 8, 2002 Applicable waterbodies: Not used during this period.
Chemical: Fluoranthene CAS #206-44-0 **Acute criterion: 4.3 ug/L Chronic Criterion: 1.8 ug/L** **Human health criterion (HTC): 120 ug/l** **Date criteria derived: August 10, 1993; revised June 6, 2007 (Acute/Chronic)** **Applicable waterbodies: Segment JJ of Palmer Creek.**
Chemical: Fluorene CAS #86-73-7 **Acute criterion: 59 ug/L Chronic Criterion: 16 ug/L** **Date criteria derived: June 6, 2007** **Applicable waterbodies: Segment JJ of Palmer Creek.**
Chemical: Formaldehyde CAS #50-00-0 Acute criterion: 4.9 mg/l Chronic criterion: 0.39 mg/l Date criteria derived: January 19, 1993 Applicable waterbodies: Not used during this period.
Chemical: Hexachlorobenzene CAS #118-74-1 Human health criterion (HNC): 0.00025 ug/l Date criteria derived: November 15, 1991 Applicable waterbodies: Not used during this period.
Chemical: Hexachlorobutadiene CAS #87-68-3 Acute criterion: 35 ug/l Chronic criterion: 2.8 ug/l Date criteria derived: March 23, 1992 Applicable waterbodies: Not used during this period.
Chemical: Hexachloroethane CAS #67-72-1 Acute criterion: 380 ug/l Chronic criterion: 31 ug/l Human health criterion (HNC): 2.9 ug/l Date criteria derived: November 15, 1991 Applicable waterbodies: Not used during this period.
Chemical: n-Hexane CAS #110-54-3 Acute criterion: 250 ug/l Chronic criterion: 20 ug/l Date criteria derived: April 8, 2002 Applicable waterbodies: Not used during this period.
Chemical: Indeno(1,2,3-cd)pyrene CAS #193-39-5 **Human health criterion (HNC): 0.16 ug/l**

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Date criteria calculated: February, 1992, reviewed June 2007 **Applicable waterbodies: Segment JJ of Palmer Creek.**
Chemical: Isobutyl alcohol = 2-methyl-1-propanol CAS #78-83-1 Acute criterion: 430 mg/l Chronic criterion: 35 mg/l Date criteria derived: December 1, 1993 Applicable waterbodies: Not used during this period.
Chemical: Methylene chloride CAS #75-09-2 Acute criterion: 17 mg/l Chronic criterion: 1.4 mg/l Human health criterion (HNC): 330 ug/l Non-primary contact: 490 ug/l Public and food processing water supply: 4.6 ug/l Date criteria derived: January 21, 1992; revised November 25, 2008 Applicable waterbodies: Not used during this period.
Chemical: Methylethylketone CAS #78-93-3 Acute criterion: 320 mg/l Chronic criterion: 26 mg/l Date criteria derived: July 1, 1992 Applicable waterbodies: Not used during this period.
Chemical: 4-methyl-2-pentanone CAS #108-10-1 Acute criterion: 46 mg/l Chronic criterion: 1.4 mg/l Date criteria derived: January 13, 1992 Applicable waterbodies: Not used during this period.
Chemical: 2-methyl phenol CAS #95-48-7 Acute criterion: 4.7 mg/l Chronic criterion: 0.37 mg/l Date criteria derived: November 8, 1993 Applicable waterbodies: Not used during this period.
Chemical: 4-methyl phenol CAS #106-44-5 Acute criterion: 670 ug/l Chronic criterion: 120 ug/l Date criteria derived: January 13, 1992 Applicable waterbodies: Not used during this period.
Chemical: Methyl tert-butyl ether (MTBE) CAS #134-04-4 Acute criterion: 67 mg/l Chronic criterion: 5.4 mg/l Date criteria derived: September 18, 1997 Applicable waterbodies: Not used during this period.
Chemical: Metolachlor CAS #51218-45-2 Acute criterion: 380 ug/l Chronic criterion: 30.4 ug/l Date criteria derived: February 25, 1992; revised October 1, 2007

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Applicable waterbodies: Not used during this period.
Chemical: Naphthalene CAS #91-20-3 **Acute criterion: 510 ug/l Chronic criterion: 68 ug/l** **Date criteria derived: November 7, 1991; revised February 1999** **Applicable waterbodies: Segment JJ of Palmer Creek.**
Chemical: 4-nitroaniline CAS #100-01-6 Acute criterion: 1.5 mg/l Chronic criterion: 0.12 mg/l Date criteria derived: May 5, 1996 Applicable waterbodies: Not used during this period.
Chemical: Nitrobenzene CAS #98-95-3 Acute criterion: 15 mg/l Chronic criterion: 8.0 mg/l Human health criterion (HTC): 0.52 mg/l Date criteria derived: February 14, 1992; revised February 1999 Applicable waterbodies: Not used during this period.
Chemical: Pentachlorophenol Acute criterion: 20 ug/l Chronic criterion: 13 ug/l Date criteria derived: national criterion at pH of 7.8, September 1986 Applicable waterbodies: Not used during this period.
Chemical: Phenanthrene CAS #85-01-8 **Acute criterion: 46 ug/l Chronic criterion: 3.7 ug/l** **Date criteria derived: October 26, 1992** **Applicable waterbodies: Segment JJ of Palmer Creek.**
Chemical: Propylene CAS #115-07-1 Acute criterion: 4.0 mg/l Chronic criterion 0.40 mg/l Date criteria derived: April 8, 2002 Applicable waterbodies: Not used during this period.
Chemical: Pyrene CAS #120-00-0 **Human health criterion (HTC): 3.5 mg/l** **Date criteria derived: December 22, 1992** **Applicable waterbodies: Segment JJ of Palmer Creek.**
Chemical: Styrene CAS #120-42-5 Acute criterion: 2.5 mg/L Chronic criterion: 0.2 mg/L Date criteria derived: October 26, 1992; reviewed May 4, 2009 Applicable waterbodies: Not used during this period.
Chemical: Tetrachloroethylene CAS #127-18-4 Acute criterion: 1,200 ug/l Chronic criterion: 150 ug/l

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Date criteria derived: March 23, 1992
Applicable waterbodies: Not used during this period.

Chemical: Tetrahydrofuran CAS #109-99-9
Acute criterion: 220 mg/l Chronic criterion: 17 mg/l
Date criteria derived: March 16, 1992
Applicable waterbodies: Not used during this period.

Chemical: Thallium CAS #7440-28-0
Acute criterion: 86 ug/l Chronic criterion: 11 ug/l
Human health criterion (HTC): 3.0 ug/l
Non-primary contact: 3.0 ug/l
Public and food processing water supply: 1.2 ug/l
Date criteria derived: October 22, 2007; revised November 18, 2008
Applicable waterbodies: Not used during this period.

Chemical: 1,2,4-trichlorobenzene CAS #120-82-1
Acute criterion: 370 ug/l Chronic criterion: 72 ug/l
Date criteria derived: December 14, 1993; revised February 1999
Applicable waterbodies: Not used during this period.

Chemical: 1,1,1-trichloroethane CAS #71-55-6
Acute criterion: 4,900 ug/l Chronic criterion: 390 ug/l
Date criteria derived: October 26, 1992
Applicable waterbodies: Not used during this period.

Chemical: 1,1,2-trichloroethane CAS #79-00-5
Acute criterion: 19 mg/l Chronic criterion: 4.4 mg/l
Human health criterion (HNC): 12 ug/l
Date criteria derived: December 13, 1993; revised February 1999
Applicable waterbodies: Not used during this period.

Chemical: Trichloroethylene CAS #79-01-6
Acute criterion: 12,000 ug/l Chronic criterion: 940 ug/l
Human health criterion (HNC): 25 ug/l
Non-primary contact: 26 ug/l
Public and food processing water supply: 2.5 ug/l
Date criteria derived: October 23, 1992; revised November 18, 2008
Applicable waterbodies: Not used during this period.

Chemical: Vinyl chloride CAS #75-01-4
Acute criterion: 22 mg/l Chronic criterion: 1.7 mg/l
Human health criterion (HNC): 1.5 ug/l

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

	Non-primary contact: 2 ug/l
	Public and food processing water supply: 0.025 ug/l
Date criteria derived: October 23, 1992; revised January 23, 2007; revised November 17, 2008	
Applicable waterbodies: Not used during this period.	

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Lake Michigan Basin Criteria

Chemical: Antimony CAS #7440-36-0
Aquatic Life Criteria:
Acute criterion: 470 ug/l Chronic criterion: 120 ug/l
Date criteria derived: September 29, 2008
Applicable waterbodies: Not used during this period.

Chemical: Bis(2-ethylhexyl)phthalate CAS #117-81-7
Aquatic Life Criteria:
Acute criterion: 76 ug/l Chronic criterion: 17 ug/l
Human Health Non-threshold Criteria:
Public and food processing water supply: 2.8 ug/l
Non-drinking water: 3.2 ug/l
Date criteria derived: June 20, 2006
Applicable waterbodies: Not used during this period.

Chemical: 1,2-dichloroethylene CAS #540-59-0
Aquatic Life Criteria:
Acute criterion: 8.8 mg/l Chronic criterion: 0.98 mg/l
Date criteria derived: November 18, 2008
Applicable waterbodies: Not used during this period.

Chemical: Methylene Chloride CAS #75-09-2
Aquatic Life Criteria:
Acute criterion: 10,803 ug/l Chronic criterion: 1,200 ug/l
Human Health Non-threshold Criteria:
Public and food processing water supply: 47 ug/l
Non-drinking water: 2,600 ug/l
Date criteria derived: June 20, 2006
Applicable waterbodies: Not used during this period.

Chemical: Thallium CAS #7440-28-0
Aquatic Life Criteria:
Acute criterion: 54 ug/l Chronic criterion: 15 ug/l
Human Health Threshold Criteria:
Public and food processing water supply: 1.3 ug/l
Non-drinking water: 3.7 ug/l
Date criteria derived: June 20, 2006; revised November 18, 2008
Applicable waterbodies: Not used during this period.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Vinyl Chloride CAS #75-01-4
Aquatic Life Criteria:
Acute criterion: 8,380 ug/l Chronic criterion: 931 ug/l
Human Health Non-threshold Criteria:
Public and food processing water supply: 0.25 ug/l
Non-drinking water: 14.4 ug/l
Date criteria derived: June 20, 2006
Applicable waterbodies: Not used during this period.

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

Brian Koch
Illinois Environmental Protection Agency
Division of Water Pollution Control
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
217-558-2012

ILLINOIS ATTORNEY GENERAL

NOTICE OF PUBLIC INFORMATION

NOTICE OF LODGING OF CONSENT DECREE PURSUANT TO THE COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT

Notice is hereby given that, in the case of People of the State of Illinois, *ex rel.*, Lisa Madigan, Attorney General of the State of Illinois v. Texaco Inc., Civil Action No. 01-CV-03221 (C.D. Illinois), a proposed Consent Decree and Agreed Modification of Consent Decree were lodged with the United States District Court for the Central District of Illinois for the purpose of initiating a period of public comment.

This action under Section 311(f) of the Clean Water Act, 33 U.S.C. 1321(f) and Section 107(a) of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9607(a), alleges releases of hazardous substances into the environment near Lawrenceville, Lawrence County, Illinois. Under the Complaint's Fourth Claim for Relief, the State of Illinois seeks recovery of State natural resource damages and other relief from Texaco Inc. (the "Defendant"). Under the Consent Decree, the Defendant agrees to make certain payments and take other actions to resolve the Fourth Claim for Relief.

The Illinois Attorney General's Office will accept comments relating to the proposed Consent Decree received by or postmarked before 5:00 p.m. on December 13, 2010. Comments should be addressed to James L. Morgan, Senior Assistant Attorney General, Environmental Bureau, 500 South Second Street, Springfield, Illinois, 62706, and should refer to the case of People of the State of Illinois, *ex rel.*, Lisa Madigan, Attorney General of the State of Illinois v. Texaco Inc., Civil Action No. 01-CV-03221. A copy of the Consent Decree may be obtained by mailing a request to James Morgan at the address in the paragraph above, by faxing the request to 217/524-7740, or by e-mailing the request to jmorgan@atg.state.il.us. The Consent Decree may also be examined at the Office of the Attorney General, 3000 Montvale Avenue, Springfield, Illinois.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
NOVEMBER AGENDA

SCHEDULED MEETING:

STRATTON OFFICE BUILDING
ROOM C-1
SPRINGFIELD, ILLINOIS
10:30 A.M.
NOVEMBER 16, 2010

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

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

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

RULEMAKINGS CURRENTLY BEFORE JCAR

PROPOSED RULEMAKINGS

Agriculture

1. Definitions (8 Ill. Adm. Code 20)
   -First Notice Published: 34 Ill. Reg. 10404 – 7/23/10
   -Expiration of Second Notice: 12/8/10

2. Bovine Brucellosis (8 Ill. Adm. Code 75)
   -First Notice Published: 34 Ill. Reg. 10433 – 7/23/10
   -Expiration of Second Notice: 12/1/10

3. Illinois Bovidae and Cervidae Tuberculosis Eradication Act (8 Ill. Adm. Code 80)
   -First Notice Published: 34 Ill. Reg. 10439 – 7/23/10
   -Expiration of Second Notice: 12/8/10

JOINT COMMITTEE ON ADMINISTRATIVE RULES
NOVEMBER AGENDA

4. Diseased Animals (8 Ill. Adm. Code 85)
   -First Notice Published: 34 Ill. Reg. 10447 – 7/23/10
   -Expiration of Second Notice: 12/8/10

5. Animal Disease Laboratories Act (8 Ill. Adm. Code 110)
   -First Notice Published: 34 Ill. Reg. 11926 – 8/20/10
   -Expiration of Second Notice: 12/12/10

6. Motor Fuel and Petroleum Standards Act (8 Ill. Adm. Code 850)
   -First Notice Published: 34 Ill. Reg. 10486 – 7/23/10
   -Expiration of Second Notice: 12/1/10

Capital Development Board

7. Standards for Award Grants: School Construction Program (71 Ill. Adm. Code 40)
   -First Notice Published: 34 Ill. Reg. 8791 – 7/9/10
   -Expiration of Second Notice: 12/25/10

Children and Family Services

8. Services Delivered by the Department of Children and Family Services (89 Ill. Adm. Code 302)
   -First Notice Published: 34 Ill. Reg. 7001 – 5/21/10
   -Expiration of Second Notice: 12/11/10

Corrections

9. Correctional Industries (20 Ill. Adm. Code 117)
   -First Notice Published: 34 Ill. Reg. 8808 – 7/9/10
   -Expiration of Second Notice: 11/19/10

10. Closed Maximum Security Facility (20 Ill. Adm. Code 505)
   -First Notice Published: 34 Ill. Reg. 7386 – 5/28/10
   -Expiration of Second Notice: 11/19/10

Education

11. Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)
   -First Notice Published: 34 Ill. Reg. 7597 – 6/4/10

JOINT COMMITTEE ON ADMINISTRATIVE RULES
NOVEMBER AGENDA

-Expiration of Second Notice: 12/11/10

12. Technology Immersion Pilot Project (23 Ill. Adm. Code 365)
-First Notice Published: 34 Ill. Reg. 12791 – 9/3/10
-Expiration of Second Notice: 12/11/10

Healthcare and Family Services

13. Medical Payment (89 Ill. Adm. Code 140)
-First Notice Published: 34 Ill. Reg. 10643 – 7/30/10
-Expiration of Second Notice: 11/17/10

Human Services

14. Child Care (89 Ill. Adm. Code 50)
-First Notice Published: 34 Ill. Reg. 8498 – 7/2/10
-Expiration of Second Notice: 11/27/10

15. Crisis Assistance (89 Ill. Adm. Code 116)
-First Notice Published: 34 Ill. Reg. 8845 – 7/9/10
-Expiration of Second Notice: 11/27/10

16. Supplemental Nutrition Assistance Program (SNAP) (89 Ill. Adm. Code 121)
-First Notice Published: 34 Ill. Reg. 8852 – 7/9/10
-Expiration of Second Notice: 11/27/10

Labor

17. Victims' Economic Security and Safety Act (56 Ill. Adm. Code 280)
-First Notice Published: 34 Ill. Reg. 11993 – 8/20/10
-Expiration of Second Notice: 12/1/10

18. Equal Pay in Employment (56 Ill. Adm. Code 320)
-First Notice Published: 34 Ill. Reg. 11998 – 8/20/10
-Expiration of Second Notice: 12/1/10

Law Enforcement Training and Standards Board

19. Surcharge Fund Financial Assistance (20 Ill. Adm. Code 1700)
-First Notice Published: 34 Ill. Reg. 8136 – 6/25/10

JOINT COMMITTEE ON ADMINISTRATIVE RULES
NOVEMBER AGENDA

-Expiration of Second Notice: 11/20/10

20. Court Security Basic Training (20 Ill. Adm. Code 1780)
-First Notice Published: 34 Ill. Reg. 7581 – 6/4/10
-Expiration of Second Notice: 11/20/10

Natural Resources

21. Conservation 2000 – Ecosystems Program (17 Ill. Adm. Code 1523)
-First Notice Published: 34 Ill. Reg. 12321 – 8/27/10
-Expiration of Second Notice: 11/27/10

Pollution Control Board

22. General Provisions (35 Ill. Adm. Code 101)
-First Notice Published: 34 Ill. Reg. 8500 – 7/2/10
-Expiration of Second Notice: 12/8/10

23. Permits and General Provisions (35 Ill. Adm. Code 201)
-First Notice Published: 34 Ill. Reg. 8508 – 7/2/10
-Expiration of Second Notice: 11/21/10

Public Health

24. Loan Repayment Assistance for Dentists (77 Ill. Adm. Code 580)
-First Notice Published: 34 Ill. Reg. 10488 – 7/23/10
-Expiration of Second Notice: 11/18/10

25. Regionalized Perinatal Health Care Code (77 Ill. Adm. Code 640)
-First Notice Published: 34 Ill. Reg. 2087 – 2/5/10
-Expiration of Second Notice: 11/26/10

26. Hospital Capital Investments (77 Ill. Adm. Code 976)
-First Notice Published: 34 Ill. Reg. 9716 – 7/16/10
-Expiration of Second Notice: 11/18/10

Secretary of State

27. Illinois State Library, Acquisitions Division, Illinois Documents Section (23 Ill. Adm. Code 3020)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
NOVEMBER AGENDA

-First Notice Published: 34 Ill. Reg. 12122 – 8/20/10
-Expiration of Second Notice: 11/20/10

28. Issuance of Licenses (92 Ill. Adm. Code 1030)
-First Notice Published: 34 Ill. Reg. 12094 – 8/20/10
-Expiration of Second Notice: 11/18/10

29. School Bus Driver Permit (92 Ill. Adm. Code 1035)
-First Notice Published: 34 Ill. Reg. 12105 – 8/20/10
-Expiration of Second Notice: 11/18/10

30. Commercial Driver Training Schools (92 Ill. Adm. Code 1060)
-First Notice Published: 34 Ill. Reg. 13074 – 9/10/10
-Expiration of Second Notice: 12/9/10

State Police

31. Sexual Assault Evidence Submission Act (20 Ill. Adm. Code 1255)
-First Notice Published: 34 Ill. Reg. 12130 – 8/20/10
-Expiration of Second Notice: 11/18/10

EMERGENCY RULEMAKINGS

Central Management Services

32. Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment (74 Ill. Adm. Code 900)
-Notice Published: 34 Ill. Reg. 16587 – 10/22/10

Comptroller

33. Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment (74 Ill. Adm. Code 330)
-Notice Published: 34 Ill. Reg. 16593 – 10/22/10

Education

34. Requirements for Accounting, Budgeting, Financial Reporting, and Auditing (23 Ill. Adm. Code 100)
-Notice Published: 34 Ill. Reg. 15489 – 10/8/10

JOINT COMMITTEE ON ADMINISTRATIVE RULES
NOVEMBER AGENDA

Healthcare and Family Services

35. Hospital Services (89 Ill. Adm. Code 148)
-Notice Published: 34 Ill. Reg. 15856 – 10/15/10

Natural Resources

36. Commercial Fishing and Musseling in Certain Waters of the State (17 Ill. Adm. Code 830)
-Notice Published: 34 Ill. Reg. 15884 – 10/15/10

37. Illinois List of Endangered and Threatened Fauna (17 Ill. Adm. Code 1010)
-Notice Published: 34 Ill. Reg. 15892 – 10/15/10

PEREMPTORY RULEMAKINGS

Central Management Services

38. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 34 Ill. Reg. 15897 – 10/15/10

Human Services

39. Supplemental Nutrition Assistance Program (SNAP) (89 Ill. Adm. Code 121)
-Notice Published: 34 Ill. Reg. 15543 – 10/8/10

ADOPTED RULEMAKINGS

Commerce Commission

40. Public Information, Rulemaking and Organization (2 Ill. Adm. Code 1700)
-Notice Published: 34 Ill. Reg. 16359 – 10/22/10

Environmental Protection Agency

41. Access to Public Records of the Illinois Environmental Protection Agency (2 Ill. Adm. Code 1828)
-Notice Published: 34 Ill. Reg. 15377 – 10/8/10

JOINT COMMITTEE ON ADMINISTRATIVE RULES
NOVEMBER AGENDA

Higher Education

42. Access to Public Information (Repealer) (2 Ill. Adm. Code 5051)
-Notice Published: 34 Ill. Reg. 16329 – 10/22/10

43. Access to Records of the Board of Higher Education (2 Ill. Adm. Code 5051)
-Notice Published: 34 Ill. Reg. 16331 – 10/22/10

Human Rights

44. Access to Public Records of the Department of Human Rights (2 Ill. Adm. Code 926)
-Notice Published: 34 Ill. Reg. 16393 – 10/22/10

Student Assistance Commission

45. Information Requests (Repealer) (2 Ill. Adm. Code 5376)
-Notice Published: 34 Ill. Reg. 15461 – 10/8/10

46. Information Requests (2 Ill. Adm. Code 5376)
-Notice Published: 34 Ill. Reg. 15463 – 10/8/10

AGENCY RESPONSES

Environmental Protection Agency

47. Alternate Fuels Program (35 Ill. Adm. Code 275; 34 Ill. Reg. 5492)

State Fire Marshal

48. Fire Protection District Grant (41 Ill. Adm. Code 295; 34 Ill. Reg. 8868)

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 October 26, 2010 through November 1, 2010 and have been scheduled for review by the Committee at its November 16, 2010 or December 14, 2010 meetings. 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.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
12/8/10	Department of Agriculture, Definitions (8 Ill. Adm. Code 20)	7/23/10 34 Ill. Reg. 10404	11/16/10
12/8/10	Department of Agriculture, Illinois Bovidae and Cervidae Tuberculosis Eradication Act (8 Ill. Adm. Code 80)	7/23/10 34 Ill. Reg. 10439	11/16/10
12/8/10	Department of Agriculture, Diseased Animals (8 Ill. Adm. Code 85)	7/23/10 34 Ill. Reg. 10447	11/16/10
12/9/10	Secretary of State, Commercial Driver Training Schools (92 Ill. Adm. Code 1060)	9/10/10 34 Ill. Reg. 13074	11/16/10
12/11/10	Department of Children and Family Services, Services Delivered by the Department of Children and Family Services (89 Ill. Adm. Code 302)	5/21/10 34 Ill. Reg. 7001	11/16/10
12/11/10	State Board of Education, Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)	6/4/10 34 Ill. Reg. 7597	11/16/10
12/11/10	State Board of Education, Technology Immersion Pilot Project (23 Ill. Adm. Code	9/3/10 34 Ill. Reg.	11/16/10

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

	365)	12791	
12/12/10	Department of Agriculture, Animal Disease Laboratories Act (8 Ill. Adm. Code 110)	8/20/10 34 Ill. Reg. 11926	11/16/10
12/15/10	Environmental Protection Agency, Procedures for Operation of the Clean Construction or Demolition Debris Fill Operation Fee System (35 Ill. Adm. Code 1150)	8/13/10 34 Ill. Reg. 11653	12/14/10
12/15/10	Capital Development Board, Early Childhood Construction Grant Rules (71 Ill. Adm. Code 43)	9/3/10 34 Ill. Reg. 12564	12/14/10

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 34, Issue 46 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

20 - 525 17015
32 - 330 17022
68 - 1130 17126
89 - 153 17132
89 - 160 17134
44 - 750 17170
23 - 228 17180
23 - 235 17187
23 - 575 17213
92 - 16 17224
92 - 24 17234
92 - 44 17254
92 - 58 17273
92 - 73 17293
92 - 84 17319
50 - 7110 17489

ADOPTED RULES

38 - 1050 10/29/2010 17339
35 - 739 10/29/2010 17381
35 - 808 10/29/2010 17390
35 - 809 10/29/2010 17398
23 - 1 10/28/2010 17411
23 - 22 10/28/2010 17427
23 - 226 10/28/2010 17433

EMERGENCY RULES

89 - 153 11/1/2010 17462
50 - 7110 10/28/2010 17471

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