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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2011

Issue #	Rules Due Date	Date of Issue
1	December 20, 2010	January 3, 2011
2	December 27, 2010	January 7, 2011
3	January 3, 2011	January 14, 2011
4	January 10, 2011	January 21, 2011
5	January 18, 2011	January 28, 2011
6	January 24, 2011	February 4, 2011
7	January 31, 2011	February 14, 2011
8	February 7, 2011	February 18, 2011
9	February 15, 2011	February 25, 2011
10	February 22, 2011	March 4, 2011
11	February 28, 2011	March 11, 2011
12	March 7, 2011	March 18, 2011
13	March 14, 2011	March 25, 2011
14	March 21, 2011	April 1, 2011
15	March 28, 2011	April 8, 2011
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18	April 18, 2011	April 29, 2011
19	April 25, 2011	May 6, 2011
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39	September 12, 2011	September 23, 2011
40	September 19, 2011	September 30, 2011
41	September 26, 2011	October 7, 2011
42	October 3, 2011	October 14, 2011
43	October 11, 2011	October 21, 2011
44	October 17, 2011	October 28, 2011
45	October 24, 2011	November 4, 2011
46	October 31, 2011	November 14, 2011
47	November 7, 2011	November 18, 2011
48	November 14, 2011	November 28, 2011
49	November 21, 2011	December 2, 2011
50	November 28, 2011	December 9, 2011
51	December 5, 2011	December 16, 2011
52	December 12, 2011	December 27, 2011
53	December 19, 2011	December 30, 2011

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: The Illinois Oil and Gas Act

2) Code Citation: 62 Ill. Adm. Code 240

3)

Section Numbers:	Proposed Action:
240.10	Amendment
240.131	Amendment
240.132	Amendment
240.133	Amendment
240.140	Amendment
240.150	Amendment
240.155	Amendment
240.160	Amendment
240.180	Amendment
240.185	Amendment
240.186	Amendment
240.190	Amendment
240.220	Amendment
240.250	Amendment
240.251	Amendment
240.310	Amendment
240.320	Amendment
240.340	Amendment
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240.380	Amendment
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240.430	Amendment
240.455	Amendment
240.460	Amendment
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240.610	Amendment
240.630	Amendment
240.710	Amendment
240.750	Amendment
240.760	Amendment
240.780	Amendment
240.795	Amendment

240.810	Amendment
240.870	Amendment
240.875	Amendment
240.920	Amendment
240.945	Amendment
240.1040	Amendment
240.1050	Amendment
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240.1500	Amendment
240.1600	Amendment
240.1610	Amendment
240.1640	Amendment
240.1650	New Section
240.1660	New Section
240.1700	Amendment
240.1710	Amendment
240.1720	Amendment
240.1805	Amendment
240.1810	Amendment
240.1820	Amendment
240.1835	Amendment
240.1850	Amendment
240.1852	Amendment
240.1910	Amendment
240.1930	Amendment

4) Statutory Authority: Implementing and authorized by Sections 6 and 8a of "The Illinois Oil and Gas Act" [225 ILCS 725/6 and 8a]

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to: add and clarify definitions; remove redundant language; add language to clarify who

the Hearing Officer will be for various hearings, who qualifies to enter as a party of record and who is required to receive Notice of Hearings; increase the amounts of Civil penalties; include requirement for a GPS survey location on applications for permits; clarify regulations for Class II well permits; establish additional production well operating requirements for public safety; clarify height requirements for containment dikes; clarify who is responsible for plugging a leaking unpermitted drill hole and who is responsible for plugging a leaking previously plugged well; who is not allowed to receive a Liquid Oilfield Waste Hauler Permit, who is not allowed to receive a Vacuum Permit, who is not allowed to receive a Test Well Permit, who is not allowed to have wells transferred to them, who is not allowed to receive an observation or Gas Storage Permit and who is not allowed to receive a Service Well Permit; identify when a bond can be released and when a bond is required for the plugging of a PRF well; and to clarify what is required on gas storage maps.

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: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Robert Mool, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Small crude oil and gas operators

B) Reporting, bookkeeping or other procedures required for compliance: Operators must comply with notification requirements prior to commencing operations and must submit completed report forms to the Department within the specified timeframe for the procedure they have completed.

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2011

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 240
THE ILLINOIS OIL AND GAS ACT

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240.30 Jurisdiction (Repealed)
240.40 Enforcement of Act (Repealed)
240.50 Delegation of Authority (Repealed)
240.60 Right of Inspection (Repealed)
240.70 Right of Access (Repealed)
240.80 Sworn Statements (Repealed)
240.90 Additional Reports (Repealed)
240.100 When Rules Become Effective (Repealed)
240.110 Notice of Rules (Repealed)
240.120 Forms (Repealed)
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DEPARTMENT OF NATURAL RESOURCES

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DEPARTMENT OF NATURAL RESOURCES

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DEPARTMENT OF NATURAL RESOURCES

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AUTHORITY: Implementing and authorized by the Illinois Oil and Gas Act [225 ILCS 725].

SOURCE: Adopted November 7, 1951; emergency amendment at 6 Ill. Reg. 903, effective January 15, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5542, effective April 19, 1982; codified at 8 Ill. Reg. 2475; amended at 11 Ill. Reg. 2818, effective January 27, 1987; amended at 14 Ill. Reg. 2317, effective January 25, 1990; recodified at 14 Ill. Reg. 3053; amended at 14 Ill. Reg. 13620, effective August 8, 1990; amended at 14 Ill. Reg. 20427, effective January 1, 1991; amended at 15 Ill. Reg. 2706, effective January 31, 1991; recodified at 15 Ill. Reg. 8566; recodified at 15 Ill. Reg. 11641; emergency amendment at 15 Ill. Reg. 14679, effective September 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 15493, effective October 10, 1991; amended at 16 Ill. Reg. 2576, effective February 3, 1992; amended at 16 Ill. Reg. 15513, effective September 29, 1992; expedited correction at 16 Ill. Reg. 18859, effective September 29, 1992; emergency amendment at 17 Ill. Reg. 1195, effective January 12, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2217, effective February 8, 1993; amended at 17 Ill. Reg. 14097, effective August 24, 1993; amended at 17 Ill. Reg. 19923, effective November 8, 1993; amended at 18 Ill. Reg. 8061, effective May 13, 1994; emergency amendment at 18 Ill. Reg. 10380, effective June 21, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16361, effective November 18, 1994; amended at 19 Ill. Reg. 10981, effective July 14, 1995; amended at 21 Ill. Reg. 7164, effective June 3, 1997; emergency amendment at 22 Ill. Reg. 988, effective December 22, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 8422, effective April 28, 1998; amended at 22 Ill. Reg. 8845, effective April 28, 1998; amended at 22 Ill. Reg. 22314, effective December 14, 1998; amended at 25 Ill. Reg. 9045, effective July 9, 2001; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 240.10 Definitions

"Act" – means the Illinois Oil and Gas Act [225 ILCS 725].

"Annular or Casing Injection/Disposal Well~~casing injection/disposal well~~" – means a well into which fluids are injected between the surface casing and the well bore, the surface casing and the production casing, and/or the production casing and the tubing, or a well into which fluids are injected which does not have production casing, tubing and packer.

"Cement" – means all petroleum industry cements meeting the requirements set forth in "Specifications for Oil Well Cements and Cement Additives", API Standard 10A, January 1974, published by the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005 (this incorporation does not include any later publications or editions), except as provided in Subpart K~~ of this Part~~.

"Class II Fluids~~fluids~~" means:

Produced water and/or other fluids brought to the surface in connection with drilling, completion, workover and plugging of oil and natural gas wells; enhanced recovery operations; or natural gas storage operations;

Produced water and/or other fluids from above, that~~which~~ prior to re-injection have been:

used on site for purposes integrally associated to oil and natural gas well drilling, completion, workover and plugging, oil and gas production, enhanced recovery operations or natural gas storage;

chemically treated or altered to the extent necessary to make them usable for purposes~~purposed~~ integrally related to oil and natural gas well drilling, completion, workover and plugging, oil and gas production, enhanced recovery operations, or natural gas storage operations;

commingled with fluid wastes resulting from fluid treatments outlined above, provided the commingled fluid wastes do not constitute a hazardous waste under the Resource Conservation and Recovery Act (42 USC 6901 et seq. (RCRA));

Fresh water from groundwater or surface water sources that~~which~~ is used for purposes integrally related or associated with oil and natural gas well drilling, completion, workover and plugging, oil and gas production, enhanced recovery operations or natural gas storage;

Waste fluids from gas plants (including filter backwash, precipitated sludge, iron sponge, hydrogen sulfide and scrubber liquid) that~~which~~ are an integral part of oil and gas production operations; and waste fluids from gas dehydration plants (including glycol-based compounds and filter backwash) that~~which~~ are an integral part of natural gas storage operations, unless the gas plant or gas dehydration plant wastes are classified as hazardous under RCRA~~the federal Resource Conservation and Recovery Act~~.

"Class II UIC Well~~well~~" – means an injection, disposal~~Injection, Disposal~~ or commercial disposal~~Commercial Disposal~~ well into which fluids are injected:

That~~Which~~ are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production, and may be commingled with wastewaters from gas plants that~~which~~ are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

For enhanced recovery of oil or natural gas; and

For storage of hydrocarbons that~~which~~ are liquid at standard temperature and pressure.

"Commercial Disposal Well" – means a permitted Class II well for which the permittee receives deliveries of Class II fluids by tank truck and charges a fee for the specific purpose of disposal of Class II fluids.

"Commercial Production" – means oil and/or gas has been produced and sold from a well.

"Convert" – means to change an oil, gas, Class II UIC, water supply, observation or gas storage well to another of those types of wells, requiring the issuance of a new permit.

"Department" – means *the Department of Natural Resources, Office of Mines and Minerals of the State of Illinois.* (Section 1 of the Act)

"Directional Drilling" – means the controlled directional drilling when the bottom of the well bore is directed away from the vertical position.

"Director" – means the Director of the Department of Natural Resources or his or her designee~~Office of Mines and Minerals, as the designee of the Director, Illinois Department of Natural Resources~~.

"Disposal Well" – means a Class II UIC well into which fluids brought to the surface in connection with oil or natural gas production are injected into a non-productive oil or gas zone for purposes other than enhanced oil recovery.

"District Office" – means the Department's office for the district in which the well is located.

"Division" – means the Division of Oil and Gas within the Department of Natural Resources, Office of Mines and Minerals.

"Enhanced Oil Recovery" – means *any* secondary or tertiary *recovery method used in an effort to recover hydrocarbons from a pool by injection of fluids, gases or other substances to maintain, restore or augment natural reservoir energy, or by introducing gases, chemicals, other substances or heat or by in-situ~~in-site~~ combustion, or by any combination thereof.* (Section 1 of the Act)

"Enhanced Oil Recovery Injection Well" – means a Class II UIC well used for enhanced oil recovery.

"Flowline" – means all injection, produced water, oil or gas~~ and oil~~ flow lines located within the boundaries of a lease or unit, or gathering lines between leases to a centralized storage area, or to the point where the lines connect with a primary transportation pipeline.

"Fresh water" – means surface and subsurface water in its natural state useful for drinking water for human consumption, domestic livestock, irrigation, industrial, municipal and recreational purposes, and that~~which~~ will support aquatic life and contains less than 10,000 ppm~~mg/liter~~ total dissolved solids.

"General Oilfield Waste" – means oily rags, chemical containers including any unused chemicals, oil filters and gaskets, used motor oil, lubricating oils, hydraulic fluids, diesel fuels, paint and solvent wastes and other similar wastes generated during drilling, completion, production and plugging activities and that~~which~~ are not exempt from the provisions of Subtitle C of RCRA~~the Federal Resource Conservation Recovery Act of 1976~~.

"Injection Well" – means an enhanced oil recovery injection well or disposal well.

"Liquid Oilfield Waste" – means *oilfield brines,* produced waters, *Class II fluids, tank and pit crude oil bottom sediments, and drilling and completion fluids, to the extent those wastes are now or hereafter exempt from the provisions of Subtitle C of the Federal Resource Conservation Recovery Act of 1976.* (Section 8c of the Act)

"Liquid Oilfield Waste Hauler" – means a person holding a permit to operate a liquid oilfield waste transportation system.

"Orphan Well" – means *a well for which:*

> *no~~No~~ fee assessment under Section 19.7 of the Act has been paid or no other bond coverage has been provided for 2 consecutive years;*
>
> *no oil or gas has been produced from the well or from the lease or unit on which the well is located for 2 consecutive years; and*
>
> *no permittee or owner can be identified or located by the Department. Orphaned wells include wells that may have been drilled for purposes other than those for which a permit is required under the Act if the well is a conduit for oil or saltwater intrusions into freshwater zones or onto the surface which may be caused by oil and gas operations.* (Section 1 of the Act)

"Owner" – means *the person who has the right to drill into and produce from any pool, and to appropriate the production either for the person or for the person and another, or others, or solely for others, excluding the mineral owner's royalty if the right to drill and produce has been granted under an oil and gas lease. An owner may also be a person granted the right to drill and operate an injection*

(Class II UIC) well independent of the right to drill for and produce oil or gas. When the right to drill, produce, and appropriate production is held by more than one person, then all persons holding these rights may designate the owner by a written operating agreement or similar written agreement. In the absence of such an agreement, and subject to the provisions of Sections 22.2 and 23.1 through 23.16 of the Act, the owner shall be the person designated in writing by a majority in interest of the persons holding these rights. (Section 1 of the Act)

"Permit" – means *the Department's written authorization allowing*:

> *a well* or test hole *to be drilled, deepened, converted and/or operated by an owner* (Section 1 of the Act); or
>
> a tank battery or concrete storage structure to be constructed and operated; or
>
> operation of a liquid oilfield waste transportation system or engage in lease road oiling.

"Permittee" – means the *owner holding or required to hold the permit, and who is also responsible for paying assessments in accordance with Section 19.7 of* the *Act and, where applicable, executing and filing the bond associated with the well as principal and who is responsible for compliance with all statutory and regulatory requirements pertaining to the well. When the right and responsibility for operating a well is vested in a receiver or trustee appointed by a court of competent jurisdiction, the permit shall be issued to the receiver or trustee*. (Section 1 of the Act) Permittee also means the owner or person required to hold the permit for a tank battery, pit, or concrete storage structure or a permit to engage in liquid oilfield waste hauling, lease road oiling, or test well and test hole drilling.

"Person" – means *any natural person, corporation, association, partnership, governmental agency or other legal entity, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind.* (Section 1 of the Act)

"PRF" – means the Department's Plugging and Restoration Fund, established under Section 6 of the Act.

"Pool" – means *a natural underground reservoir containing, in whole or in part,*

a natural accumulation of oil or gas, or both. Each productive zone or stratum of a general structure, which is completely separated from any other zone or stratum in the structure, is deemed a separate "pool". (Section 1 of the Act)

"Primary Oil Recovery" – means the initial drilling of a well in the effort to recover hydrocarbons for a pool that is not currently, nor was previously, subject to enhanced oil recovery.

"Post-Primary Oil Recovery" – means the drilling of a well in an effort to recover hydrocarbons from a pool that was previously subject to primary oil recovery or to enhanced oil recovery.

"Produced Water" – means water regardless of chloride and total dissolved solids (TDS) content that~~which~~ is produced in conjunction with oil and/or natural gas production and natural gas storage operations.

"Production Casing" – means the string of casing placed in a well and used for the purpose of isolating the production or injection formation.

"Repressure" – means to increase the reservoir pressure by the introduction of gas, air or water or other fluid into the reservoir.

"Reservoir" – for the purpose of this Part, is interchangeable with the term "pool".

"Rotary Drilling" – means the hydraulic process of drilling a well for oil or gas as that~~such~~ method is commonly used in the industry.

"Shooting" – means the exploding of nitroglycerin or other high explosives in a well for the purpose of increasing the production of oil or gas.

"Surface Waters" – means any river, stream, lake, pond or intermittent stream.

"Tank" – means a vessel into which oil or water is gathered, produced or stored.

"Tank Battery" – means one or more open or closed top tanks, of any capacity, that are located on a lease, unit or adjacent property, for the purpose of collecting, separating and/or storing crude oil and/or other liquid oilfield wastes that are generated as a result of oil and gas production operations.

"Undeveloped Limits of a Mine" – means that portion of a mine where the entries have not been driven to the boundaries of the mine property.

"Vacuum" – means pressure that~~which~~ is reduced below the pressure of the atmosphere.

"Water Drainage Way" – means any drainage ditch, roadside ditch, grassy waterway or any other natural or manmade surface or underground water drainage system.

"Well" – means any drill hole required to be permitted under ~~subsection (2) of~~ Section 6(2) of the Act, including coal or mineral groundwater monitoring wells, structure test holes, coal test holes, and mineral test holes, and any other well required to be permitted under Sections 6 and 12 of the Act, including oil and gas production wells, water supply wells, Class II UIC injection wells, gas storage and gas storage monitoring wells, orphan wells, unpermitted leaking drill holes and plugged wells.

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

Section 240.131 Unitization Hearings

a) Commencement of Action
Where separately owned tracts of land are underlain by all or a portion of a common pool of oil or gas or both, an interested person may petition the Department for an order unitizing those tracts, that is to combine those tracts within a unified operation, pursuant to Section 23.3 of the Act. The petition for a unitization order shall contain the following:

1) *A legal description of the land and geologic description of the reservoirs within the proposed unit area;*

2) *The names of all persons owning or having an interest in the oil and gas rights in the proposed unit area as of the date of filing the petition, as disclosed by the records in the office of the recorder for the county or counties in which the unit area is situated, and their addresses, if known. If the address of any person* or the name of any owner *is unknown, the petition shall so indicate* and shall state whether due diligence was used in locating the~~such~~ unknown address or unknown owner;

3) *A statement of the type of operations contemplated for the unit area;*

4) *A copy of a proposed plan of unitization signed by persons owning not less than 51% of the working interest underlying the surface within the area proposed to be unitized, which the petitioner considers fair, reasonable and equitable; said plan of unitization shall include (or provide in a separate unit operating agreement, if there be more than one working interest owner, a copy of which shall accompany the petition) the following:*

A) *A plan for allocating to each separately owned tract in the unit area its share of the oil and gas produced from the unit area and not required or consumed in the conduct of the operation of the unit area or unavoidably lost;* the plan shall include the participation factors for each tract and a detailed description of the methodology and supporting data used to calculate the participation factors.

B) *A provision indicating how unit expense shall be determined and charged to the several owners, including a provision for carrying or otherwise financing any working interest owner who has not executed the proposed plan of unitization and who elects to be carried or otherwise financed, and allowing the unit operator, for the benefit of those working interest owners who have paid the development and operating costs, the recovery of not more than 150% of such person's actual share of development costs of the unit plus operating costs, with interest. Recovery of the money advanced to owners wishing to be financed, for development and operating costs of the unit, together with such other sums provided for herein, shall only be recoverable from such owner's share of unit production from the unit area.*

C) *A procedure and basis upon which wells, equipment, and other properties of the several working interest owners within the unit area are to be taken over and used for unit operations, including the method of arriving at the compensation therefor.*

D) *A plan for maintaining effective supervision and conduct of unit*

operations, in respect to which each working interest owner shall have a vote with a value corresponding to the percentage of unit expense chargeable against the interest of such owner.

E) A summary of the total cumulative production to date, the estimated additional total recoverable reserves from the proposed unit~~,~~ and the estimated total development cost and operating cost of the unit;

5) The name and addresses of the proposed operator or operators of the unit;

6) A map showing the tracts or group of leases included within the proposed unit area, the location of the proposed injection well or wells and the name, permit number, and location of all oil and gas wells, including abandoned wells, active wells and dry holes and the reservoirs in which all such wells are currently completed, and the names of all operators offsetting the proposed unit area and the name, description and depth of the producing zones in those areas;

7) A map showing the structure of the geologic horizon that best represents the structure of the proposed reservoirs to be unitized;

8) A listing of the reservoirs to be unitized and a map showing the productive portion, thickness, and extent of each ~~such~~ reservoir;

9) An induction or electric log of a representative well completed in the proposed unitized reservoirs;

10) A description of the injection medium to be used, its source and the estimated amounts to be injected daily;

11) A description of the proposed plan of development of the area included within the unit;

12) An allegation of the facts required to be found by the Department under Section 23.5 of the Act. The required facts are as follows:

A) *That the unitized management and operation is economically feasible and reasonably necessary to increase the ultimate*

recovery of oil and gas, to prevent waste, and to protect correlative rights;

B) *That the value of the estimated ultimate additional recovery of oil and gas will exceed the estimated additional cost, if any, incident to conducting the unit operation;*

C) *That the areal extent of the pool or pools, or parts thereof, has been reasonably defined and determined by drilling operations, and the unitization and operation of such will have no substantially adverse effect upon the remainder of the pool or pools, or parts thereof;*

D) That the allocation of unit production to each separately owned tract is fair, reasonable and equitable to all owners of oil and gas rights in the unit area;

E) That the determination and allocation of unit expense is fair, reasonable and equitable to the working interest owners; and

F) That~~that~~ the compensation or adjustment for wells, equipment and other properties of the working interest owners is fair, reasonable and equitable.

b) Execution and Filing

1) The petition for an order creating a unit pursuant to Section 23.3 of the Act shall be sent to~~filed with~~ the Department at One Natural Resources Way,~~office located in~~ Springfield IL 62702~~, Illinois. The petition shall be deemed filed when it is received by the Department's Division of Oil and Gas~~.

2) Every petition shall be signed by the petitioner or his or her representative and the petitioner's~~his~~ address shall be stated on the petition~~thereon~~. The signature of the petitioner or his or her representative constitutes a certificate ~~by him~~ that he or she has read the petition and that, to the best of his or her knowledge, information and belief, there is good ground to support the petition~~same~~.

3) If ~~after the petition is filed, and prior to setting a hearing date,~~ the Department finds the petition deficient relative to the requirements of subsection (a) ~~above,~~ or Section 240.250(b), the petition shall not be accepted and the Department shall return the petition to the applicant with a statement as to the deficiencies. The Department shall return any unaccepted petition within 30 days after its receipt. A returned petition shall not be considered filed until the deficiencies have been cured.

c) Notice of Hearing

1) *Upon the receipt of an accepted~~a~~ petition for unitization, the Department shall fix the time and place for a public hearing, which shall be no less than 30 days nor more than 60 days after the date of the filing of said petition.* The Department shall prepare a notice of hearing, which *shall issue in the name of the State of Illinois and shall be signed by the Director. Such notice shall specify the number and style of the proceedings, the time and place of the hearing, the purpose of the hearing, the name of the petitioner, and a legal description of the lands contained within the proposed unit area.* (Section 23.4 of the Act) The notice shall also state that any interested person may file an entry of appearance in the hearing by submitting an~~such~~ entry of appearance in writing to the Department and that ~~thereafter such~~ person shall be deemed a party of record in the proceeding.

2) The Department shall mail the~~such~~ notice to the petitioner~~Petitioner~~ who shall then serve ~~such~~ notice in the following manner:

A) By mailing the~~such~~ notice by U.S. Postal Service~~service~~ certified mail, return receipt requested, *directed to the persons named in the petition at their last known addresses* at least 20 days prior to the hearing; and

B) *By publication of such notice for service on those persons whose addresses are unknown or whose names are unknown, once each week for 2 consecutive weeks,* with the first notice appearing at least 20 days prior to the hearing, *in a newspaper of general circulation published in each county containing some portion of the proposed unit area.* (Section 23.4 of the Act)

3) Whenever the Department determinesshall determine that a notice of hearing should be served upon a person because the granting or denying of the relief requested in the petition would materially affect thatsuch person's rights or property, the Department shall cause notice to be sent to thesuch person, as provided in this subsection (c).

d) Pre-Hearing Conferences

1) Upon his or her own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet with him for a conference in order to:

A) Simplify the factual and legal issues presented by the hearing request;

B) Receive stipulations and, admissions of fact and of the contents and authenticity of documents;

C) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and

D) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.

2) Pre-hearing conferences may be held by telephone conference if thatsuch procedure is acceptable to all parties.

e) Hearing

1) Conduct of Hearing: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:

A) To administer oaths and affirmations;

B) To receive relevant evidence;

C) To regulate the course of the hearing and the conduct of the parties and their counsel ~~therein~~;

D) To consider and rule upon procedural requests;

E) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify; and

F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record. The Hearing Officer may require that relevant documents be produced to any party of record on his or her own motion or for good cause shown on motion of any party of record.

2) Every interested person wishing to participate at the hearing shall enter an~~his~~ appearance in writing. The Hearing Officer shall determine if the interested person shall be allowed to enter as a party of record. The Hearing Officer shall base that determination on the same standards used to determine parties in the Circuit Court~~by stating his name and address. Thereafter, such person shall be deemed a party of record~~.

3) All participants in the hearing shall have the right to be represented by counsel.

4) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.

5) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit ~~such~~ information ~~as is~~ necessary to reach a decision on the petition.

6) Preliminary Matters: When~~Where~~ applicable, the following shall be

addressed prior to receiving evidence:

A) The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of service of the notice of hearing, proof of publication and orders previously entered in the cause.

B) Ruling may be made on any pending motions.

C) Any other preliminary matters appropriate for disposition prior to presentation of evidence may be addressed.

f) Evidence

1) Admissibility: A party shall be entitled to present his or her case by oral or documentary evidence, to submit rebuttal evidence, and to conduct ~~such~~ cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but the presiding Hearing Officer shall exclude evidence that~~which~~ is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under those~~such~~ rules of evidence may be admitted, except when~~where~~ precluded by statute, if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

2) Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of that~~such~~ fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.

3) Order of Proof: The petitioner shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

g) Record of Proceedings; Testimony
The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department ~~as such~~ and included in the record.

h) Postponement or Continuance of Hearing
A hearing may be postponed or continued for due cause by the Hearing Officer upon his or her own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

i) Default
If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the absence of that~~such~~ party. If the failure to appear at a~~such~~ pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of the~~such~~ situation on or before the scheduled pre-hearing conference or hearing, the pre-hearing conference or hearing will be continued or postponed pursuant to Section 240.131(h)~~240.130(h)~~. Emergency situations include sudden unavailability of counsel, sudden illness of a party or his or her representative, or similar situations beyond the parties' control.

j) Order

1) Upon the conclusion of any hearing held under this Section, the Hearing Officer, after consultation with the Department representatives, shall prepare an order disposing of the petition, which shall be presented to the Director for entry. The Department shall render a decision within 30 days after the hearing unless all parties that have appeared agree to waive this requirement.

2) The order shall grant the petition for unitization if based on the record the Hearing Officer finds all of the following:

A) *That the unitized management and operation is economically feasible and reasonably necessary to increase the ultimate recovery of oil and gas, to prevent waste, and to protect correlative rights;*

B) *That the value of the estimated ultimate additional recovery of oil and gas will exceed the estimated additional cost, if any, incident to conducting the unit operation;*

C) *That the areal extent of the pool or pools, or parts thereof, has been reasonably defined and determined by drilling operations, and the unitization and operation of such will have no substantially adverse effect upon the remainder of the pool or pools, or parts thereof;*

D) *That the allocation of unit production to each separately owned tract is fair, reasonable and equitable to all owners of oil and gas rights in the unit area;*

E) *That the determination and allocation of unit expense is fair, reasonable and equitable to the working interest owners;* and

F) *That the compensation or adjustment for wells, equipment and other properties of the working interest owners is fair, reasonable and equitable*. (Section 23.5 of the Act)

3) If the petition is granted the order shall provide for the authorization of the unit and unitized operation, as proposed by the petitioner, upon such terms and conditions as may be shown by the evidence to be fair, reasonable,

equitable and that~~which~~ are necessary or proper to protect and safeguard the respective rights and obligations of the working interest owners and royalty owners, and for the protection of correlative rights and the prevention of waste. The order shall state the time the unit operation shall become effective and the manner in which and the circumstances under which the unit operation shall terminate.

4) Except as provided in subsection (j)(5)~~ below~~, the order shall deny and dismiss the petition for unitization if, based on the record, the Hearing Officer finds that the petitioner has failed to establish the requirements for formation of a unit set forth in subsection (j)(2)~~ above~~. An order denying and dismissing a petition for unitization shall be entered within 30 days after the hearing. *Such order shall set forth the reasons for dismissal, and the same shall be promptly filed by the petitioner, if notice was filed under ~~paragraph (2) of~~* Section 23.3(2) of the Act, *in the recorder's office of the county or counties wherein the land is situated.* (Section 23.6 of the Act)

5) As an alternative to denying the petition for unitization, the Department may issue an interim order outlining the substantive deficiencies that must be cured by the petitioner~~Petitioner~~ in order to avoid dismissal. If the petitioner~~Petitioner~~ supplies the information requested by the Department, a new hearing shall be scheduled in order to examine the~~such~~ documents. If the petitioner~~Petitioner~~ fails to comply with the interim order, the petition shall be denied. The Department shall send notice of the~~such~~ hearing to all parties of record.

k) *Approval of Plan~~plan~~ of Utilization~~unitization~~ – Effective Date~~effective date~~ of Order~~order~~*

No order of the Department providing for unit operations shall become effective unless and until the plan of unitization has been approved in writing by those persons who, under the order, will be required to pay at least 51% of the unit expense, and also by the persons owning at least 51% of the unit production or proceeds thereof that will be credited to interests which are free of unit expense, including but not limited to, royalties, overriding royalties, carried interests, net profit interests, and production payments, and the Director has made such a finding, either in the order providing for unit operations or in a supplemental order, that the plan of unitization has been so approved; provided, however, that if any person is obligated to pay 51% or more, but less than 100% of the unit expense, the approval of that person and at least one other such person shall be

required; and if one person entitled to production or proceeds thereof will be credited to interests which are free of unit expense, owns 51% or more, but less than 100%, the approval of that person and at least one other such person shall be required. If the plan of unitization has not been so approved at the time the order providing for unit operations is issued, the Department shall, upon petition and notice, hold such supplemental hearings as may be required to determine if and when the plan of unitization has been so approved and shall issue a supplemental order evidencing such approval. If the requisite number of persons and the requisite percentage of interests in the unit area do not approve the plan of unitization within a period of 6 months from the date on which the order providing for unit operations is made, such order shall be revoked by the Department unless for good cause shown the Department extends said time for an additional period of time not to exceed one year. (Section 23.8 of the Act)

l) *Notice of Order − Recordation*
Within 10 days after an order has been issued, a copy of the~~such~~ order shall be mailed by the Department to each person or his or her attorney of record who has entered an~~his~~ appearance in the matter pursuant to which the~~such~~ order is issued. The petitioner shall cause to be recorded in the office of the county clerk of the county or counties in which the unit is situated a copy of the order providing for unit operations.

m) Order − Final Administrative Decision
The Director's order is a final administrative decision of the Department, pursuant to Section 10 of the Act.

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

Section 240.132 Integration Hearings

a) Commencement of Action
When~~Where~~ the oil or gas rights within a drilling unit are separately owned and the owners of those rights have not voluntarily agreed to integrate or pool those rights to develop the oil or gas, an owner may petition the Department for an order integrating those rights, pursuant to Section 22.2 of the Act. The petition for an order integrating interests shall contain the following:

1) The name and address of the petitioner;

2) The petitioner's reasons for desiring to integrate the separately owned interests;

3) A legal land description of the drilling unit sought to be established;

4) A geologic report of the area where the proposed drilling unit is to be located, indicating the potential presence of reservoirs;

5) A description of the interest owned by the petitioner and each person named in the petition;

6) The names of all persons who have not agreed to integrate their interests owning or having an interest in the oil and gas rights in the proposed drilling unit as of the date of filing the petition, as disclosed by the records in the office of the recorder for the county or counties in which the drilling unit is situated, and their addresses, if known. If the address of any person is unknown, the petition shall so indicate;

7) A statement that the owners have not agreed to integrate their interests;

8) A statement that the petitioner has exercised due diligence to locate each owner and that a bona fide effort was made to reach an agreement with each owner as to how the unit would be developed;

9) A statement that no action has been commenced by the owners seeking permission to drill pursuant to the provisions of the Oil and Gas Rights Act [765 ILCS 520];

10) Any other information relevant to protect correlative rights of the parties sought to be affected by the order.

b) Execution and Filing

1) The petition for an order requiring integration pursuant to Section 22.2 of the Act shall be sent to~~filed with~~ the Department at One Natural Resources Way, Springfield IL 62702~~offices located in Springfield, Illinois. The petition shall be deemed filed when it is received by the Department's Division of Oil and Gas~~.

2) Every petition shall be signed by the petitioner~~Petitioner~~ or his or her representative and the petitioner's~~his~~ address shall be stated on the petition~~thereon~~. The signature of the petitioner or the petitioner's~~his~~ representative constitutes a certificate ~~by him~~ that he or she has read the petition and that, to the best of his or her knowledge, information and belief, there is good ground to support the petition~~same~~.

3) If ~~after the petition is filed, and prior to setting a hearing date,~~ the Department finds the petition deficient relative to the requirements of subsection (a) ~~above,~~ or Section 240.250(b), the petition shall not be accepted and the Department shall return the petition to the applicant with a statement as to the deficiencies. The Department shall return any unaccepted petition within 30 days after its receipt. A returned petition shall not be considered filed until the deficiencies have been cured.

c) Notice of Hearing

1) Upon the receipt of an accepted~~a~~ petition for integration, the Department will~~shall~~ fix the time and place for a hearing.

2) The Department shall prepare a notice of hearing that~~which~~ shall issue in the name of the State of Illinois and shall be signed by the Director. The~~Such~~ notice shall specify the number and style of the proceeding, the time and place of the hearing, the purpose of the hearing, the name of the petitioner, and a legal description of the lands embraced within the proposed drilling unit. The notice shall also state that any interested person may file an entry of appearance in the hearing by submitting an~~such~~ entry of appearance in writing to the Department and that ~~thereafter such~~ person shall be deemed a party of record in the proceeding.

3) The Department shall mail the~~such~~ notice to the petitioner~~Petitioner~~ who shall then serve ~~such~~ notice in the following manner:

A) By mailing the~~such~~ notice by U.S. Postal Service~~service~~ certified mail, return receipt requested, directed to the persons named in the petition at their last known addresses at least 20 days prior to the hearing; and

B) By publication of the~~such~~ notice for service on those persons

whose addresses are unknown or whose names are unknown, once each week for 2 consecutive weeks, with the first notice appearing at least 20 days prior to the hearing in a newspaper of general circulation published in each county containing some portion of the proposed integrated unit.

4) Whenever the Department shall determines~~determine~~ that a notice of hearing should be served upon a person because the granting or denying of the relief requested in the petition would materially affect that~~such~~ person's rights or property, the Department shall cause notice to be sent to the~~such~~ person, as provided in this subsection (c).

d) Pre-Hearing Conferences

1) Upon his or her own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet ~~with him~~ for a conference in order to:

A) Simplify the factual and legal issues presented by the hearing request;

B) Receive stipulations, admissions of fact and the contents and authenticity of documents;

C) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and

D) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion ~~thereof~~.

2) Pre-hearing conferences may be held by telephone conference if that~~such~~ procedure is acceptable to all parties.

e) Hearing

1) Conduct of Hearing: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all

necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:

A) To administer oaths and affirmations;

B) To receive relevant evidence;

C) To regulate the course of the hearing and the conduct of the parties and their counsel ~~therein~~;

D) To consider and rule upon procedural requests;

E) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify; and

F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record. The Hearing Officer may require that relevant documents be produced to any party of record on his or her own motion or for good cause shown on motion of any party of record.

2) Every interested person wishing to participate at the hearing~~appearing~~ shall enter an~~his~~ appearance in writing. The Hearing Officer shall determine if the interested person shall be allowed to enter as a party of record. The Hearing Officer shall base that determination on the same standards used to determine parties in the Circuit Court~~by stating his name and address. Thereafter, such person shall be deemed a party of record~~.

3) All participants in the hearing shall have the right to be represented by counsel.

4) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.

5) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit ~~such~~ information ~~as is~~ necessary to reach a decision on the petition.

6) Preliminary Matters: When~~Where~~ applicable, the following shall be addressed prior to receiving evidence:

A) The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the cause.

B) Ruling may be made on any pending motions.

C) Any other preliminary matters appropriate for disposition prior to presentation of evidence may be addressed.

f) Evidence

1) Admissibility: A party shall be entitled to present his or her case by oral or documentary evidence, to submit rebuttal evidence, and to conduct ~~such~~ cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but the presiding Hearing Officer shall exclude evidence that~~which~~ is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under those~~such~~ rules of evidence may be admitted, except when~~where~~ precluded by statute, if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

2) Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of that~~such~~ fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.

3) Order of Proof: The petitioner shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

g) Record of Proceedings; Testimony
The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department ~~as such~~ and included in the record.

h) Postponement or Continuance of Hearing
A hearing may be postponed or continued for due cause by the Hearing Officer upon his or her own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of any emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

i) Default
If a party, after proper service~~services~~ of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the absence of that~~such~~ party. If the failure to appear at a~~such~~ pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of the~~such~~ situation on or before the scheduled pre-hearing conference or hearing, the pre-hearing conference or hearing will be continued or postponed pursuant to Section 240.132(h)~~240.130(h)~~. Emergency situations include sudden unavailability of

counsel, sudden illness of a party or his or her representative, or similar situations beyond the parties' control.

j) Order

1) Upon the conclusion of any hearing held under this Section, the Hearing Officer, after consultation with the Department representatives, shall prepare an order disposing of the petition, which shall be presented to the Director for entry.

2) *In making the determination of integrating separately owned interests, and determining to whom the permit should be issued, the Department may consider:*

A) *The reasons requiring the integration of separate interests;*

B) *The respective interests of the parties in the drilling unit sought to be established, and the pool or pools in the field where the proposed drilling unit is located;*

C) *Any parties' prior or present compliance with the Act and the Department's rules; and*

D) *Any other information relevant to protect the correlative rights of the parties sought to be affected by the integration order.*

3) Each order integrating separately owned interests *shall authorize the drilling, testing, completing, equipping, and operation of a well on the drilling unit; provide who may drill and operate the well; prescribe the time and manner in which all the owners in the drilling unit may elect to participate therein; and make provision for the payment by all those who elect to participate therein of the reasonable actual cost thereof, plus a reasonable charge for supervision and interest. Should an owner not elect to voluntarily participate in the risk and costs of the drilling, testing, completing and operation of a well as determined by the Department, the integration order shall provide either that:*

A) *The nonparticipating owner shall surrender a leasehold interest to the participating owners on a basis and for such terms and*

consideration the Department finds fair and reasonable; or

B) *The nonparticipating owner shall share in a proportionate part of the production of oil and gas from the drilling unit determined by the Department, and pay a proportionate part of operation cost after the participating owners have recovered from the production of oil or gas from a well all actual costs in the drilling, testing, completing and operation of the well plus a penalty to be determined by the Department of not less than 100% nor more than 300% of such actual costs.*

4) *For the purpose of this Section, the owner or owners of oil and gas rights in and under an unleased tract of land shall be regarded as a lessee to the extent of a 7/8 interest in and to said rights and a lessor to the extent of the remaining 1/8 interest therein.*

5) *In the event of any dispute relative to costs and expenses of drilling, testing, equipping, completing and operating a well, the Department shall determine the proper costs after due notice to interested parties and a hearing thereon. The operator of such unit, in addition to any other right provided by the integration order of the Department, shall have a lien on the mineral leasehold estate or rights owned by the other owners~~owner~~ therein and upon their shares of the production from such unit to the extent that costs incurred in the development and operation upon said unit are a charge against such interest by order of the Department or by operation of law. Such liens shall be separable as to each separate owner within such unit, and shall remain liens until the owner or owners drilling or operating the well have been paid the amount due under the terms of the integration order.* (Section 22.2 of the Act)

6) As an alternative to denying the petition for integration, the Department may issue an interim order outlining the substantive deficiencies that must be cured by the petitioner~~Petitioner~~ in order to avoid dismissal. If the petitioner~~Petitioner~~ supplies the information requested by the Department, a new hearing shall be scheduled in order to examine the~~such~~ documents. If the petitioner~~Petitioner~~ fails to comply with the interim order, the petition shall be denied. The Department shall send notice of the~~such~~ hearing to all parties of record.

7) An integration order establishing a drilling unit shall terminate one year from the effective date of the order unless a well has been drilled on the unit within that time. If a well has been drilled on the unit within that time, the integration order shall terminate when the well is plugged.

k) Notice of Order − Recordation
Within 10 days after an order has been issued, a copy of the~~such~~ order shall be mailed by the Department to each person or his or her attorney of record who has entered an~~his~~ appearance in the matter pursuant to which the~~such~~ order is issued and to each working interest owner who has not agreed to an integration. The petitioner shall cause to be recorded in the office of the county clerk of the county or counties in which the drilling unit is situated a copy of the order providing for integration of the separate interests.

l) Order − Final Administrative Decision
The Director's order is a final administrative decision of the Department, pursuant to Section 10 of the ~~Illinois Oil and Gas~~ Act.

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

Section 240.133 Hearings to Establish Pool-Wide Drilling Units

a) Commencement of Action

1) Any interested person may petition the Department for a hearing to *establish a drilling unit or units for the production of oil and gas or either of them for each pool* to which the interested person owns some portion of the oil and gas. (Section 21.1 of the Act)

2) The petition for hearing to establish a drilling unit or units shall contain the following:

A) The name and address of the petitioner;

B) A legal description of the size of the drilling unit sought to be established;

C) A legal description of the extent of the reservoir to which the drilling unit or units are sought to be established;

D) A list of the names and addresses of all permittees of oil or gas interests in the reservoir~~ as described in subsection (c) above~~;

E) A geologic description of the pool and an isopach and structure map of the reservoir, for which the drilling unit is sought showing the productive limits of the reservoir;

F) A plat showing all oil and gas or water injection or storage wells completed within the pool (reservoir);

G) Geologic and engineering reports outlining the reasons for and data supporting the proposed size of the drilling unit or units.

3) If the establishment of a drilling unit or units would require the integration of separately owned interests in the drilling unit or units, the petitioner may contemporaneously file a petition under Section 240.132 and the matters shall then be consolidated and heard together.

b) Execution and Filing

1) The petition to establish drilling units shall be sent to~~filed with~~ the Department at One Natural Resources Way, Springfield IL 62702~~Department's office located in Springfield, Illinois. The petition shall be deemed filed when it is received by the Department's Division of Oil and Gas~~.

2) Every petition shall be signed by the petitioner or his or her representative and the petitioner's~~his~~ address shall be stated on the petition~~thereon~~. The signature of the petitioner or his or her representative constitutes a certificate ~~by him~~ that he or she has read the petition and that, to the best of his or her knowledge, information and belief, there is good ground to support the petition~~same~~.

3) If ~~after the petition is filed, and prior to setting a hearing date,~~ the Department finds the petition deficient relative to the requirements of subsection (a)~~ above,~~ or Section 240.250(b), the petition shall not be accepted and the Department shall return the petition to the applicant with a statement as to the deficiencies. The Department shall return any

unaccepted petition within 30 days after its receipt. A returned petition shall not be considered filed until the deficiencies have been cured.

c) ~~Hearing --~~Notice of Hearing

1) Upon the receipt of an accepted~~the~~ petition to establish drilling units, the Department shall fix the time and place for a hearing.

2) The Department shall prepare a notice of hearing, which shall issue in the name of the State of Illinois and shall be signed by the Director. The~~Such~~ notice shall specify the number and style of the proceeding, the time and place of the hearing, the purpose of the hearing, the name of the petitioner, and a legal description of the affected lands. The notice shall also state that any interested person may file an entry of appearance in the hearing by submitting an~~such~~ entry of appearance in writing to the Department and that ~~thereafter such~~ person shall be deemed a party of record in the proceeding.

3) The Department shall mail the~~such~~ notice to the petitioner~~Petitioner~~ who shall then serve ~~such~~ notice in the following manner:

A) By mailing the~~such~~ notice by U.S. Postal Service certified mail with return receipt, directed to the persons named in the petition pursuant to subsection (a)(2)(D)~~above~~ at their last known addresses at least 20 days prior to the hearing; and

B) By publication of the~~such~~ notice for service on those persons whose addresses are unknown or whose names are unknown and for those owners of unleased mineral rights, once each week for 2 consecutive weeks, with the first notice appearing at least 20 days prior to the hearing in a newspaper of general circulation published in each county containing some portion of the proposed integrated unit.

4) Whenever the Department determines~~shall determine~~ that a notice of hearing should be served upon a person because the granting or denying of the relief requested in the petition would materially affect that~~such~~ person's rights or property, the Department shall cause notice to be sent to the~~such~~ person, as provided in this subsection (c).

d) Pre-Hearing Conferences

1) Upon his or her own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet ~~with him~~ for a conference in order to:

A) Simplify the factual and legal issues presented by the hearing request;

B) Receive stipulations, admissions of fact and of the contents and authenticity of documents;

C) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and

D) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion ~~thereof~~.

2) Pre-hearing conferences may be held by telephone conference if that~~such~~ procedure is acceptable to all parties.

e) Hearing

1) Conduct of Hearing: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:

A) To administer oaths and affirmations;

B) To receive relevant evidence;

C) To regulate the course of the hearing and the conduct of the parties and their counsel ~~therein~~;

D) To consider and rule upon procedural requests;

E) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify;

F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record.

2) Every interested person wishing to participate at the hearing shall enter an appearance in writing. The Hearing Officer shall determine if the interested person shall be allowed to enter as a party of record. The Hearing Officer shall base that determination on the same standards used to determine parties in the Circuit Court. ~~Every person desiring to participate in the hearing shall enter his appearance by stating his name and address. Thereafter, such person shall be deemed a party of record.~~

3) All participants in the hearing shall have the right to be represented by counsel.

4) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.

5) At least~~lease~~ one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit ~~such~~ information ~~as is~~ necessary to reach a decision on the petition.

6) When~~Where~~ applicable, the following shall be addressed prior to receiving evidence:

A) The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the cause.

B) Ruling may be made on any pending motions.

C) Any other preliminary matters appropriate for disposition prior to presentation of evidence may be addressed.

f) Evidence

1) Admissibility: A party shall be entitled to present his or her case by oral or documentary evidence, to submit rebuttal evidence, and to conduct ~~such~~ cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but the presiding Hearing Officer shall exclude evidence that~~which~~ is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under those~~such~~ rules of evidence may be admitted, except when~~where~~ precluded by statute, if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

2) Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of that~~such~~ fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.

3) Order of Proof: The petitioner shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

g) Record of Proceedings~~proceedings~~; Testimony

The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department~~ as such~~ and included in the record.

h) Postponement or Continuance of Hearing
A hearing may be postponed or continued for due cause by the Hearing Officer upon his or her own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

i) Default
If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the absence of that~~such~~ party. If the failure to appear at a~~such~~ pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of the~~such~~ situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to Section 240.133(h)~~240.130(h)~~. Emergency situations include sudden unavailability of counsel, sudden illness of a party or his or her representative, or similar situations beyond the parties' control.

j) Order

1) Upon the conclusion of any hearing held under this Section, the Hearing Officer, after consultation with the Department representatives~~representative~~, shall prepare an order disposing of the petition, which shall be presented to the Director for entry.

2) The order shall grant the petition based on the record if the Hearing Officer finds that establishing the drilling unit will prevent waste, protect the correlative rights of the owners in the pools, and prevent the

unnecessary drilling of wells.

3) No drilling unit shall be established *which requires the allocation of more than 40 acres of surface area nor less than 10 acres of surface area to an individual well for production of oil from a pool the top of which lies less than 4000 feet beneath the surface (as determined by the original or discovery well in the pool) provided, however, that the Department may permit the allocation of greater acreage to an individual well* and *provided further that the spacing of wells in any pool the top of which lies less than 4000 feet beneath the surface (as determined by the original or discovery well in the pool) shall not include the fixing of a pattern except with respect to the 2 nearest external boundary lines of each drilling unit.* (Section 21.1 of the Act)

4) The drilling units established by an order under this Section *shall be of approximately uniform size and shape for each entire pool, except that where circumstances reasonably require, the Department may grant exceptions to the size or shape of any drilling unit or units,* in which case the order shall state the particular circumstances that require the~~such~~ exception.

5) *Each order establishing drilling units shall specify the size and shape of the unit, which shall be such as will result in the efficient and economical development of the pool as a whole*, and subject to the provisions of subsection (j)(3)~~ above~~, *the size of no drilling unit shall be smaller than the maximum area that can be efficiently and economically drained by one well.*

6) *Each order establishing drilling units for a pool shall cover all lands determined or believed to be underlain by such pool. Each order establishing drilling units may be modified by the Department to change the size thereof, or to permit the drilling of additional wells.*

7) *Each order establishing drilling units shall prohibit the drilling of more than one well on any drilling unit for the production of oil or gas from the particular pool with respect to which the drilling unit is established* and subject to the provisions of subsection (j)(3)~~ above~~ *shall specify the location for the drilling of such well thereon, in accordance with a reasonably uniform spacing pattern, with necessary exceptions for wells*

drilled or drilling at the time of the application. If the Department finds, after notice and hearing, notice being made as provided in this Section to all parties of record in the proceeding, *that surface conditions would substantially add to the burden or hazard of drilling such well at the specified location, or for some other reason it would be inequitable or unreasonable to require a well to be drilled at the specified location, the Department may issue an order permitting the well to be drilled at a location other than that specified in the order establishing drilling units.*

8) *After the date of the notice for a hearing called to establish drilling units, no additional well shall be commenced for production from the pool until the order establishing drilling units has been issued unless the commencement of the well is authorized by order of the Department.*

9) *After an order establishing a drilling unit or units has been issued by the Department, the commencement of drilling of any well or wells into the pool with regard to which such unit was established for the purpose of producing oil or gas therefrom, at a location other than that authorized by the order, or by order granting exception to the original spacing order is hereby prohibited.* (Section 21.1 of the Act)

10) As an alternative to denying the petition for a drilling unit, the Department may issue an interim order outlining the substantive deficiencies that must be cured by the petitioner~~Petitioner~~ in order to avoid dismissal. If the petitioner~~Petitioner~~ supplies the information requested by the Department, a new hearing shall be scheduled in order to examine the~~such~~ documents. If the petitioner~~Petitioner~~ fails to comply with the interim order, the petition shall be denied. The Department shall send notice of the~~such~~ hearing to all parties of record.

k) Order − Final Administrative Decision
The Director's order is a final administrative decision of the Department, pursuant to Section 10 of the Act.

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

Section 240.140 Violations Not Requiring Formal Action

a) When an inspector or other authorized employee or agent of the Department

determines that any permittee is in violation of any requirement of the Act or this Part or any permit condition, and the inspector or other authorized employee or agent also finds ~~*When an inspector or other authorized employee or agent of the Department determines that any permittee is in violation of any requirement of the Act or this Part or any permit condition, and the inspector or other authorized employee or agent also finds* [225 ILCS 725/8a]:1)~~that the violation was not caused by the permittee's deliberate action; ~~2)~~that any action necessary to abate the violation is able to~~was commenced immediately and was or will~~ be completed within a specified date certain, as established by the Department representative, not to exceed 120 days from the date of the determination that the permittee is in violation; and ~~3)~~that the violation has not caused and cannot reasonably be expected to cause significant environmental harm or damage to property,~~;~~ the violation shall be noted on an inspection report, compliance schedule or other written notification without the need for the issuance of a notice of violation pursuant to Section 240.150. The written inspection report, compliance schedule or other written notification shall indicate the nature and circumstances of the violation, and the time within which and the means by which the violation is to be abated. A copy of the inspection report, compliance schedule or other written notification shall be delivered to the permittee or his or her representative at the time it is prepared, and the original shall be forwarded to the Director~~ or his designee~~.

b) If, following investigation, the Director ~~or his designee~~ determines that abatement was not completed as specified in the inspection report, compliance schedule or other written notification, the Director ~~or his designee~~ shall issue a notice of violation in accordance with Section 240.150 and/or a cessation order in accordance with Sections 240.185 and 240.186.

c) The provisions of this Section shall not apply to the following violations:

1) Drilling or operating, without a permit or permit transfer from the Department, a well required to be permitted under the Act;

2) Operating an annular or casing injection/disposal well or a well with pressure on the annulus;

3) Failure to maintain required performance bond or pay annual well fees for wells under permit;

4) Failure to renew Temporary Abandonment~~Future Use~~ status on a well or secure approved Temporary Abandonment~~Future Use~~ status following a denial of Temporary Abandonment~~Future Use~~ status on a well;

5) Failure to establish mechanical integrity on a Class II well or repair a Class II well following failure of mechanical integrity;

6) Operating a well that has been placed in the Plugging and Restoration Program;

7) Failure to provide emergency response for a crude oil or saltwater spill;

8) Improper discharge or disposal of produced fluids;

9) Operating a well in violation of spacing requirements or permit conditions; and

10) Failure to restore a well site after plugging.

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

Section 240.150 Notice of Violation

a) *When an inspector or other authorized employee or agent of the Department determines that any permittee, or any person engaged in conduct or activities required to be permitted under the Act is in violation of any requirement of the~~this~~ Act or* this Part *~~the rules adopted hereunder~~ or any permit condition, or has falsified or otherwise misstated any information on or relative to the permit application, a notice of violation shall be completed and delivered to the Director ~~of the Department or his designee~~* (Section 8 of the Act)~~, (Ill. Rev. Stat. 1988 Supp. ch. 96 1/2, par. 5413)~~ except as provided by Section 240.140. A person cannot be held liable under Section 240.160(d) in the absence of notice of the issuance of the underlying notice of violation.

b) The notice of violation shall contain:~~*The notice of violation shall contain:*~~

1) A statement regarding the nature of the violation, including a citation to the specific Section of the Department's rules or Section of the Act alleged to have been violated;~~*a statement regarding the nature of the violation,*~~

~~*including a citation to the specific Section of the Department's rules or Section of the Act alleged to have been violated;*~~

2) *The~~the suggested~~ action needed to abate the violation, including any appropriate remedial measures to prevent future violations, such as replacement, repair, testing, and reworking a well and any appurtenances and equipment;*

3) *The~~the~~ time within which the violation is to~~should~~ be abated* (Section 8 of the Act); and

4) Any factors known to the person completing the notice of violation in aggravation or mitigation of the violation and the existence of any factors indicating that the permit should be conditioned or modified.~~*any factors known to the person completing the notice of violation in aggravation or mitigation of the fact of the violation and the existence of any factors indicating that the permit should be conditioned or modified.* (Ill. Rev. Stat. 1988 Supp., ch. 96 1/2, par. 5413)~~

c) The Director ~~or his designee~~ shall mail a copy of the notice of violation to the person or permittee charged with the violation~~violation(s)~~. ~~The inspector or other employee or agent of the Department issuing the notice of violation shall deliver a copy of the notice to the person or permittee charged with the violation(s), if possible.~~

d) The person or permittee charged with the violation~~violation(s)~~ may provide the Department, in writing, any information in mitigation of the violation within 14 days after~~violation(s) on or before fourteen (14) days of~~ the mailing of the notice of violation. The~~Such~~ written information may include a proposed alternative to the Department's suggested action needed to abate the violation.

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

Section 240.155 Civil Complaint

a) The Department may elect to file an action with the Attorney General with or without issuing~~and not issue~~ a notice of violation pursuant to Section 240.150.

b) In accordance with Section 11 of the Act, the Department through the Attorney

General shall *bring an action in the name of the People of the State of Illinois against such person in the circuit court of the county wherein any part of the land or any activity which is the subject matter of such action is located, or a final administrative order was entered, to restrain such person from continuing such violation or from carrying out the threat of violation. In such action the Department, in the name of the People of the State of Illinois, may obtain such injunctions, prohibitory and mandatory, including temporary restraining orders and preliminary injunctions, or other enforcement orders as the facts may warrant,* including but not limited to:

1) *an assessment of civil penalties not to exceed $1,000 per day for each and every act of violation*~~an assessment of a $1,000 civil penalty per~~ documented ~~event~~ in the previous 2 years; and/or

2) submission of a bond in accordance with Subpart O; and/or

3) denial of new drilling and/or operating permits.

c) The provisions of this Section apply to the following:

1) violations of any requirement of the Act that the Department determines creates a substantial and imminent danger to the health or safety of the public; or

2) violations of the Act that pose an imminent danger of substantial environmental harm or cause environmental damage to property or contamination of surface or ground waters of the State as a result of improper disposal, release, or discharge of produced fluid; or

3) ~~if~~ the permittee has shown a pattern of documented events involving improper disposal, release, or discharge of produced fluids within the previous 2 years from the date of the most recent event.

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

Section 240.160 Director's Decision

a) Upon receipt of a notice of violation, the Director shall conduct an investigation and may affirm, vacate or modify the notice of violation. In determining whether

to take action in addition to remedial action necessary to abate a violation, the Director shall consider:~~*Upon receipt of a notice of violation, the Director* of the Department, or his designee, *shall conduct an investigation and may affirm, vacate or modify the notice of violation. In determining whether to take action in addition to remedial action necessary to abate a violation the Director shall consider:*~~

1) *the person's or permittee's history of previous violations, including violations at other locations and under other permits*.~~;~~

A) A violation shall not be counted if the notice or order is the subject of pending administrative review by the Department under Section 240.180 or if the time to request a~~such~~ review has not expired, and thereafter it shall be counted for only two years after the date of the Department's final administrative decision or a final judicial decision affirming the Department's decision.~~;~~

B) No violation for which the notice or order has been vacated shall be counted;

2) *the seriousness of the violation, including any irreparable harm to the environment or damage to property*;

3) *the degree of culpability of the person or permittee*; *and*

4) *the existence of any additional conditions or factors in aggravation or mitigation* of the violation, *including information provided by the person or permittee.*

b) *Modification of the notice of violation may include:*

1) *any different or additional remedial actions required~~necessary~~ to abate the violation*, as set forth in Section 240.150(b)(2), *and the time within which the violation must be abated;*

2) *the assessment of civil penalties not to exceed $1,000 a day for each and every act of violation;*

3) *probationary or permanent modification or conditions on the permit*,

which may include special monitoring or reporting requirements; and

4) *revocation of the permit.* (Section 8a of the Act)

c) The Director shall determine whether or not to assess civil penalties based on the factors set forth in subsection (a)~~ above~~. If a penalty is assessed by the Department, the penalty shall be computed as follows, but shall not exceed $1,000 per day for each and every act of violation:

1) Administrative violations, including, but not limited to, the failure to file the reporting, permitting and bond transfer forms required by the Department~~ or the failure to notify the Department before setting surface casing, setting tubing and packer, or plugging a well~~, shall be assessed on a~~an~~ permittee-specific basis. The Department may assess a penalty~~up to $250~~ for an administrative violation as follows:

A) No previous violation of the same rule: $50~~25~~.

B) One previous violation of the same rule: $100~~50~~.

C) Two previous violations of the same rule: $150~~75~~.

D) Three ~~or more~~ previous violations of the same rule: $200~~100~~.

E) Four or more previous violations of the same rule: $500~~250~~.

2) Operating violations, including, but not limited to, operating a well required to be permitted under the Act without first obtaining a proper permit from the Department, operating a well required to be permitted under the Act without first obtaining the Department's transfer of operating authority, operating a well in violation of Department spacing requirements, pressure on the annulus, failure to maintain the well and flow line in a leak-free condition, failure to configure the wellhead for the inspection of the annulus, failure to comply with specified permit conditions, failure to report a spill, failure to maintain containment dikes, failure to maintain required performance bond in force for the wells under permit,~~ and~~ failure to pay annual well fees or failure to notify the Department before setting surface casing, setting tubing and packer, or plugging a well, shall be assessed on a permittee-specific basis. ~~Multiple~~

~~incidents of the same violation against a permittee on the same occasion shall not be considered separate violations.~~ The Department may assess a penalty~~up to $500~~ for an operating violation by considering elements of subsection (c)(2)(A), (B) and (C) as follows:

A) History of Violations:

i) No previous violation of the same rule: $100~~50~~.

ii) One previous violation of the same rule: $250~~100~~.

iii) Two ~~or more~~ previous violations of the same rule: $500~~150~~.

iv) Three previous violations of the same rule: $750.

v) Four previous violations of the same rule: $1,000.

vi) Five or more previous violations of the same rule: $2,500.

B) Seriousness:

i) If the violation had a low degree of probability to cause environmental damage to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife: add $100~~50~~; or, if the violation had a high degree of probability to cause environmental damage to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife: add $250~~100~~; or, if the violation caused environmental damage to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife: add $1,000~~200~~.

ii) If the violation created a hazard to the safety of any person, such as the emission of hydrogen sulfide gas: add $2,000~~500~~.

C) Permittee's Actions:

i) If the permittee was previously notified of the violation using a routine inspection report (Form OG-22) in accordance with Section 240.140 or correspondence from the Department and failed to comply: add $500~~100~~.

ii) If the violation occurred as a result of the permittee's lack of reasonable care: add $250~~50~~; or, if the violation occurred as a result of the permittee's deliberate conduct, including lack of reasonable maintenance of equipment: add $500~~200~~.

~~iii) If the permittee abated the violation within the violation deadline or within the specified time frame in an approved extension deadline: subtract $250.~~

3) Specified violations, including operating~~Operating~~ an annular or casing injection/disposal well; operating wells by a permittee for whom wells have been placed into, or funds have been expended from, the PRF; failure to provide emergency response or remediate a crude oil or produced water spill; or the improper disposal or discharge of produced fluids shall result in a penalty. The Department may assess a penalty for specified violations by Considering elements of subsections (c)(3)(A), (B) and (C)~~an assessment computed~~ as follows:

A) History of Violations:
One or more previous violations of the same rule in accordance with subsection (a)(1)(A)~~ of this Section~~: $500~~100~~ per violation.

B) Seriousness:

i) If the violation caused environmental damage to surface water, ground water or wildlife: add $1,000~~200~~.

ii) If the violation created a hazard to the safety of any person, such as the emission of hydrogen sulfide gas: add $2,000~~500~~.

C) Permittee's Action:
If the violation occurred as a result of the permittee's lack of

reasonable care: add $500; or, if the violation occurred as a result of the permittee's deliberate conduct: add $1000.

d) *Any ~~responsible~~ person who willfully or knowingly authorized, ordered, or carried out any violation cited in the Director's decision shall be subject, after notice, to the same actions, including civil penalties, which may be imposed on the person or permittee under this Section.* (Section 8a of the Act)

e) The Director ~~or his designee~~ shall serve the person or permittee with his or her decision at the conclusion of the~~his~~ investigation. The Director's decision shall provide that the person or permittee has the right to request a hearing in accordance with Section 240.180. The Director's decision affirming, vacating or modifying the notice of violation shall be served in accordance with Section 8a of the Act.

f) A Director's decision not appealed in accordance with Section 240.180 within 30 days after service shall become a final administrative decision of the Department, pursuant to Section 10 of the Act. The filing of a request for hearing under Section 240.180 shall not operate as a stay of the Director's decision.

g) The permittee may, within 30 days from the date of service of the Director's decision, submit to the Department, in writing, any mitigating factors that~~which~~ permittee believes to be relevant to the violation cited in the Director's decision.

h) Upon further investigation, the Director ~~of the Department, or his designee,~~ may enter into a settlement agreement, issue an amended Director's decision, or issue a replacement Director's decision.

1) A settlement agreement shall be issued to:

A) extend the amount of time provided to complete remedial actions necessary to abate the violations set forth in the Director's decision; or

B) reduce the civil penalty assessed in the Director's decision; or

C) allow new permits or the transfer of existing permits to be issued during the term of the settlement agreement.

2) An amended~~Amended~~ Director's decision shall be issued to:

A) extend the amount of time provided to complete remedial action necessary to abate the violation set forth in the Director's decision; or

B) reduce the civil penalty assessed in the Director's decision.

3) A replacement Director's decision shall be issued to correct an administrative error contained in the Director's decision or the Notice of Violation.

4) The permittee shall have no right to hearing associated with the issuance of an amended or replacement Director's decision.

i) If the Director's decision includes the assessment of a civil penalty, and the person or permittee named in the Director's decision does not request a hearing in accordance with Section 240.180 to contest the amount of the penalty, the amount assessed shall be paid to the Department in full within 30 days after service of the Director's decision.

j) *All civil penalties assessed and paid to the Department shall be deposited in the Underground Resources Conservation Enforcement Fund.* (Section 8a of the Act)

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

Section 240.180 Enforcement Hearings and Enforcement Cessation Orders

a) *A person or permittee shall have 30 days from the date of service of the Director's decision to request a hearing.* (Section 8a of the Act) A~~Except as provided in subsection (b) below, a~~ person or permittee seeking to contest any Director's decision in which a civil penalty has been assessed shall submit the assessed amount to the Department, by cashiers check or money order, together with a timely request for hearing. The assessed amount shall be deposited by the Department pending the outcome of the hearing. The assessed amount shall be refunded to the person or permittee at the conclusion of the hearing if the Department does not prevail. All requests for hearing shall be mailed or delivered to the Department's office located in Springfield, Illinois.

~~b) If a civil penalty assessment is imposed against a person pursuant to Section 240.160(d), such person will not be required to prepay the penalty in order to contest either the amount of the penalty or the fact of the violation.~~

b)~~c)~~ *Upon receipt of a request* for hearing submitted in accordance with subsection (a) ~~or (b)~~, *the Department shall provide an opportunity for a formal hearing upon not less than 5 days* written notice mailed to the permittee or person submitting the hearing request. (Section 8a of the Act) The hearing shall be conducted by a Hearing Officer~~an impartial hearing officer~~ designated~~not employed~~ by the Director~~Department~~ and shall be conducted in accordance with the following procedures:

1) Pre-Hearing Conference

A) A pre-hearing conference~~:A)~~ shall be scheduled within 30 days after the request for hearing:

i) to define the factual and legal issues to be litigated at the administrative hearing;

ii) to determine the timing and scope of discovery available to the parties;

iii) to set a date for the parties to exchange all documents they intend to introduce into evidence during the hearing, a list of all witnesses the parties intend to have testify and a summary of the testimony of each ~~such~~ witness;

iv) to schedule a date for the administrative hearing; and

v) to arrive at an equitable settlement of the hearing request, if possible.

B) Pre-hearing conferences under this Section may be conducted via telephone conference if that~~such~~ procedure is acceptable to all parties to the hearing. In the event that a telephone conference is not acceptable to all parties, the pre-hearing conference shall be conducted the place designated by the Hearing Officer~~hearing officer~~.

C) Either party may file motions for default judgment, motions for summary judgment, motions for protective orders and motions for orders compelling~~compeling~~ discovery. The Department's Hearing Officer~~hearing officer~~ shall render an order granting or denying ~~such~~ motions filed within 15 days after service. Any order granting a motion for default judgment or a motion for summary judgment shall constitute the Department's final administrative decision as to the matter~~Director's Decision or cessation order~~ being contested.

2) If a settlement agreement is entered into at any stage of the hearing process, the person to whom the notice of violation or cessation order was issued will be deemed to have waived all right to further review of the violation or civil penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect. All settlement agreements shall be executed by the Hearing Officer~~hearing officer~~ and shall constitute the Department's final administrative decision as to matter~~the Director's Decision or cessation order~~ being contested.

3) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10]. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois. However, the Department may conduct a hearing under this Section at a site located closer than Springfield~~, Illinois,~~ to the production and/or injection/disposal well identified in the Director's decision being contested if facilities are available and convenient satisfactory to the Department.

4) At the hearing the Department shall have the burden of proving the facts of the violation alleged in the notice of violation at issue. The amount of any civil penalty assessed shall be presumed to be proper; however, the operator may offer evidence to rebut this presumption. The standard of proof shall be a preponderance of the evidence. The person or permittee shall have the right to challenge the Hearing Officer~~hearing officer~~ if the person or permittee believes the Hearing Officer~~hearing officer~~ is prejudiced against him or her or has a conflict of interest. If the Hearing Officer~~hearing officer~~ disqualifies himself or herself, the Director shall

designate a new Hearing Officerhearing officer. The Hearing Officerhearing officer shall conduct the hearing, hear the evidence and at the conclusion of the hearing render recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case.

5) The Director shall review the administrative record in conjunction with the Hearing Officer'shearing officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. *Within 30 days* after *the close of the hearing record or expiration* after *the time to request a hearing, the Department shall issue a final administrative decision.* (section 8a of the Act)The Director shall then issue the Department's final administrative decision affirming, vacating or modifying the hearing officer's decision.

c)d) *Failure of the person or permittee to timely request a hearing or, if a civil penalty has been assessed, to timely tender the assessed civil penalty,The person or permittee's failure to request a hearing in accordance with subsection (a) shall constitute a waiver of all legal rights to contest the Director's decision, including the amount of any civil penalty assessed. Within 30 days of the close of the hearing record or expiration of the time to request a hearing, the Department shall issue a final administrative decision, pursuant to Section 10 of the Act.* (Section 8a of the Act)

d)e) *If, at the expiration of the period of time originally fixed in the Director's decision or at the expiration of any subsequent extension of time granted by the Department, the Department finds that the violation has not been abated, it may immediately order the cessation of operations or the portions thereof relevant to the violations.* (Section 8(a) of the Act)[225 ILCS 725/8a]

e)f) Notice of the cessation order shall be served in accordance with Section 240.185(c)(d). The notice shall contain a scheduled hearing date thatwhich shall be within 305 days after the issuance of the cessation order to determine whether the person or permittee has complied with any final administrative order upon which the cessation order is based. The hearing shall be conducted by a Hearing Officerhearing officer, designate by the DirectorDepartment, and held in the Department office in Springfield, Illinois.

f)g) The cessation order shall provide that the person or permittee named in the order

has the right to request a temporary relief hearing before the scheduled date of the cessation order hearing,~~within 14 days from the date of issuance of the cessation order~~ in accordance with Section 240.190.

g)~~h)~~ *A cessation order issued under this Section shall continue in effect until modified, vacated, or terminated by the Department.* (Section 8a of the Act)~~[225 ILCS 725/8a]~~ The filing of a request for temporary relief, under Section 240.190 shall not operate as a stay of the cessation order. The cessation order may be stayed by the grant of temporary relief, in accordance with Section 240.190.

~~i)~~ ~~A cessation order not subject to temporary relief in accordance with subsection (g) above shall become a final administrative decision of the Department pursuant to Section 10 of the Act.~~

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

Section 240.185 Cessation of Oil Production Operations

a) The Department may issue orders requiring the cessation of operations, with or without issuing a notice of violation in accordance with Section 240.160.

b) *If the Department determines that any condition or practice exists, or that any person or permittee is in violation of any requirement of the Act or* this Part *or any permit condition, which condition, practice or violation creates an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property, any authorized employee or agent of the Department may order the immediate cessation of operations.* (Section 19.1 of the Act) ~~[225 ILCS 725/19.1]~~ The following constitute procedures or violations mandating the issuance of a cessation order under this subsection: operating a well required to be permitted under the Act without first obtaining the Department's transfer of operating authority; operating a well in violation of the Department's spacing requirements; operating wells without paying annual well fees; or operating wells without maintaining the required amount of performance bond in force; or operating wells by a permittee for whom funds have been expended and not reimbursed from the PRF ~~in accordance with Subpart Q of this Part~~.

c) *The cessation order shall be served by personal delivery to the person or permittee named in the order or by mailing it certified mail, return receipt*

requested, to the last known address of the person or permittee as soon as is practicably possible but in no event later than 5 days after its issuance. (Section 19.1 of the Act)~~[225 ILCS 725/19.1]~~

d) The cessation order shall contain a date for a hearing that shall be held within 30 days after the issuance of the cessation order. The hearing shall be conducted by a Hearing Officer~~an impartial hearing officer~~, designated by the Director~~Department~~, held in the Department's office in Springfield, Illinois, and conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10].

e) The cessation order shall also provide that the person or permittee named in the order has the right to request a temporary relief hearing, within 14 days from the date of issuance of the cessation order, in accordance with Section 240.190. The cessation order shall be considered served when personally delivered to the person or permittee named in the order or when the cessation order is mailed by certified mail, return receipt requested, to the person or permittee at his or her last known address.

f) At the cessation order hearing scheduled to determine whether the person or permittee has complied, the Department shall have the burden of proving the facts of the violation alleged in the cessation order. The standard of proof shall be a preponderance of the evidence. The Hearing Officer~~impartial hearing officer~~ shall conduct the hearing, hear the evidence and, at the conclusion of the hearing, render findings of fact and~~,~~ conclusions of law and issue the final administrative decision of the Department, pursuant to Section 10 of the Act.

g) A cessation order issued under this Section shall continue in effect until modified, vacated, or terminated by the Department.~~*A cessation order issued under this Section shall continue in effect until modified, vacated, or terminated by the Department.* [225 ILCS 725/8a]~~ The filing of a request for temporary relief under Section 240.190 shall not operate as a stay of the cessation order. The cessation order may be stayed by the grant of temporary relief in accordance with Section 240.190.

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

Section 240.186 Cessation of Conditions Creating an Imminent Danger to Public Health and Safety and the Environment

a) The Department may issue cessation orders requiring the cessation of conditions causing, or the correction of any condition that creates, a threat to the health or safety of the public or an imminent danger of significant environmental harm or significant damage to property, with or without issuing a notice of violation in accordance with Section 240.160.

b) *If the Department determines that any condition or practice exists, or that any person or permittee is in violation of any requirement of the Act or* this Part *or any permit condition, which condition, practice or violation creates an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property, any authorized employee or agent of the Department may order the immediate cessation of* the condition or practice. (Section 19.1 of the Act)~~[225 ILCS 725/19.1]~~ The following constitute conditions or violations mandating the issuance of a cessation order under this subsection: drilling or operating, without a permit from the Department, a well required to be permitted under the Act; operating an annular or casing injection/disposal well; or failure to repair a leak or cease improper discharge of saltwater, oil or other liquid oilfield wastes from a well, tank or flowline or by a liquid oilfield waste hauler.

c) *If a responsible party cannot be readily located, in the judgment of the employee or agent issuing the* cessation *order,* or fails to respond, within the time frame specified in the cessation order, to correct the condition endangering the public health, safety or the environment, *the employee or agent may take any action he or she deems necessary to cause a cessation of operations and abatement of any condition* observed (Section 19.1 of the Act)~~*violation observed* [225 ILCS 725/19.1]~~, including emergency activities specified in Section 240.1630.

d) *The cessation order shall be served by* personal delivery to the person or permittee named in the order or by *mailing it certified mail, return receipt requested, to the last known address of the person or permittee as soon as is practicably possible but in no event later than 5 days after its issuance.* (Section 19.1 of the Act)~~[225 ILCS 725/19.1]~~ The notice shall contain a scheduled hearing date that shall be held within 30~~5~~ days after the issuance of the cessation order. The hearing shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act by a Hearing Officer~~an impartial hearing officer~~ designated by the Director~~Department~~ and held in the Department's office in Springfield, Illinois.

e) At the hearing, the Department shall have the burden of proving the facts of the violation alleged in the cessation order. The standard of proof shall be a preponderance of the evidence. The Hearing Officer~~impartial hearing officer~~ shall conduct the hearing, hear the evidence, and, at the conclusion of the hearing, render findings of fact and~~,~~ conclusions of law and issue the final administrative decision of the Department, pursuant to Section 10 of the Act.

f) *A cessation order issued under this* Section *shall continue in effect until modified, vacated, or terminated by the Department* (Section 8(a) of the Act)~~[225 ILCS 725/8(a)]~~. A cessation order issued under this Section is not subject to temporary relief under Section 240.190~~ of this Part~~.

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

Section 240.190 Temporary Relief Hearings

a) Pending the holding of a hearing in accordance with Section 240.185(d) or 240.180(e) relating to a cessation order issued under Section 240.185 or 240.180, the person or permittee affected by the Department's action may file a written request for temporary relief from the cessation order, together with a detailed statement giving reasons for granting such relief.~~*Pending the holding of a hearing* in accordance with Section 240.185(d) or 240.180(f) *relating to a cessation order issued under Section* 240.185 or 240.180*, the person or permittee affected by the Department's action may file a written request for temporary relief from the cessation order, together with a detailed statement giving reasons for granting such relief.* (Section 8a of the Act)~~ The person or permittee shall serve the request for temporary relief within 14 days after service of the cessation order.

b) The Department shall commence a hearing within 5 working days after receipt of a timely request for temporary relief and may grant that relief, under such conditions as it may prescribe, if the person or permittee requesting temporary relief shows a substantial likelihood that the findings of the Department will be favorable to him or her and the relief will not adversely affect the health or safety of the public or cause significant environmental harm or significant damage to property.~~*The Department shall commence a hearing within 5* working *days after receipt of a timely request for temporary relief and may grant such relief, under such conditions as it may prescribe, if the person or permittee requesting temporary relief shows a substantial likelihood that the findings of the*~~

~~*Department will be favorable to him and such relief will not adversely affect the health or safety of the public or cause significant environmental harm or significant damage to property.* (Section 19.1 of the Act)~~

c) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois.

d) At the hearing, the permittee shall have the burden of proving that temporary relief from the cessation order will not adversely affect the health or safety of the public or cause environmental harm or significant damage to property. The Hearing Officer~~hearing officer~~ shall conduct the hearing, hear the evidence and, at the conclusion of the hearing, render findings of fact, conclusions of law and the disposition of the case.

e) The Hearing Officer~~hearing officer~~ shall issue a final administrative decision granting or denying temporary relief from the cessation order within 7 days after the close of the administrative record, pursuant to Section 10 of the Act. Temporary relief shall not extend for more than 90 days, after which the cessation order shall be reinstated pending the outcome of the cessation order and pending a resolution of the violations of the Act specified in the cessation order.

~~f) The person's or permittee's failure to request a hearing in accordance with subsection (a) shall constitute a waiver of all legal rights to contest the cessation order.~~

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

SUBPART B: PERMIT APPLICATION PROCEDURES FOR PRODUCTION WELLS

Section 240.220 Contents of Application

The application for a permit to drill, deepen or convert to a production well shall include:

a) The name of the well.

b) The well~~surveyed~~ location surveyed by an Illinois licensed land surveyor or Illinois registered professional engineer, the GPS (Global Positioning System) latitude and longitude location, and ground elevation of the well. A survey or

GPS location is not required for a converted or deepened well, for a drilled out plugged hole if the original well location was surveyed, or for a well permitted under Section 240.210(d). The GPS location shall be recorded as degrees and decimal degrees recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet. The reported GPS location is required to be an actual GPS field measurement and not a calculated or conversion measurement.

c) A map showing:

1) the boundaries of the leasehold or enhanced oil recovery unit;

2) the exact location of the well proposed to be drilled, deepened or converted, and an outline of the proposed drilling unit;

3) the location of all producing wells previously drilled on the drilling unit; and

4) the location of all offset wells on adjacent drilling units.

d) Information to show the applicant has 100% of the rights~~right~~ to drill and to operate a well on the lands in question. The applicant shall submit copies of the recorded operative lease instruments or assignment.

e) A statement as to whether the~~such~~ proposed well location is within the limits of any incorporated city, town, or village. If the consent of municipal authorities for the drilling of a well is required, a certified copy of the official consent must be submitted.

f) The name and address of the drilling contractor~~,~~ and the type of drilling tools or equipment to be used.

g) If the well is located over an active mine, over a temporarily abandoned mine or within the undeveloped limits of a mine, or if the coal rights are owned by someone other than the lessor under the oil and gas lease, the applicant shall submit documentation establishing compliance with Section 240.1305~~ of this Part~~.

h) If the application is for a newly drilled well located over an underground gas storage field as defined in Section 240.1805(c)~~ of this Part~~ or the gas storage

rights are owned by someone other than the lessor under the oil and gas lease, the applicant shall submit documentation establishing compliance with Section 240.1820~~ of this Part~~.

i) The proposed depth of the well and the name of the lowest geologic formation to be tested.

j) A statement whether the applicant has ever had a well bond forfeited by the Department, and if so when and for what well.

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

Section 240.250 Issuance of Permit to Drill or Operate

a) If the applicant satisfies requirements of the Act and this Part,~~Rules~~ the Department shall issue a permit.

b) A permit shall not be issued to an applicant if~~where~~:

1) *the applicant has falsified or otherwise misstated any information on or relative to the permit application;*

2) *the applicant has failed to abate a violation of the Act specified in a final administrative decision of the Department;*

3) *an officer, director,* agent, power of attorney or *partner* in the applicant*, or* a *person with an interest in the applicant exceeding 5%*~~,~~ was or is an officer, director, partner, agent, power of attorney or person with an interest exceeding 5%~~,~~ in another entity that *failed to abate a violation of the Act specified in a final administrative decision of the Department;*

4) *the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5%*~~,~~ *in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department* (Section 8a of the Act);

5) funds have been expended~~obligated~~ and remain outstanding from the PRF~~Plugging and Restoration Fund~~ to plug wells, under Subpart P, for which the applicant was a previous permittee; or the applicant was or is an

officer, director, agent, power of attorney partner, or person with an interest exceeding 5%~~,~~ in a permittee for which funds were expended~~obligated~~; or *an officer, director,* agent, power of attorney or *partner* in the applicant, *or* a *person with an interest in the applicant exceeding 5%,* was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee for which funds were expended~~obligated~~; or

6) the applicant is delinquent in the payment of Annual Well Fees; or the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5%~~,~~ in another permittee who is delinquent in payment of Annual Well Fees; or *an officer, director,* agent, power of attorney or *partner* in the applicant, *or person with an interest in the applicant exceeding 5%,* was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee who is delinquent in payment of Annual Well Fees.

c) Permits shall expire one year from the date of issuance unless acted upon by commencement of drilling, deepening or converting operations authorized by the permit, which are to be continued with due diligence, but not to exceed 2 years from date of commencement of drilling or conversion operations, at which time the well shall be plugged, production casing set or~~,~~ conversion operations completed~~ or well repermitted. If the drilling rig is removed prior to the expiration of the permit, any further drilling or deepening shall require repermitting~~.

d) Permits are not transferable prior to the drilling of the well.

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

Section 240.251 Revocation of Permit to Drill

a) The Department may revoke a permit if:

1) The permittee fails to meet permit conditions; or

2) The permit was issued in error; or

3) The permittee is not in compliance with Section 240.250(b)~~ of this~~

~~Subpart~~.

b) The Department shall notify the permittee of the Department's intent to revoke a permit effective 30 days from the date of notice unless a hearing is requested in accordance with subsection (c)~~ below~~.

c) If a written objection to the permit revocation is filed within 30 days after the date of the notice:

1) A pre-hearing conference shall be held within 15 days after the receipt of the request for hearing.

A) A pre-hearing conference shall be scheduled in order to:

i) Simplify the factual and legal issues presented by the hearing request;

ii) Receive stipulations and admissions of fact and of the contents and authenticity of documents;

iii) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing;

iv) Set a hearing date; and

v) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion.

B) Pre-hearing conferences may be held by telephone conference if that~~such~~ procedure is acceptable to all parties.

2) All hearings under this Subpart shall be conducted in the Department's offices located in Springfield, Illinois by a Hearing Officer designated by the Director and conducted in accordance with Article 10 of the Illinois Administrative Procedure Act.

d) At the hearing, the Department shall present evidence in support of its

determination under subsection (a)~~ above~~. The permittee may present evidence contesting the Department's determination under subsection (a)~~ above~~. The Hearing Officer~~hearing officer~~ may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence.

e) Within 30 days after the close of the record or the receipt of the transcript of the hearing, the Department shall render a final administrative decision.

f) The permittee's failure to request a hearing in accordance with subsection (c) to reinstate the permit or require the well to be plugged shall constitute a waiver of all legal rights to contest the permit revocation decision. Upon the expiration of the time to request a hearing, the Department shall issue a final administrative decision, pursuant to Section 10 of the Act.

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

SUBPART C: PERMIT APPLICATION PROCEDURES FOR CLASS II UIC WELLS

Section 240.310 Application for Permit to Drill, Deepen, Convert or Amend to a Class II UIC Well

a) No person shall drill, deepen or convert any well for use as a Class II UIC well without a permit from the Department.

b) No person shall inject into a freshwater aquifer or be issued a permit to inject into a freshwater aquifer unless:

1) the freshwater aquifer into which injection is proposed has been excepted as specified in Section 240.312; or

2) a completed application requesting an aquifer exemption was submitted to the Department prior to February 1, 1998 and USEPA Region V has completed a technical review, determined that the application meets the relevant criteria, and intends to put the application forward for final approval by the USEPA under 40 CFR 146.4; or

3) a request for an aquifer exemption is submitted to the Department in accordance with Section 240.311 and approved by the USEPA under 40

CFR 146.4.

c) Application for a permit to drill, deepen or convert to a Class II UIC well or amend existing Class II UIC well permit in accordance with Section 240.390(a)~~ of this Part~~ shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury~~,~~ and accompanied by the non-refundable fee of $100 and the required bond under Subpart L.

d) At the time of application they must specify the type of Class II well being permitted as an injection~~Injection well~~, disposal~~Disposal well~~ or commercial disposal~~Commercial Disposal~~ well.

e) If the application does not contain all of the required information or documents, the Department shall notify the applicant in writing. The notification shall specify the additional information or documents necessary to an evaluation of the application and shall advise the applicant that the application will be deemed denied unless the information or documents are submitted within 60 days following the date of notification.

f) *Any well for which a permit is required under* the *Act, other than a plugged well, which was drilled prior to the effective date of* the *Act and for which no permit has previously been issued, is required to be permitted.* Application for a permit shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury~~,~~ and accompanied by the required bond under Subpart O~~L~~. If application is made on or before August 14, 1991, no permit fee is required, but all other requirements of this Subpart shall apply. An application made after that date shall be accompanied by the non-refundable fee of $100. *After* August 14, 1991*, any unpermitted well to which this* Subpart *applies will be deemed to be operating without a permit and subject to the penalties set forth in* the *Act.* (Section 12 of the Act)~~[225 ILCS 725/12]~~

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

Section 240.320 Contents of Application

The application for a permit to drill, deepen or convert shall include:

a) The name of the well.

b) The well~~surveyed~~ location surveyed by an Illinois licensed land surveyor or Illinois registered professional engineer, the GPS (Global Positioning System) latitude and longitude location and ground elevation of the well. A survey or GPS location is not required for a converted or deepened well, for a drilled out plugged hole if the original well location was surveyed, or for a well permitted under Section 240.310(f)~~(d)~~. The GPS location shall be recorded as degrees and decimal degrees recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet. The reported GPS location is required to be an actual GPS field measurement and not a calculated or conversion measurement.

c) A map showing:

1) the boundaries of the leasehold or enhanced oil recovery unit, if applicable;

2) the names of all permittees of producing leaseholds within ¼ mile of the proposed Class II UIC Well;

3) the location of the well proposed to be drilled, deepened or converted;

~~4) the wells from which fresh water analyses were obtained in accordance with Section 240.350; and~~

4)~~5)~~ the location of all wells penetrating the proposed injection interval within the ¼ mile area of review as defined in Section 240.360.

d) If the well is not located within the boundaries of a leasehold or enhanced oil recovery unit, the applicant shall submit copies of the recorded operative lease instruments or assignment~~documentation~~ showing the applicant has 100% of the rights~~applicant's right~~ to drill and to operate the well.

e) A statement as to whether the~~such~~ proposed well location is within the limits of any incorporated city, town, or village. If the consent of municipal authorities for the drilling of a well is required, a certified copy of the official consent must be submitted.

f) The name and address of the drilling contractor~~,~~ and the type of drilling tools or equipment to be used.

g) If the well is located over an active mine, over a temporarily abandoned mine or within the undeveloped limits of a mine, or if the coal rights are owned by someone other than the lessor under the oil and gas lease, the applicant shall submit documentation establishing compliance with Section 240.1305~~ of this Part~~.

h) If the application is for a newly drilled well located over an underground gas storage field as defined in Section 240.1805(c)~~ of this Part~~ or the gas storage rights are owned by someone other than the lessor under the oil and gas lease, the applicant shall submit documentation establishing compliance with Section 240.1820~~ of this Part~~.

i) The proposed well construction and operating parameters in accordance with Section 240.340~~ of this Part~~.

j) Evidence of notification required under Section 240.370.

k) Information regarding groundwater and potable water supplies in accordance with Section 240.350.

l) Cementing, casing and plugging records for all wells penetrating the injection interval within the ¼ mile area of review in accordance with Section 240.360.

m) A statement whether the applicant has ever had a well bond forfeited to the Department~~,~~ and, if so, when and for what well.

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

Section 240.340 Proposed Well Construction and Operating Parameters

a) Well Construction Records for Conversion Wells
If the application is for the conversion of a previously drilled well, the applicant shall:

1) submit a complete copy of all available geophysical logs run on the well; and

2) submit a copy of the initial Completion Report or casing and cementing records of the well; and

3) establish external mechanical integrity in accordance with Section 240.770(c)~~ of this Part~~.

b) Schematic Diagram
The applicant shall submit a schematic diagram of the proposed injection well showing:

1) the total depth and plugged back depth of the well;

2) the sizes and depths of the holes drilled for the surface casing, mine or intermediate casing, and production casing;

3) the sizes and depths of all casing in the well~~,~~ and any additional casing to be used in the well;

4) the amount of cement used for each string of casing in the well~~,~~ and any additional cement to be used in the well;

5) the size of the tubing and setting depth of the packer;

6) the top and bottom depths of all perforated intervals in the casing; and

7) the geologic name and the depth of the top and bottom of the proposed injection interval.

c) Proposed Injection Rate
The applicant shall submit the proposed injection rate expressed in average barrels per day.

d) Injection Fluid
The applicant shall submit the depth and geologic name of the formations~~formation(s)~~ from which the injection fluid is to be obtained, a standard laboratory analysis of a representative sample of the fluid to be injected and the date the sample was obtained. The sample shall be analyzed for at least the following parameters: pH, Chloride, Total Dissolved Solids, and Specific Gravity. The sample shall be obtained and analyzed no earlier than one ~~(1)~~ year prior to the date of filing of the application. If the injection fluid is other than water, the sample shall be analyzed for the chemical components and Specific

Gravity of the fluid.

e) Proposed Maximum Injection Pressure

1) The applicant shall submit the proposed maximum injection pressure in accordance with the following formula:

$$MIP = Log_{10} (.80 – (.433 X Sp. Gr.)) X Depth – 14.7$$

Where:

M.I.P = maximum allowable injection pressure

Sp.Gr = specific gravity of the injection fluid

Depth = depth of the top of the injection interval

2) If the proposed maximum injection pressure exceeds the amount calculated in accordance with subsection (e)(1)~~ above~~, the applicant shall submit the most recent information showing that the proposed maximum injection pressure will not initiate or propagate fractures in the injection interval or overlying strata that could enable the injection fluid or the fluid in the injection interval to leave the permitted injection intervals. The types of information that will be considered acceptable by the Department include, but are not limited to:

A) A copy of the ticket and pressure chart from a "frac" or "acid" treatment in the injection interval in the proposed well, or from the same interval or a stratigraphically higher interval from a well within 1 mile of the proposed well, that~~which~~ shows the Instantaneous Shut-In Pressure (ISIP). The maximum allowable injection pressure shall be 10% less than the ISIP measured at the surface unless the specific gravity of the treatment fluid is less than the specific gravity of the proposed injection fluid, in that~~which~~ case the ISIP shall be measured at the injection interval.

B) The results of a step rate test from the injection interval in the proposed well, or from the same interval or a stratigraphically higher interval in a well within 1 mile of the proposed well that~~which~~ shows that the proposed maximum injection pressure will not propagate fractures allowing the injection fluid to migrate

out of the permitted injection interval. The maximum allowable injection pressure shall be 10% less than the pressure, measured at the surface, at which the formation broke during the test. A step rate test shall include the following:

i) A zero injection rate (pressure stabilizing) step, at least three rate steps of equal length below the fracture opening pressure and at least two rate steps above the fracture opening pressure. The rate of increase for each step following fracture opening shall be at least 120 percent of the preceding rate. Each step shall be at least 4 minutes in length.

ii) The results of a step rate test shall be plotted on a graph with the pressure at the end of each step plotted against the injection rate at the end of the same step. Best fit lines shall be constructed using the points before and after fracture opening.

iii) If the Department has reason to believe induced fractures have occurred as a result of long term injection above the fracture pressure, the Department shall determine if the results of a step rate test are acceptable to permit the proposed maximum injection pressure.

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

Section 240.350 Groundwater and Potable Water Supply Information

a) The applicant shall submit a statement certifying there are no potable water wells located within ~~two hundred (~~200~~)~~ feet of the proposed Class II UIC well, and there are no municipal water supply wells located within ~~two thousand five hundred (~~2500~~)~~ feet of the proposed Class II UIC well.

b) Freshwater~~FreshWater~~ Analyses

1) The applicant shall submit a standard laboratory analysis of fresh water from ~~two (~~2~~)~~ or more freshwater wells located within ¼~~one (1) mile~~ of the proposed injection well and showing the location and depth of the well~~,~~

and the dates the samples were obtained. The samples shall be analyzed for at least the following parameters: pH, Chloride, Total Dissolved Solids, and Specific Gravity using the applicable ASTM standards. The samples shall be obtained and analyzed no earlier than ~~one (~~1~~)~~ year prior to the date of filing of the application. The locations of the well from which the freshwater samples were obtained shall also be shown on the map required in Section 240.320.

2) If, due to circumstances beyond his or her control, the applicant cannot obtain the analysis required under subsection (b)(1)~~ above~~, the applicant shall submit in lieu of that~~such~~ analysis a statement explaining why the analysis could not be obtained.

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

Section 240.370 Public Notice

a) Contents of Notice and Publication
Public notice shall be given no earlier than 30 days prior to the filing of the application. A notice that an application for a permit to drill, deepen or convert to a Class II UIC well has been or will be filed with the Department shall be published by the applicant in a newspaper of general circulation and published in the county in which the proposed injection well is to be located. The applicant shall submit the original of the Certificate of Publication to the Department prior to approval of the application.

1) The notice shall include:

A) the name and address of the applicant;

B) the date the application will be filed;

C) the legal description of the location of the proposed injection well;

D) the geologic name and depth of the injection intervals~~interval(s)~~;

E) the proposed maximum injection pressure and maximum injection rate;

F) the address and telephone number for the Oil and Gas Division of the Department; and

G) a statement that the public has ~~fifteen (~~15~~)~~ days from the date the application is filed, as stated in the public notice, to comment on the application and that comments must be made in writing to the Department.

2) If the notice does not contain all of the ~~above~~ information listed in subsection (a)(1)~~,~~ or, if the application is not received on or before the date designated in subsection (a)(1)(B)~~ above~~, the applicant shall be required to re-publish the notice.

b) Notice Within the Area of Review
A copy of the published notice, or a letter containing the same information as in the notice, shall be mailed by certified mail, return receipt requested~~Certified Mail Return Receipt Requested~~ to the owner of the surface of the land on which the proposed injection well is to be located, and to each permittee of a producing leasehold, and the owner or manager of all mines, including the mined-out area and undeveloped limits of all mines, located within ~~one-fourth (~~¼~~)~~ mile of the proposed Class II UIC well. Evidence of mailing shall be submitted to the Department prior to approval of the application. The returned certified mail~~Certified Mail~~ receipt card, or a ~~photostatic~~ copy of the card~~such~~, shall serve as evidence of mailing.

c) Objections
If a written objection to the application is filed within ~~fifteen (~~15~~)~~ days after the filing of the application, the Department shall consider the objection in determining whether the permit should be issued. If the objection raises a factual or legal question regarding the sufficiency of the application in meeting the requirements for a permit, the permit objection shall be set for a public hearing. A hearing shall be set only after all other requirements for issuance of the permit have been fulfilled.

d) Public Hearing

1) Any public hearing held pursuant to subsection (c)~~ above~~ shall be an informal hearing conducted by the Department solely for the purpose of resolving the factual or legal question raised by the objection.

2) Notice of the hearing shall be sent by the Department to the applicant and to the objector by mailing the~~such~~ notice by United States mail, postage prepaid, addressed to their last known home addresses.

3) A certified court reporter shall record the hearing at the Department's expense.

4) A Hearing Officer designated by the Director~~Department~~ shall conduct the hearing. The Hearing Officer shall allow all parties to the hearing to present evidence in any form, including by oral testimony or documentary evidence, unless the Hearing Officer determines the~~such~~ evidence is irrelevant, immaterial, unduly repetitious, or of such a nature that reasonably prudent members of the public or people knowledgeable in the oil and gas field would not rely upon it in the conduct of their affairs.

5) The Hearing Officer shall have the power to continue the hearing or to leave the record open for a certain period of time in order to obtain or receive further relevant evidence.

6) Within ~~ten (~~10~~)~~ days after~~of~~ the closing of the record or the receipt of the transcript of the hearing, whichever comes later, the Department shall render a decision on the objection.

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

Section 240.380 Issuance of Permit

a) If the applicant satisfies the requirements of the Act and this Part, the Department shall issue a permit.

b) A permit shall~~may~~ not be issued to an applicant not in compliance with Section 240.250(b)~~ of Subpart B~~. ~~[Section 8a of the Act)~~

c) Permits shall expire 1~~one~~ year from the date of issuance unless acted upon by commencement of drilling, deepening or converting operations authorized by the permit, which are to be continued with due diligence, but ~~not to exceed~~ 2 years~~1 year~~ from the date of commencement of drilling or conversion operations, at which time the well shall be plugged, production casing set or~~,~~ conversion

operations completed~~ or well repermitted~~.

d) Permits are not transferable prior to the drilling of the well.

e) If during drilling the well is lost (collapsed casing or hole, etc.), the permittee is required to submit a new application~~,~~ and receive a new permit prior to drilling an offset well.

f) The Department may revoke a permit in accordance with Section 240.251(a)~~ of this Part~~.

g) The Department shall notify the permittee of its intent to revoke a permit effective 30 days from the date of notice unless a hearing is requested in accordance with subsection (h)~~ below~~.

h) If a written objection to the revocation is filed within 30 days after the date of the notice:

1) A pre-hearing conference shall be held within 15 days after the receipt of~~after~~ the request for hearing.

A) A pre-hearing conference shall be scheduled in order to:

i) Simplify the factual and legal issues presented by the hearing request;

ii) Receive stipulations and~~,~~ admissions of fact and of the contents and authenticity of documents;

iii) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing;

iv) Set a hearing date; and

v) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion~~ thereof~~.

B) Pre-hearing conferences may be held by telephone conference~~conferences~~ if that~~such~~ procedure is acceptable to all parties.

2) All hearings under this Subpart shall be conducted in the Department's offices located in Springfield, Illinois by a Hearing Officer designated by the Director and conducted in accordance with Article 10 of the Illinois Administrative Procedure Act.

i) At the hearing, the Department shall present evidence in support of its determination under subsection (f)~~ above~~. The permittee may present evidence contesting the Department's determination under subsection (f)~~ above~~. The Hearing Officer~~hearing officer~~ may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence.

j) Within 30 days after the close of the record or the receipt of the transcript of the hearing, the Department shall render a decision.

k) The permittee's failure to request a hearing in accordance with subsection (h) shall constitute a waiver of all legal rights to contest the permit revocation decision. Upon the expiration of the time to request a hearing, the Department shall issue a final administrative decision, pursuant to Section 10 of the Act.

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

Section 240.390 Permit Amendments

a) Change of Injection Interval

1) The permittee shall not change to an unpermitted injection interval without obtaining a permit amendment from the Department.

2) The permittee shall make application for amendment on a form provided by the Department.

3) The application for amendment shall include all the information or data required under, and be in accordance with, Sections 240.320 and 240.330, except that a survey under Section 240.320(b) is not required.

b) Change in Injection Pressure or Rate

1) The permittee shall not inject at a pressure or rate greater than the maximum permitted pressure or rate without obtaining a permit amendment from the Department.

2) The permittee shall make application for amendment on a form prescribed by the Department.

3) The application for amendment shall include all of the information or data required under, and be in accordance with, Sections 240.330 and 240.340(c) and (e).

c) Change in Injection Fluid

1) The permittee shall not change the injection fluid without obtaining a permit amendment from the Department.

2) The permittee shall make application for an amendment on a form prescribed by the Department. The application shall include a statement identifying the proposed injection fluid along with the depth and name of the geologic formation from which the injection fluid is to be obtained.

A) If the proposed fluid is water, the application shall include an analysis of the water with the date of sample collection (must be no older than 1 year) and must include the following parameters: Chlorides, Total Dissolved Solids, pH, and Specific Gravity using ASTM Standards.

B) If the proposed fluid is other than water, the application shall include a chemical analysis identifying the components and the Specific Gravity of the proposed injection fluid using the applicable ASTM standards.

d)~~c)~~ Change in Well Location

No well may be drilled at a location other than that specified on the permit, except as provided in Subpart D~~ of this Part~~.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

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

SUBPART D: SPACING OF WELLS

Section 240.410 Drilling Units

a) Oil Wells
The Department shall not issue a permit for the drilling or deepening of a well for the production of oil within the State of Illinois unless the proposed well location and spacing conform to the following drilling units:

1) ~~ten (~~10~~)~~ acres of surface area lying within the quarter-quarter-quarter section of land (as established by the official United States Public Land Survey) for wells drilled or deepened for the production of oil from a reservoir other than limestone/dolomite, the top of which lies less than ~~four thousand (~~4,000~~)~~ feet beneath the surface; the location of the well shall not be less than ~~three hundred thirty (~~330~~)~~ feet from the nearest external boundary lines of the drilling unit, nor less than ~~six hundred and sixty (~~660~~)~~ feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued, but not yet drilled, for a well to the same individual reservoir; or

2) ~~twenty (~~20~~)~~ acres of surface area lying within the east-west or north-south one-half of a quarter-quarter section of land (as established by the official United States Public Land Survey) for wells drilled or deepened for the production of oil from a limestone/dolomite reservoir, the top of which lies less than ~~four thousand (~~4,000~~)~~ feet beneath the surface; the location of the well shall not be less than ~~three hundred thirty (~~330~~)~~ feet from the nearest external boundary lines of the drilling unit, nor less than ~~six hundred and sixty (~~660~~)~~ feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued, but not yet drilled, for a well to the same individual reservoir; or

3) ~~forty (~~40~~)~~ acres of surface area lying within a quarter-quarter section of land (as established by the official United States Public Land Survey) for wells drilled or deepened for the production of oil from a reservoir, the top of which lies at or below ~~four thousand (~~4,000~~)~~ feet beneath the surface; the location of the well shall be not less than ~~three hundred thirty (~~330~~)~~ feet from the nearest external boundary lines of the drilling unit, nor less

than ~~nine hundred (~~900~~)~~ feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued, but not yet drilled, for a well to the same individual reservoir.

b) Gas Wells

The Department shall not issue a permit for the drilling or deepening of a well for the production of gas within the State of Illinois unless the proposed well location and spacing conform to the following drilling units:

1) ~~ten (~~10~~)~~ acres of surface area lying within the quarter-quarter-quarter section of land (as established by the official United States Public Land Survey) for wells drilled or deepened for the production of gas from a reservoir other than limestone/dolomite, the top of which lies less than ~~two thousand (~~2,000~~)~~ feet beneath the surface; the location of the well shall not be less than ~~three hundred thirty (~~330~~)~~ feet from the nearest external boundary lines of the drilling unit, nor less than ~~six hundred and sixty (~~660~~)~~ feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued, but not yet drilled, for a well to the same individual reservoir; or

2) ~~twenty (~~20~~)~~ acres of surface area lying within the east-west or north-south one-half of a quarter-quarter section of land (as established by the official United States Public Land Survey) for wells drilled or deepened for the production of gas from a limestone/dolomite reservoir, the top of which lies less than ~~two thousand (~~2,000~~)~~ feet beneath the surface; the location of the well shall not be less than ~~three hundred thirty (~~330~~)~~ feet from the nearest external boundary lines of the drilling unit, nor less than ~~six hundred and sixty (~~660~~)~~ feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued, but not yet drilled, for a well to the same individual reservoir; or

3) ~~forty (~~40~~)~~ acres of surface area lying within a quarter-quarter section of land (as established by the official United States Public Land Survey) for wells drilled or deepened for the production of gas from a reservoir, the top of which lies between ~~two thousand (~~2,000~~)~~ feet below the surface~~,~~ and ~~five thousand (~~5,000~~)~~ feet or the top of the Trenton Formation, whichever depth is greater; the location of the well shall not be less than ~~three hundred thirty (~~330~~)~~ feet from the nearest external boundary lines of the drilling unit nor less than ~~nine hundred (~~900~~)~~ feet from the nearest

location of a producing well or well being drilled or for which a permit has previously been issued but not yet drilled for a well to the same individual reservoir.

4) Establishment of Drilling Units for Deep Gas

A) In the case of wells drilled or deepened for the production of gas from a reservoir lying below ~~five thousand (~~5,000~~)~~ feet or the top of the Trenton formation, whichever depth is greater, no permit shall be issued for an exploratory well unless the proposed spacing and well location provide for a minimum of 160 acres of surface area lying within a quarter section of land (as established by the official United States Public Land Survey) with the well location not less than ~~six hundred sixty (~~660~~)~~ feet from the nearest external boundary line of the drilling unit.

B) After completion of the exploratory well or wells, but prior to commencement of production activities, application shall be made to the Department for the adoption of rules establishing spacing and well location requirements for the reservoir or reservoirs completed. The application shall identify the lands underlying the reservoir or reservoirs for which spacing and well location rules are requested, and shall include any geological, engineering or economic data, studies or reports upon which the requested spacing and well location rules are based.

C) Within ~~twenty (~~20~~)~~ days after receipt of the application, the Department shall submit proposed spacing and well location rules for the reservoir or reservoirs in accordance with Section 5-40 of the Illinois Administrative Procedure Act ~~(Ill. Rev. Stat. 1991, ch. 127, par. 1005-40)~~, which shall include notice of a public hearing to be commenced no later than ~~twenty (~~20~~)~~ days after publication of the notice of proposed rulemaking in the Illinois Register. In addition to the notice requirements of the Illinois Administrative Procedure Act, the applicant shall give notice of public hearing, at least 10 days prior to the date of the hearing, to all permittees of record and leaseholders whose wells or leases are within ¼~~of oil or gas wells within 1/2~~ mile of the area described in the proposed rules by first class mail, postage pre-paid, and by publication in a

newspaper of general circulation in each county in which any portion of the area described in proposed rules is located~~ at least ten (10) days prior to the public hearing~~.

D) The public hearing shall be conducted in accordance with the provisions of ~~subsections (d)(4) and (d)(5) of~~ Section 240.370(d)(4) and (d)(5). The Department shall fully consider the record from the public hearing and any other public comment received during the first notice period~~,~~ and, prior to commencement of the second notice period, shall make such changes to the proposed rules as may be necessary to prevent waste, protect correlative rights and prevent the unnecessary drilling of wells.

c) Coalbed Gas Wells
The Department shall not issue a permit for the drilling or deepening of a well for the production of coalbed gas from unmined seams of coal unless the proposed well location and spacing conform to drilling unit requirements of ~~ten (~~10~~)~~ acres of surface area lying within a quarter-quarter-quarter section of land (as established by the official United States Public Land Survey); the location of the well shall be not less than ~~three hundred thirty (~~330~~)~~ feet from the nearest external boundary lines of the drilling unit.

d) Coal Mine Gas Wells
A well drilled into a mine void or a pillar within the mined out area for the production of gas from an abandoned coal mine is exempt from the spacing requirements of this Subpart.

e) Other Wells
Class II UIC wells, coal, mineral and structure test holes, observation wells, water supply wells used in relation to oil or gas production, and gas storage wells~~,~~ are exempt from the requirements of this Section.

f) All new well locations shall not be less than 200 feet from the nearest existing occupied dwelling, unless the permittee obtains a written agreement with the surface owner upon which the dwelling is located specifically allowing for a closer well location.

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

Section 240.430 Drilling Unit Exceptions

a) In the case of irregular sections containing more or less than ~~six hundred forty (~~640~~)~~ acres, in those areas where the United States Government has not made an official survey, in areas covered by the old French Surveys and Grants, in meandered lands, in government lots, and in subdivisions thereof where the acreage in quarter-quarter-quarter sections and quarter-quarter sections do not conform to the requirements of Section 240.410, the Department shall establish drilling units for wells such that drilling units will not cause a greater well density than would be encountered in regular official surveys relative to the distance between wells and the external drilling unit boundary lines specified in Section 240.410.

b) If the proposed oil wells will be part of an enhanced oil recovery project, spacing requirements for oil or gas production wells are as follows:

1) Except as provided in subsection (b)(2)~~ below~~, the drilling unit and well location requirements of Section 240.410 do not apply to an oil well that~~which~~ is part of an enhanced oil recovery project. For purposes of this Subpart~~subpart~~, an enhanced oil recovery project is a lease, or a unit composed of a group of leases operating under an agreement that~~which~~ provides for the sharing of production by all of the owners within the unit, which has one or more enhanced oil recovery injection wells permitted and in operation at the time an application for a permit to drill and operate an oil well is filed. The enhanced oil recovery injection wells in operation must be injecting into the reservoir that~~which~~ will be produced in order for the project to be classified~~classify~~ as an enhanced oil recovery project.

2) Oil wells permitted and drilled in accordance with this Section~~section~~ must be located no less than 330 feet from~~of~~ the nearest lease boundary line or unit boundary, except that, if, at the time of application, a lease immediately adjacent to the proposed well has producing wells located less than 330 feet from the common boundary line, then the proposed well may be located at a distance closer than 330 feet, but no closer than the distance to the common boundary line of the immediately offsetting well.

c) If the proposed well is to be a post-primary recovery well:

1) The spacing requirements shall comply with Section 240.410; or

2) A new drilling unit may be designated consisting of two or more drilling units of the same size, shape and location as that required in Section 240.410 and located in the same reservoir. At least one-half of the drilling units used to make up the new drilling unit are required to contain at least one plugged or non-producing well. The new drilling unit shall not contain any drilling unit of a well actively producing from the same individual reservoir. The new drilling unit may cross section lines. In a reservoir in which the top lies less than 4,000 feet beneath the surface, the well shall be no less than 330 feet from the nearest external boundary lines of the new drilling unit nor less than 660 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued (but under which the well has not yet been drilled) using the same individual reservoir. In a reservoir in which the top lies at or below 4,000 feet beneath the surface, the well shall be no less than 330 feet from the nearest external boundary lines of the new drilling unit nor less than 900 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued (but under which the well has not yet been drilled) using the same individual reservoir.

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

Section 240.455 Horizontal Drilling

a) For purposes of this Subpart, a horizontal well is a wellbore that~~which~~ has an overall length within the reservoir of twice the thickness of the reservoir.

b) An oil or gas production well may be developed with one or more horizontal drainholes drilled from a single vertical wellbore and may be considered a single well and permitted in accordance with the provisions of Subpart B.

c) If the proposed horizontal well will be part of an enhanced oil recovery project, the spacing requirements for all portions of the horizontal drainholes shall comply with Section 240.430(b).

d) If the proposed horizontal well is to be a primary recovery well:~~,~~

1) The~~the~~ spacing requirements ~~for all portions of the horizontal drainholes~~ shall comply with ~~Section 240.410, or if a modified or special drilling unit is requested, in compliance with Section 240.460 and/or 240.465.~~Section 240.410; or

2) A horizontal drilling unit may be designated consisting of two or more drilling units of the same size, shape and location as that required for a well of the same depth in accordance with Section 240.410 set out in a north-south or east-west pattern. The north-south or east-west pattern of a horizontal drilling unit may cross section lines. In a reservoir in which the top lies less than 4,000 feet beneath the surface, all portions of the horizontal drainhole shall be no less than 330 feet from the nearest external boundary lines of the horizontal drilling unit nor less than 660 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued (but under which the well has not yet been drilled) using the same individual reservoir. In a reservoir in which the top lies at or below 4,000 feet beneath the surface, all portions of the horizontal drainhole shall be no less than 330 feet from the nearest external boundary lines of the horizontal drilling unit nor less than 900 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued (but under which the well has not yet been drilled) using the same individual reservoir.

e) If the proposed horizontal well is to be a post-primary recovery well:

1) The spacing requirements shall comply with Section 240.410; or

2) A horizontal drilling unit may be designated consisting of two or more drilling units of the same size, shape and location as that required for a well of the same depth in accordance with Section 240.410 and located in the same reservoir. At least one-half of the drilling units used to make up the horizontal drilling unit are required to contain at least one plugged or non-producing well. The horizontal drilling unit shall not contain any drilling unit of a well actively producing from the same individual reservoir. The horizontal drilling unit may cross section lines. In a reservoir in which the top lies less than 4,000 feet beneath the surface, all portions of the horizontal drainhole shall be no less than 330 feet from the nearest external boundary lines of the horizontal drilling unit nor less than

660 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued (but under which the well has not yet been drilled) using the same individual reservoir. In a reservoir in which the top lies at or below 4,000 feet beneath the surface, all portions of the horizontal drainhole shall be no less than 300 feet from the nearest external boundary lines of the horizontal drilling unit nor less than 900 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued (but under which the well has not yet been drilled) using the same individual reservoir.

f) If a horizontal drilling unit configuration other than that allowed in subsection (d) or (e) is necessary because of geology or reservoir conditions, a modified or special drilling unit is required in compliance with Section 240.460 and/or Section 240.465.

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

Section 240.460 Modified Drilling Unit

a) Upon application of any person having an interest in oil or gas in a lease or drilling unit, the Department shall schedule a hearing to consider a petition for modification of the location of the standard drilling unit described in Section 240.410, based on geologic or engineering characteristics of the reservoir, relative to the land survey system specified in Section 240.410 and well density specified in Section 240.465 ~~of this Part~~.

b) Contents of petition shall include:

1) the name and address of the petitioner;

2) the petitioner's geologic or engineering reason for requesting a modified drilling unit; and

3) a legal land description of the drilling unit sought to be established.

c) Execution and Filing

1) The petition to modify a drilling unit in accordance with this Section or

establish a special drilling unit in accordance with Section 240.465 shall be sent to~~filed with~~ the Department offices located in Springfield, Illinois. ~~The petition shall be deemed filed when it is received by the Department's Division of Oil and Gas.~~

2) Every petition shall be signed by the petitioner or his or her representative and the petitioner's~~his~~ address shall be stated on the petition~~thereon~~. The signature of the petitioner or his or her representative constitutes a certificate by him or her that he or she has read the petition and that to the best of his or her knowledge, information and belief there is good ground to support the petition~~same~~.

3) If ~~after the petition is filed, and prior to setting a hearing date,~~ the Department finds the petition deficient relative to the requirements of subsection (a) or (b)~~above~~ or Section 240.250(b), the petition shall not be accepted and the Department shall return the petition to the applicant with a statement as to the deficiencies. The Department shall return any unaccepted petition within 30 days after its receipt. A returned petition shall not be considered filed until the deficiencies have been cured.

d) Notice of hearing shall be given by the applicant to all mineral owners within the boundaries set forth in the application, and to all permittees whose wells or leases are within ¼~~having oil or gas wells within 1/2~~ mile of the boundaries of the lease or drilling unit, ~~which are completed in the proposed zone of production,~~ by U.S. Postal Service certified mail, return receipt requested, and by publication in a newspaper of general circulation in each county in which any portion of the proposed lease or drilling unit or units is located, at least 10 days prior to the hearing.

e) Pre-Hearing Conferences

1) Upon his or her own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet ~~with him~~ for a conference in order to:

A) Simplify the factual and legal issues presented by the hearing request;

B) Receive stipulations and~~,~~ admissions of fact and of the contents

and authenticity of documents;

C) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and

D) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just~~ conclusion thereof~~.

2) Pre-hearing conferences may be held by telephone conference if that~~such~~ procedure is acceptable to all parties.

f) Hearing

1) Conduct of Hearing: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:

A) To administer oaths and affirmations~~affirmation~~;

B) To receive relevant evidence;

C) To regulate the course of the hearing and the conduct of the parties and their counsel~~ therein~~;

D) To consider and rule upon procedural requests;

E) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify;

F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record.

2) Every interested person wishing~~desiring~~ to participate at~~in~~ the hearing shall enter an~~his~~ appearance in writing. The Hearing Officer shall determine if the interested person shall be allowed to enter as a party of record. The Hearing Officer shall base that determination on the same standards used to determine parties in Circuit Court~~by stating his name and address. Thereafter, such person shall be deemed a party of record~~.

3) All participants in the hearing shall have the right to be represented by counsel.

4) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument~~arguments~~ as may be relevant to the proceeding~~preceeding~~.

5) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit ~~such~~ information ~~as is~~ necessary to reach a decision on the petition.

6) When~~Where~~ applicable, the following shall be addressed prior to receiving evidence:

A) The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the cause.

B) Ruling may be made on any pending motions.

C) Any other preliminary matters appropriate for disposition prior to presentation of evidence may be addressed.

g) Evidence

1) Admissibility: A party shall be entitled to present his or her case by oral or documentary evidence, to submit rebuttal evidence, and to conduct ~~such~~ cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence received by the presiding Hearing Officer shall exclude evidence that~~which~~ is irrelevant, immaterial

or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under those~~such~~ rules of evidence may be admitted, except when~~where~~ precluded by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

2) Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of that~~such~~ fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.

3) Order of Proof: The petitioner shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

h) Record of Proceedings; Testimony
The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department~~ as such~~ and included in the record.

i) Postponement or Continuance of Hearing
A hearing may be postponed or continued for due cause by the Hearing Officer upon his or her own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in

writing and shall be received by all parties to the hearing.

j) Default
If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the absence of that~~such~~ party. If the failure to appear at such pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of the~~such~~ situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to Section 240.460(i)~~240.130(h)~~. Emergency situations include sudden unavailability of counsel, sudden illness of a party or his or her representative, or similar situations beyond the parties'~~parties~~ control.

k) If the Department finds, based on the reservoir's geological and engineering characteristics, that a modified drilling unit or units is necessary to prevent waste, to protect correlative rights, and to prevent the unnecessary drilling of wells, the Department shall enter an order establishing the~~such~~ drilling unit or units. Each order shall:

1) specify the location of each drilling unit relative to the land survey system; and

2) specify the set back from the drilling unit boundaries for the location of the oil or gas well on each drilling unit; and~~.~~

3) terminate one year from the effective date of the order unless a well has been drilled on the drilling unit within that time. If a well has been drilled within that time, the order shall terminate when the well is plugged.

l) Order − Final Administrative Decision
The Director's order is a final administrative decision of the Department, pursuant to Section 10 of the Act.

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

Section 240.465 Special Drilling Unit

a) Upon application of any person having an interest in oil and gas in a lease or

drilling unit, the Department shall schedule a hearing to consider a petition for the establishment of a special drilling unit for ~~:1)~~a drilling unit size (acreage) and shape other than specified in Section 240.410 if:~~;~~

1)~~A)~~ the~~provided~~ well density specified in Section 240.430(a) is maintained; and

2)~~B)~~ a standard drilling unit cannot be formed utilizing the integration provisions of Section 240.132.

~~2) the purpose of horizontal drilling in accordance with Section 240.455.~~

b) Contents of petition shall include:

1) the name and address of the petitioner;

2) the petitioner's reason for requesting a special drilling unit, including the submission of supporting geologic and engineering data; and

3) a legal land description of the drilling unit sought to be established.

c) Applications to establish a special drilling unit shall be processed in accordance with the petition filing, execution and hearing provisions specified under Section 240.460(c) through (l).

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

SUBPART F: WELL CONSTRUCTION, OPERATING AND REPORTING REQUIREMENTS FOR PRODUCTION WELLS

Section 240.610 Construction Requirements for Production Wells

a) Surface Casing Requirements for Wells Drilled After May 13, 1994

1) Steel surface casing or fiberglass casing meeting API standards (Fiberglass Casing and Tubing; 15AR, May 1987, published by the American Petroleum Institute, 1220 L Street NW, Washington~~,~~ DC~~D.C.~~ 20005-4070; no later editions or amendments included) shall be set to a depth of at least 100 feet, or 50 feet below the base of the fresh water,

whichever is deeper, unless an alternative surface casing procedure is used as outlined in subsection (b).

2) Surface casing or alternative surface casing shall be set in the presence~~under the supervision~~ of a representative of the Department and the permittee shall give at least 24 hours notice to the appropriate District Office prior to setting the surface casing. The~~In lieu of a Department representative being present during the setting of surface casing, the~~ District Office may approve the setting of surface casing without a Department representative being present. If the District Office approves the setting of surface casing without a Department representative being present, the permittee is required to submit~~submission~~ of cement and casing records verifying the setting of surface casing. If cement and casing records are required~~requested~~, the permittee shall provide the records to the District Office within 24 hours after~~immediately following~~ completion of the work.

3) Surface casing shall be cemented in place by circulating cement behind the surface casing from the setting depth of the casing to the surface.

4) The cement shall be allowed to set in place until it has developed sufficient strength to allow drilling to resume, but no less than 4 hours.

b) Alternative Surface Casing Procedures

1) Prior to the commencement of drilling, the permittee shall notify the District Office for the county where the well will be located of the permittee's intent to use an alternative surface casing procedure.

2) Notice shall be given on a form prescribed by the Department and received in the District Office at least 24 hours prior to the commencement of drilling.

3) The following alternative surface casing procedures may be used unless the well is located over a coal mined out area or a gas storage field:

A) If the unconsolidated material is less than 25 feet thick, no surface casing is required but a cement basket shall be set 50 feet below the base of the fresh water and the production casing shall be either

cemented to surface from total depth or cemented from the cement basket to surface.

B) If the unconsolidated material is greater than 25 feet thick, surface casing is required to be set and cemented, in accordance with subsection (a), to the top of the bedrock, and the production casing shall be either cemented to surface from total depth or cemented from the cement basket (placed 50 feet below the base of the fresh water) to surface.

C) For wells in which the total depth is less than 500 feet below the base of the fresh water, no surface casing or cement basket is required, but the production casing shall be cemented from total depth to surface.

4) For wells located over a coal mined out area or a gas storage field:

A) at least 100 feet of surface casing and cement shall be set before drilling to the depth of the mined out area, into the mined out area or to the depth of the gas storage zone; and

B) a cement basket shall be set 50 feet below the base of the fresh water and the production casing shall be cemented from the basket to the surface or, if required under Section 240.1360, a mine string shall be set in accordance with Section 240.1360(b).

c) Production Casing Requirements for Wells Drilled After May 13, 1994
Production casing shall be set and cemented in place by circulating cement behind the production casing from the setting depth of the casing to a minimum of 250 feet above the shallowest producing interval. The casing shall be set no higher than 50 feet above the top of the uppermost producing interval in an open hole completion.

d) Production Casing Requirements for Wells Drilled Prior to May 13, 1994

1) For all existing wells without production casing:

A) If surface casing was previously set, production casing shall be set and cemented a minimum of 250 feet in accordance with

subsection (c).

B) If surface casing was not previously set, production casing shall be set and cemented to surface.

2) Wells drilled prior to May 13, 1994 that contain drive pipe without cement behind the drive pipe will require no further cementing work.

e) Tubing and Packer in Flowing Wells
All wells flowing as a result of an enhanced oil recovery project shall be produced through tubing and packer. The packer shall be set within 200 feet of the top of the producing interval and within the cemented portion of the production casing. The permittee shall contact the District Office in which the well is located at least 24 hours prior to the initial setting or any resetting of the packer to enable an inspector to be present when the packer is set.

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

Section 240.630 Operating Requirements

a) The well shall be maintained and operated in accordance with all permit conditions or be subject to permit revocation in accordance with Section 240.251.

b) The well and wellhead shall be maintained in a leak-free condition.

c) All spills of produced water or oil occurring at the well site~~well-site~~ due to a leaking wellhead shall be cleaned up in accordance with Subpart I.

d) Wells that have not had commercial production within the last~~produced for more than~~ 2 years shall be temporarily abandoned or plugged in accordance with Subpart K.

e) Casinghead gas, produced in conjunction with oil production, that is not collected for use or sale, shall be flared unless the Department approves an exemption from this requirement. In determining whether to approve an exemption, the Department shall consider the quantity of casinghead gas produced, the topographical and climatological features at the well site, and the proximity of agricultural structures and crops, inhabited structures, public buildings, and public roads and railways.

f) If hydrogen sulfide gas (H_2S) is present in excess of 20 ppm within 5 feet in any direction from the wellhead or the end of the flare line, the Department shall specify measures to be taken by the permittee to protect against waste and injury to the public health and safety, which may include the erection of flare lines, the posting of warning signs, and the erection of fencing. The Department may also require the setting of a temporary mechanical or cement plug during any period of time in which the well is not producing or during any period of time necessary to effectuate safety measures. In specifying the measures to be taken by the permittee, the Department shall consider the quantities of H_2S being emitted, the topographical and climatological features at the well site and the proximity of inhabited structures, public buildings, and public roads and railways.

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

SUBPART G: WELL CONSTRUCTION, OPERATING AND REPORTING REQUIREMENTS FOR CLASS II UIC WELLS

Section 240.710 Surface and Production Casing Requirements for Newly Drilled Class II UIC Wells

a) Surface Casing

1) Steel surface casing shall be set to a depth of at least 100 feet, or 50 feet below the base of the freshwater zone, whichever is deeper, unless an alternative surface casing procedure is used as outlined in subsection (b).

2) Surface casing shall be set in the presence~~under the supervision~~ of a representative of the Department and the permittee shall give at least 24 hours notice to the District Office prior to setting the surface casing. The~~In lieu of a Department representative being present during the setting of surface casing, the~~ District Office may approve the setting of surface casing without a Department representative being present. If the District Office approves the setting of surface casing without a Department representative being present, the permittee is required to submit~~submission of~~ cement and casing records verifying the setting of surface casing. If cement and casing records are required~~requested~~, the permittee shall provide the records to the District Office within 24 hours after~~immediately following~~ completion of the work.

3) Surface casing shall be cemented in place by circulating cement behind the surface casing from the setting depth of the casing to the surface.

4) The cement shall be allowed to set in place until it has developed sufficient strength to allow drilling to resume, but no less than 4 hours.

b) Alternative Surface Casing Procedures

1) Prior to the commencement of drilling, the permittee shall notify the District Office for the county where the well will be located of the permittee's intent to use an alternative surface casing procedure.

2) Notice shall be given on a form prescribed by the Department and received in the District Office at least 24 hours prior to the commencement of drilling.

3) The following alternative surface casing procedure may be used unless the well is located over a coal mined out area or a gas storage field:

A) If the unconsolidated material is less than 25 feet thick, no surface casing is required but a cement basket shall be set 50 feet below the base of the fresh water and the production casing either cemented to surface from total depth, or cemented from the cement basket to surface.

B) If the unconsolidated material is greater than 25 feet thick, surface casing is required to be set, and cemented in accordance with subsection (a), to the top of the bedrock, and the production casing shall be either cemented to surface from total depth or cemented from the cement basket (placed 50 feet below the base of the fresh water) to surface.

C) For wells in which the total depth is less than 500 feet below the base of the fresh water, no surface casing or cement basket is required, but the production casing shall be cemented from total depth to surface.

4) For wells located over a coal mined out area or a gas storage field:

A) at least 100 feet of surface casing and cement shall be set before drilling to the depth of the mined out area, into the mined out area or to the depth of the gas storage zone; and

B) a cement basket shall be set 50 feet below the base of the fresh water and the production casing shall be cemented from the basket to the surface or, if required under Section 240.1360, a mine string shall be set in accordance with Section 240.1360(b).

c) Production Casing
Production casing shall be set and cemented in place by circulating cement behind the production casing from the setting depth of the casing to a minimum of 250 feet above the shallowest permitted injection interval. The casing shall be set no higher than 50 feet above the top of the uppermost permitted injection interval in an open hole completion.

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

Section 240.750 Operating Requirements for Class II UIC Wells

a) The wellhead shall be maintained in a leak-free condition.

b) Spills of injected fluids occurring at the well site~~well-site~~ due to a leaking wellhead shall be cleaned up in accordance with Subpart I.

c) Wells that~~which~~ are not equipped with tubing and packer shall be temporarily abandoned or plugged in accordance with Subpart K.

d) The injection pressure shall not exceed the maximum injection pressure established in accordance with Section 240.340(e)~~ of this Part~~, unless amended in accordance with Section 240.390(b)~~ of this Part~~.

e) No change shall be made in the permitted injection zones except in accordance with Section 240.390(a)~~ of this Part~~ or Section 240.395~~ of this Part~~.

f) No change shall be made in the permitted injection fluid except in accordance with Section 240.390(c).

g)~~f)~~ Within the Area of Review as defined in 62 Ill. Adm. Code 240.360, injection fluids shall be confined to the permitted injection zones. If the injection fluids are migrating into unpermitted zones, or into the freshwater zone or to the surface from the well in question or from other wells within the Area of Review, the permittee shall notify the Department~~,~~ and shut in the well until remedial action that prevents the fluid migration is completed.

h)~~g)~~ Mechanical integrity must be established in accordance with Sections 240.760 and 240.770.

i)~~h)~~ Only Class II fluids can be injected into a Class II well.

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

Section 240.760 Establishment of Internal Mechanical Integrity for Class II UIC Wells

a) For purposes of this Section, establishment of internal mechanical integrity includes proper placement of the packer in accordance with subsection (b) and successful completion of a pressure test in accordance with subsection (g). If the Department determines that the packer is not set in accordance with subsection (b) or (c), the permittee shall be required to remove the tubing and packer from the well and reset it in the presence of a Department representative in accordance with this Section.

b) Injection shall be through tubing and packer unless alternative construction methods are approved by the U.S. Environmental Protection Agency. The packer shall be placed no higher than 200 feet above the uppermost permitted perforations or the casing seat in an open hole~~hold~~ completion, provided the packer is within the cemented portion of the production casing such that there is at least 50 feet of cement above the packer, and further provided the packer is no less than 100 feet below the base of the fresh water. No perforations shall be left open above the packer unless they are isolated by a dual packer or concentric packer system. If a dual packer is used, the uppermost packer must satisfy the placement requirements of this subsection.

c) If the packer cannot be set in accordance with subsection (b) due to existing well construction, casing leaks within the cemented portion of the production casing, or an obstruction in the well, the permittee may request and the Department may specify an alternative packer setting depth provided the packer remains within the

cemented portion of the production casing. In determining an alternative packer setting depth the Department shall take into consideration the current construction of the well, the depth of the fresh water and the nature of the obstruction.

d) The permittee shall contact the District Office in which the well is located at least 24 hours prior to the initial setting or any resetting of the packer in a Class II UIC well to enable an inspector to be present when the packer is set. Setting of the packer must be reported on a form prescribed by the Department.

e) An internal mechanical integrity test shall be performed:

1) prior to initial injection into a newly permitted Class II UIC well;

2) prior to initial injection into a Class II UIC well after a change to a new, permitted injection zone;

3) prior to resuming injection into any Class II UIC well after any workover of the well involving the resetting or movement of a packer;

4) prior to initial injection into a Class II UIC well after the well has been reactivated from temporary abandonment status;

5) whenever the Department has reason to believe, based upon well records or field observation, and subject to the provisions of Sections 240.140, 240.150 and 240.180~~240.170 of this Part~~, that the Class II UIC well may be leaking or improperly constructed; and

6) at least once every 5 years measured from the date of the last successful test unless a temporary abandonment is approved in accordance with Section 240.1132.

f) All Class II UIC wells not subjected to an internal mechanical integrity pressure test as of September 1, 1990 were required to be tested by September 1, 1995, unless Temporary Abandonment~~Future Use~~ status was approved prior to July 14, 2000. During the first 4 years, each permittee shall conduct an internal mechanical integrity test each year commencing September 1 on at least 20% of the permittee's total Class II UIC wells of record as of September 1 as reported to each permittee by the Department. During the fifth year each permittee shall conduct an internal mechanical integrity test on all remaining untested Class II

UIC wells that were of record September 1, 1994 or were acquired during the year ending September 1, 1995. Class II UIC wells sold or acquired during the first 4 years shall not affect the total number of wells from which the 20% testing requirement is derived for that year. Wells tested during the year in which they are transferred shall count toward the 20% testing requirement of the permittee who conducted the test. Class II UIC wells temporarily abandoned, converted to production wells or plugged in accordance with the provisions of Subpart K during any year shall count toward the 20% testing requirement.

g) Pressure Test

The following pressure test shall be performed on Class II UIC wells to establish the internal mechanical integrity of the tubing, casing and packer of the well. The permittee shall contact the District Office in which the well is located at least 24 hours prior to conducting a pressure test to enable an inspector to be present when the test is done. The permittee shall report the test results on a form prescribed by the Department.

1) Pressure Test

The casing-tubing annulus above the packer shall be tested in~~under~~ the presence~~supervision~~ of a~~the~~ Department representative at a minimum pressure differential between the tubing and the annulus of 50 PSIG for a period of 30 minutes. In addition, the casing-tubing annulus starting test pressure shall not be less than 300 PSIG and may vary no more than 5 percent of the starting test pressure during the test. The well may be operating or shut in during the test.

2) Monitoring Test

For those wells that~~which~~ are structurally unable to withstand the pressure test specified in subsection (g)(1) because the packer would unseat, but not because the well is improperly constructed, the permittee may make application to perform a monitoring test in lieu of the pressure test on forms prescribed by the Department. An approved monitoring test will consist of pressuring the annulus to a specified pressure no less than 50 PSIG and monitoring the positive annular pressure over a specified period of time. In determining whether to approve a monitoring test, and in establishing the test parameters (i.e., positive annulus pressure, tubing injection pressure, injection rate, monitoring method and length and frequency of monitoring), the Department shall consider well construction including:

A) the volume of the casing-tubing annulus;

B) depth of packer;

C) pressure below the packer; and

D) type of tubing and packer.

h) Any Class II UIC well that~~which~~ fails an internal mechanical integrity test, or on which an internal mechanical integrity test has not been performed when required by subsections (e) and (f), shall be shut in until the well is plugged or until remedial work is commenced and completed and an internal mechanical integrity test is successfully completed. The necessary work shall be completed and an internal mechanical integrity test successfully completed within 90 days, or within any greater length of time established by the Department due to weather conditions.

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

Section 240.780 Reporting Requirements for Class II UIC Wells

a) Well Completion Reports

1) Contents
The Well Completion Report shall be completed on a form prescribed by the Department and shall contain:

A) the name and location of the well;

B) information on the construction of the well;

C) information on the injection zones and the type of completion treatment performed on each zone; and

D) injection rates, injection pressures and type of injection fluid~~pressures~~.

2) Newly drilled or converted wells

A Well Completion Report shall be submitted to the Department within 30 days after the conclusion of initial completion activities (i.e., setting of tubing and packer) or within 30 days after the expiration of the permit if the well was not drilled or converted.

3) Existing wells
A Well Completion Report shall be completed and submitted to the Department for each recompletion of any existing injection well. Recompletion includes injection into a zone not previously used for injection in the well. The Well Completion Report shall be submitted within 30 days after the completion of any such workover or recompletion activity.

b) Well Drilling Report

1) For all wells drilled or deepened, a Well Drilling Report shall be completed by the permittee on a form prescribed by the Department.

2) The Well Drilling Report shall be submitted to the State Geological Survey within 90 days after drilling ceases and shall contain:

A) the name and location of the well;

B) drilling information;

C) the geologic names and depths of the formations encountered in drilling the well;

D) the results of all drill stem tests; and

E) a copy of the drilling time or geolograph record if a geophysical log was not run, unless the well is drilled with air rotary tools.

3) Well Drilling Reports are not required for well conversions not entailing a deepening of the well.

c) Geophysical Logs
A copy of all open hole wire line or geophysical logs run on the well shall be submitted to the State Geological Survey within 90 days after drilling ceases but~~,~~

~~or~~, in the case of a conversion of an existing well, only if the well is deepened.

d) Drill Cuttings

1) Notification and Collection of Drill Cuttings
The Department shall notify the permittee when cuttings are required to be collected. Drill cuttings shall be collected for each run drilled in cable tool wells and each 10 feet of distance drilled in rotary or air drilled wells. The permittee shall obtain containers for the cuttings, and deliver the cuttings to the Illinois State Geological Survey in Champaign, Illinois. When cuttings are required, a Drilling Time log shall also be submitted.

2) When Drill Cuttings Required
Drill cuttings shall be submitted for each well when drill cuttings have not previously been submitted from any well within ½ mile of the newly permitted well. If the newly permitted well is drilled to a depth greater than any other well within ½ mile, drill cuttings shall be requested from the approximate previously submitted depth to the total depth in the newly permitted well.

e) Annual Well Status Report
The permittee of each Class II UIC well shall file an Annual Well Status Report on forms prescribed by the Department. The report shall be filed by May 1 of each year for the preceding calendar year for all wells which have not received Department approval for temporary abandonment or been plugged by the end of the reporting year, and shall include:

1) the name and location of the well;

2) the names of all injection intervals;

3) the setting depth of the packer; and

4) the average and maximum monthly injection rates and pressures.

f) Annual Enhanced Oil Recovery Project Report
The operator of an enhanced oil recovery project shall complete an annual project report on forms prescribed by the Department and submit the report to the State Geological Survey by May 1 of each year.

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

Section 240.795 Commercial Saltwater Disposal Well

a) Only Class II fluids, as defined in Section 240.10, shall be disposed of into a commercial saltwater disposal well~~Commercial Saltwater Disposal Well,~~ or stored at a commercial saltwater disposal facility.

b) All Class II fluids being stored at a commercial saltwater disposal well facility~~Commercial Saltwater Disposal Well Facility~~ shall be stored in either leak free steel or fiberglass tanks or concrete storage structures. All tanks and concrete storage structures shall be constructed and maintained in accordance with Sections~~Section~~ 240.810 and 240.850.

c) The permittee of the commercial saltwater disposal well~~Commercial Saltwater Disposal Well~~, or a permitted liquid oilfield waste transporter, shall be present when Class II fluids are being delivered to the facility.

d) All commercial saltwater disposal well~~Commercial Saltwater Disposal Well~~ Facilities shall be surrounded by a fence of at least ~~four (~~4~~)~~ feet in height above ground level and a gate with a lock to restrict access to the facility. The facility must be kept locked from 11:00 p.m. to 5:00 a.m.

e) Records

1) Accurate records shall be maintained by the permittee of the commercial saltwater disposal well~~Commercial Saltwater Disposal Well~~, or his or her authorized representative, of all Class II fluids delivered to the facility. These records shall include all of the following:

A~~1~~) the name of the permittee from which the fluid is delivered;

B~~2~~) the date of delivery;

C~~3~~) the number of barrels of fluid delivered;

D~~4~~) the name and location of the lease from which the fluids were produced; and

E~~5~~) the name and vehicle permit number of the liquid oilfield waste hauler~~Liquid Oilfield Waste Hauler~~ delivering the fluid.

2) These records shall be maintained at the facility or principal place of business for a minimum of ~~three (~~3~~)~~ years and shall be made available for inspection by a Department representative upon request.

f) Upon request by a representative of the Department, a sample of Class II fluid from the facility shall be analyzed by the permittee to determine fluid quality. The samples shall be analyzed for at least the following parameters: pH, Total Dissolved Solids, Chloride, and Specific Gravity using the applicable ASTM standards. If deemed necessary for the protection of the environment, the Department may request the samples be analyzed for additional constituents.

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

SUBPART H: LEASE OPERATING REQUIREMENTS

Section 240.810 Tanks, Tank Batteries and Containment Dikes

a) Tank Battery Registration

1) All new tank batteries constructed after July 1, 2001 shall be registered with the Department, when the tank battery is constructed, by the permittee of the wells on the lease where the tank battery is located. Registration shall be on a form prescribed by the Department.

2) All tank batteries existing on July 1, 2001 are required to be registered with the Department~~,~~ by the permittee of the wells on the lease where the tank battery is located.

3) All tank batteries shall be transferred, at the time of associated well transfers, on forms prescribed by the Department.

4) No fee will be charged for tank registration and tank battery transfer.

5) The tank battery registration number shall be displayed on the tank battery.

b) Tank and Tank Battery Requirements

1) All tanks and tank batteries containing produced fluids or equipped to receive produced fluids shall be surrounded by containment dikes.

2) Tanks shall not be buried.

3) All tanks shall be maintained in a leak-free condition.

4) All open top tanks shall be covered with bird netting or other system designed to keep birds and flying mammals from landing in the tank.

5) New tank batteries constructed after July 1, 2001 shall not be located:

A) within 200 feet of an existing occupied dwelling, unless the current owner of the structure has provided a written waiver consenting to the construction closer than 200 feet, in which case the tank battery shall be completely fenced to prevent unauthorized access; or

B) within 200 feet of a stream, body of water, or marshy land, unless the permittee can demonstrate to the Department that construction standards or topography will prevent accidental discharge into these features.

c) Containment Dike Construction

1) A containment dike shall have a capacity of at least 1½ times the largest tank it contains, and be bermed at the higher elevation of either:

A) at least 18 inches above the lowest~~average~~ ground surface surrounding the outside of the containment dike; or

B) at least 18 inches above the highest ground surface inside of the containment dike.

2) Containment dikes shall be constructed of native soil. In areas of sand, containment dikes shall be constructed of clay soil~~soils~~ and the bottom of the dike area shall be lined with at least 6 inches of clay soil.

3) Alternative Construction of Containment Dikes
Containment dikes may be constructed of formed corrugated galvanized steel sheeting and a synthetic flexible liner at least 30 mils in thickness that is manufactured specifically for this purpose. The containment dike structure shall be constructed in accordance with the manufacturer's specifications and must meet the following requirements:

A) The bottom of the corrugated steel enclosure shall be set into the soil to a depth of at least 6 inches below the ground surface.

B) The corrugated steel enclosure shall be secured to galvanized steel braces placed around the outside perimeter at intervals that will prevent sagging or collapse of the structure.

C) Adjoining sections of the liner must be sealed together to prevent leaks.

D) The liner shall be secured to the top of the entire perimeter of the steel enclosure.

E) The containment dike structure shall be approved by a Department representative prior to being placed into service. If the construction is not approved by the Department, any deficiencies shall be remedied by the permittee and approved by the Department prior to the structure being placed into service.

F) The containment dike structure shall be maintained in a leak-free condition. If the Department has reason to believe the liner has a leak, the permittee shall immediately cease use of the enclosed tank battery until the liner has been repaired to a leak-free condition and has been inspected and approved for future use by the Department.

G) The containment dike structure shall meet all other requirements of subsections (c), (d) and (e).

4)~~3)~~ Containment dikes shall not have any breach or other uncontrolled conduit that penetrates the dike and allows the discharge of produced water, liquid

oilfield wastes or stormwater.

5)~~4)~~ Discharge of produced fluids, stormwater or other liquid oilfield wastes is prohibited, unless the permittee obtains an NPDES permit from the Illinois Environmental Protection Agency (IEPA).

d) Containment Dike Maintenance

1) The area within the dike shall remain free of liquid oilfield waste, general oilfield waste, equipment debris, stormwater runoff and excessive vegetation.

2) Any spill or discharge of produced fluids or other liquid oilfield wastes occurring within a containment dike shall be remediated in place in accordance with Section 240.891(a).

3) Any spill escaping from a containment dike shall be cleaned up in accordance with Sections 240.890 and 240.895~~ of this Part~~.

e) Tank and Containment Dike Restoration

1) Remove all tanks and aboveground piping and flowlines coming into tank battery.

2) Level and grade soil containment dikes.

3) Remove from site all non-soil constructed containment dikes.

4) Remediate all oil contaminated soil at tank site in accordance with Section 240.891(a).

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

Section 240.870 Leaking Unpermitted Drill Hole

a) When~~Where~~ any fluids are potentially leaking into the fresh water as determined by geologic and field investigation or are leaking onto the surface, through an unpermitted drill hole, the unpermitted drill hole shall be plugged by the current permittee of the lease where the unpermitted drill hole is located~~ if such permittee~~

~~is operating an injection well or has a permitted Class II well within the lease unit, or contiguous group of leases operated by the same permittee~~. Pending plugging of the well, all injection wells within a ¼ mile radius of the leaking drill hole shall be shut in~~shut-in~~ until the leaking drill hole is plugged. The leaking or previously leaking drill hole shall be plugged regardless of well status at the time of plugging.

b) Within 24 hours after notification by the Department of the leaking drill hole, the current permittee of the lease shall take all necessary actions required to contain the leaking drill hole fluids to prevent any further migration and environmental damage until the drill hole is properly plugged and restored. These actions may include, but are not limited to, the digging of containment pits and/or building containment dikes to collect and contain the leaking fluids, hauling and disposing of the collected fluids, and the use of absorbent materials to pick up leaking fluids. All collected and contained fluids shall be properly disposed of in a permitted Class II injection well. All used absorbent materials shall be disposed of in accordance with Section 240.891(b).

c) If the current permittee does not take the required actions to contain the leaking fluids within 24 hours after notification by the Department, or within the time frame of any extensions granted by the Department because of extenuating circumstances such as weather conditions, the permittee shall not operate any wells on the lease where the leaking drill hole is located until all required actions have been taken and may be issued a Notice of Violation and assessed a civil penalty of up to $2,000 in accordance with Section 240.160(c)(3)(B) and (C).

d) Within 90 days after notification by the Department of the leaking drill hole, or within the time frame of any extensions granted by the Department because of extenuating circumstances, including but not limited to weather conditions, the non-availability of plugging equipment, or downhole construction or conditions, the current permittee of the lease shall properly plug and restore the leaking drill hole in the presence of a Department well inspector.

e) If the current permittee does not plug the leaking drill hole within 90 days after notification by the Department, or within the time frame of any extensions granted by the Department, the current permittee shall not operate any wells on the lease where the leaking drill hole is located until the leaking drill hole has been properly plugged in the presence of a Department well inspector.

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

Section 240.875 Leaking Previously Plugged Well

AGENCY NOTE: For purposes of subsections (b) and (d), "permittee" means the last permittee of record for the well when the well was last plugged if that permittee undertakes the actions required by this Section, or means the current permittee of the lease where the leaking well is located if the last permittee does not undertake the required actions.

a) When~~Where~~ any fluids are potentially leaking into the freshwater zones or to the surface as determined by geologic and field investigation~~,~~ through a well plugged under the supervision of the Department, the Department ~~well~~ shall notify~~be replugged by~~ the last permittee of record for the well~~lease on which the leaking well was located~~ when the well was last plugged. The last permittee shall then undertake the necessary actions to comply with the provisions of this Section. If the last permittee is no longer in existence, ~~or~~ cannot be located, does not take the necessary actions, or does not diligently pursue the necessary actions, ~~the well shall be plugged or replugged by~~ the current permittee of the lease where the well is located shall take the necessary actions. The current permittee, if required to undertake any containment or plugging operations pursuant to this Section, shall have a right of action against the last permittee of record for the well when the well was last plugged for the reasonable cost and expense incurred in plugging, replugging, repairing or restoring the well, and shall have a lien enforceable upon the interest of the obligated persons in accordance with Section 19.5 of the Act. Pending plugging of the well, all injection wells within a ¼ mile radius of the leaking well shall be shut in~~shut-in~~ until the leaking well is plugged. The leaking or previously leaking well shall be plugged regardless of well status at the time of plugging.

b) Within 24 hours after notification by the Department of the leaking well, the permittee shall take all necessary actions required to contain the leaking well fluids to prevent any further migration and environmental damage until the well is properly plugged and restored. These actions may include, but are not limited to, the digging of containment pits and/or building containment dikes to collect and contain the leaking fluids, hauling and disposing of the collected fluids, and use of absorbent materials to pick up leaking fluids. All collected and contained fluids shall be properly disposed of in a permitted Class II injection well. All used absorbent materials shall be disposed of in accordance with Section 240.891(b).

c) If the current permittee of the lease is required to undertake any containment actions and does not take the required actions to contain the leaking fluids within 24 hours after notification by the Department, or within the time frame of any extensions granted by the Department because of extenuating circumstances such as weather conditions, the current permittee shall not operate any wells on the lease where the leaking well is located until all required actions have been taken and may be issued a Notice of Violation and assessed a civil penalty in accordance with Section 240.160(c).

d) Within 90 days after notification by the Department of the leaking well, or within the time frame of any extensions granted by the Department because of extenuating circumstances, including but not limited to weather conditions or the non-availability of plugging equipment or downhole construction or conditions, the permittee shall properly plug and restore the leaking well in the presence of a Department well inspector.

e) If the current permittee is required to undertake any plugging operations and does not plug the leaking well within 90 days after notification by the Department, or within the time frame of any extensions granted by the Department, the current permittee shall not operate any wells on the lease where the leaking well is located until the leaking well has been properly plugged and restored in the presence of a Department well inspector.

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

SUBPART I: LIQUID OILFIELD WASTE ~~AND SPILL RELATED WASTE~~ HANDLING AND DISPOSAL

Section 240.920 Issuance of Liquid Oilfield Waste Transportation System and Vehicle Permits

a) If the applicant satisfies requirements of this Subpart, the Department shall issue a permit to operate a liquid oilfield waste transportation system that~~which~~ shall be kept in the office of the permittee.

b) If the applicant satisfies requirements of this Subpart, the Department shall issue a vehicle permit~~,~~ and permit sticker~~,~~ for each tank. The permit shall be kept in the business office of the liquid oilfield waste transportation system permittee. The sticker shall be affixed to the back of the tank and kept visible.

c) No permit under this Subpart shall be issued to an applicant not in compliance with Section 240.250(b)~~where a final administrative order of the Department is outstanding against the applicant or against a person or permittee who is an officer, director, partner or owner of more than a 5% interest of the applicant~~.

d) Permits to operate a liquid oilfield waste transportation system shall be valid for as long as the permittee maintains the bond required under Subpart O~~ of this Part~~ and otherwise complies with the provisions of this Subpart.

e) Vehicle (tank) permits shall be valid for ~~two (~~2~~)~~ years from the date of issuance and shall be renewed by making application to the Department, accompanied by the required fee, at least 30 days prior to expiration of the vehicle permit.

f) Liquid oilfield waste transportation system and vehicle permits are not transferable.

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

Section 240.945 Lease Road Oiling

a) Lease road oiling shall not be allowed without receiving a permit from the Department.

b) The permittee shall apply for and receive a lease road oiling permit for each lease or unit from the Department on a form prescribed by the Department prior to oiling any lease road.

c) Application for a lease road oiling permit shall include:

1) the location of the lease or unit;

2) the permittee's name and address;

3) the method to be used for application of the bottom sediments;

4) a map showing the lease roads to be oiled and the location of any surface drainage features on or immediately adjacent to the lease or unit; and

5) written consent from the current surface owner or owners allowing the crude oil bottom sediment application.

d) Upon approval, crude oil bottom sediment shall be applied to lease roads in such a fashion as to avoid run-off during application onto immediately adjacent land areas. Immediately following completion of the application, all liquids shall be incorporated or otherwise absorbed into the soil with no visible freestanding oil.

e) No lease road shall be oiled more than twice yearly.

f) Lease road oiling shall not be conducted when the ground is frozen or during precipitation events and is prohibited in areas subject to frequent flooding.

g) Crude oil bottom sediments used for lease road oiling shall not have a produced water content of greater than 10% free water by volume.

h) Lease road oiling permits are not transferable and are required for each lease or unit. The permit shall be valid for as long as the lease or unit is actively operating~~active~~ under the current permittee. The permit shall become invalid upon a change of ~~or~~ the surface owner or if the surface owner withdraws consent to apply crude oil bottom sediment. A withdrawal of consent shall be made in writing to the Department~~named on the permit does not change~~.

i) Lease road oiling material applied without a permit shall be removed from the road and properly disposed of.

j) Lease road oiling permits are subject to revocation in accordance with Section 240.251.

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

SUBPART J: VACUUM

Section 240.1040 Notice and Hearing

a) On or before the date of filing a Vacuum Permit application with the Department, the applicant shall notify, by certified mail,~~Certified Mail -~~ return receipt requested, all permittees whose wells or leases are within a ¼ mile radius of the well. The applicant shall post a general notice, by publication in a newspaper of

general circulation in the county where the well is located~~other Permittees operating oil or gas production wells within a 1/4 mile radius of the well where the use of vacuum is proposed~~.

b) The notice~~Notice~~ shall contain:

1) Name and depths of the formations on which vacuum will be applied;

2) the exact location of the well or wells to be affected by the use of such vacuum;

3) the address and telephone number of the Oil and Gas Division of the Department; and

4) a statement that the public has ~~fifteen (~~15~~)~~ days, from the date postmarked on the notice~~Notice~~, to comment on the application and that comments must be made in writing to the Department.

c) Objections
If a written objection to the application is filed within ~~fifteen (~~15~~)~~ days after the date postmarked on the notice~~Notice~~, the Department shall consider the objection in determining whether the permit should be issued. If the objection raises a factual or legal question regarding the sufficiency of the application in meeting the requirements for a permit or presents data indicating correlative rights may not be protected, the permit objection shall be set for a public hearing. A hearing shall be set only after all other requirements for issuance of the permit have been fulfilled.

d) Public Hearing

1) Any public hearing held pursuant to subsection (c)~~ above~~ shall be conducted by the Department solely for the purpose of resolving the factual, legal or correlative rights questions raised by the objection;

2) Notice~~notice~~ of the hearing shall be sent by the Department to the applicant and to the objector by mailing the~~such~~ notice by United States mail, postage prepaid, addressed to their last known home address;

3) A~~a~~ certified court reporter shall record the hearing at the Department's

expense;

4) A~~a~~ Hearing Officer designated by the Director~~Department~~ shall conduct the hearing. The Hearing Officer shall allow all parties to the hearing to present evidence in any form, including by oral testimony or documentary evidence, unless the Hearing Officer determined the~~such~~ evidence is irrelevant, immaterial, unduly repetitious, or of such nature that reasonably prudent members of the public or people knowledgeable in the oil and gas field would not rely upon it in the conduct of their affairs;

5) The~~the~~ Hearing Officer shall have the power to continue the hearing or to leave the record open for a certain period of time in order to obtain or receive further relevant evidence;

6) After~~after~~ receipt of the transcript of the hearing, the Department shall render a decision on the objection.

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

Section 240.1050 Issuance of Permit

a) If the applicant satisfies the requirements of the Act and this Part, the Department shall issue a permit ~~fifteen (~~15~~)~~ days after the postmark date on the notice~~Notice~~ sent to adjacent permittees~~Permittees~~ in accordance with Section 240.1040(a)~~ of this Subpart~~.

b) A permit shall not be issued to an applicant not in compliance with Section 240.250(b)~~where a final administrative order of the Department is outstanding against the applicant or against a person or Permittee who is an officer, director, partner or owner of more than a 5% interest of the applicant~~.

c) Permits are valid for the life of the well and are automatically transferred when the well is transferred in accordance with Subpart N.

d) A permit shall not be issued if, after notice and hearing, the Department determines the issuing of a vacuum permit will not protect the correlative rights of adjacent permittees~~Permittees~~.

e) If through field investigation by the Department, or upon written request by a

permittee~~Permittee~~ within ¼ mile of an existing well with a vacuum permit, the Department determines correlative rights of adjacent permittee~~Permittee~~ are not protected, the existing permit may be revoked after hearing and notice in accordance with Section 240.1030(d)~~ of this Subpart~~.

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

SUBPART K: PLUGGING OF WELLS

Section 240.1110 Definitions

For the purpose of this Subpart, the term:

"Cased Well" means a well in which production casing has been set.

"Cement" means class A neat cement with a minimum weight of 14.5 pounds per gallon, unless the cement contains additives that~~which~~ improve the ability of the cement to provide necessary protection and that~~which~~ maintains a minimum compressive strength of 500 PSI after 72 hours. If fly ash is used as an additive, the maximum amount of fly ash allowable is 35% by weight of the total cement mixture. Only Class C and Class F fly ash, as defined in ASTM C618, is allowable. The generator of the fly ash must certify in writing to the cement blending company that the fly ash meets those specifications. A copy of that certification is required to be provided to the Department upon request. Also, 5% to 6% by weight of cement grade bentonite gel is required to be used in the cement and fly ash mixture. The gel is required to be cement grade and may be either wet or dry blended with the cement and fly ash mixture. The cement and fly ash dry mixture is required to be thoroughly and uniformly blended with either a mechanical or pneumatic cement blender prior to the addition of any water. An authorized representative of the cement blending company is required to certify in writing that the dry mixture contains a maximum of 35% fly ash and has been properly blended. The well cement contractor is required to provide the certification to the Department's representative prior to use of the mixture unless otherwise directed by the Department. If the Department determines or has reason to believe, by testing or visual inspection, that the mixture has not been properly blended, the mixture shall not be used until properly blended and has been approved for use by a Department representative.

"Circulation Method" means placement of cement used in plugging a well by

circulating cement through a pipe set at a specified depth in the well.

"Dump Bailer Method" means placement of cement used in plugging a well by using a dump bailer on a wire line.

"Inactive Well" means a well that has ceased operation for a period of up to 24 consecutive months.

"Mud" means a drilling mud with a minimum Marsh funnel~~Funnel~~ viscosity of 45 seconds. Mud may contain water (fresh or brine), bentonite~~Bentonite~~, attapulgite~~Attapulgite~~ or other additives if they do not reduce the viscosity below 45 seconds.

"Plugging Fluid Waste" means plugging fluids, including cement, that are generated from the well during plugging activities.

"Producing Lease" or "Producing Unit" means a lease or waterflood/enhanced oil recovery unit that~~which~~ has produced and sold oil within the preceding 12 month period.

"Uncased Well" means a well in which production casing has not been set.

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

Section 240.1130 Plugging and Temporary Abandonment of Inactive Production Wells

a) Any idle production well on an active lease or unit that has not had commercial production during the last~~been in operation for~~ 24 consecutive months shall be deemed abandoned, in accordance with Section 240.1600(c)~~ of this Part~~, and plugged in accordance with Section 240.1140~~ of this Part~~ unless the well has been approved for Temporary Abandonment~~Future Use~~ status in accordance with subsection (c).

b) Any idle production well on an inactive lease or unit, if~~where~~ the lease or unit has not had commercial production during the last~~been in operation for~~ 24 consecutive months, shall be deemed abandoned and not eligible for Temporary Abandonment~~Future Use~~ status, pending a hearing held in accordance with Section 240.1610.

c) The permittee shall apply for Temporary Abandonment~~Future Use~~ status by making written application on forms provided by the Department. The Department may place the well on Temporary Abandonment~~Future Use~~ status and issue a Temporary Abandonment~~Future Use~~ permit, if the well meets the following conditions (which shall be continuing requirements):

1) The well:

A) shall have proper bond in effect in accordance with the Act, if applicable; and

B) cannot be the subject of any final administrative decision for abandonment.

2) The well shall have an intact leak free wellhead, or be capped with a valve, and configured to monitor casing or annular~~annual~~ pressure.

3) If the well is a permitted gas well and the well has a sustained gas pressure at the surface, the requirements of subsections (c)(5) and (6) do not apply.

4) The wellhead shall be above ground level.

5) The fluid level is no higher than 100 feet below the base of the fresh water as evidenced by an annual fluid level test conducted by the permittee, after notice to and under the supervision of the Department, using acoustical or wire line measuring methods. If the Department authorizes the permittee to conduct an annual fluid level test without the presence of a well inspector, the permittee shall report the annual fluid level test on a form prescribed by the Department. The fluid level test shall be conducted annually unless the permittee elects to satisfy the requirements of subsection (c)(6)(A) or (B).

6) If the fluid level, as tested, is higher than 100 feet below the base of the fresh water, the permittee, in~~under~~ the presence~~supervision~~ of a~~the~~ Department representative, shall:

A) set a cast iron plug within 200 feet above the perforated or open hole interval in the cemented portion of the production casing, but no less than 100 feet below the base of the fresh water, remove any

fluid to a level at least 100 feet below the base of the freshwater zone, and monitor the fluid level annually in accordance with subsection (c)(5); or

B) set a cast iron plug within 200 feet above the perforated or open hole interval in the cemented portion of the production casing, but no less than 100 feet below the base of the fresh water, and pressure test the casing by maintaining a pressure of 300 PSIG (which may vary no more than 5%) for a period of 30 minutes.

d) If a Temporary Abandonment~~Future Use~~ request is denied, the permittee shall, within 90 days, plug the well or correct the deficiency that caused the denial and secure an approved Temporary Abandonment~~Future Use~~ permit.

e) Temporary Abandonment~~Future Use~~ status for production wells shall not be terminated until the well has been inspected by a Division well inspector~~is active for a period of one year~~ and a Temporary Abandonment~~Future Use~~ termination request is approved by the Department. Temporary Abandonment~~Future Use~~ termination requests shall be on a form prescribed by the Department~~ and shall be accompanied by evidence of the sale of oil or natural gas during the preceding 12 month period~~.

f) Temporary Abandonment~~Future Use~~ status will be granted every 2 years~~annually~~ provided the wells remain in compliance with subsection (c)~~ of this Section~~ and the lease or unit on which the wells are located remains active.

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

Section 240.1132 Plugging and Temporary Abandonment of Inactive Class II UIC Wells

a) Any Class II UIC well located on an active lease, equipped with tubing and packer and that~~which~~ has previously established mechanical integrity in accordance with Section 240.760~~,~~ shall maintain mechanical integrity in accordance with Section 240.760~~ of this Part~~ or shall be plugged in accordance with Section 240.1140~~ of this Part~~ unless the well has been approved for Temporary Abandonment~~Future Use~~ status in accordance with subsection (e).

b) Any inactive Class II UIC well located on an inactive lease, when the lease has not been in operation for 24 consecutive months, shall be deemed abandoned and

not eligible for Temporary Abandonment~~Future Use~~ status pending a hearing held in accordance with Section 240.1610.

c) Any inactive Class II UIC well located on an active lease, without tubing and packer, and that~~which~~ has previously established mechanical integrity in accordance with Section 240.760~~,~~ shall be plugged in accordance with Section 240.1140~~ of this Part~~ unless the well is approved for Temporary Abandonment~~Future Use~~ status in accordance with subsection (e).

d) Any inactive Class II UIC well located on an active lease, equipped with tubing and packer or without tubing and packer, and that has not previously established mechanical integrity in accordance with Section 240.760~~,~~ shall be plugged in accordance with Section 240.1140 unless the well is approved for Temporary Abandonment~~Future Use~~ status in accordance with subsections (e)(1), (2) and (3) and establishes mechanical integrity as follows:

1) a cast iron plug shall be set within 200 feet above the perforated or open hole interval in the cemented portion of the production casing, but no less than 100 feet below the base of the fresh water, and the casing shall be pressure tested by maintaining a pressure of 300 PSIG (which may vary no more than 5%) for a period of 30 minutes; or

2) install tubing and a packer and conduct a passing internal mechanical integrity test in accordance with Section 240.760~~ of this Part~~.

e) The permittee shall apply for Temporary Abandonment~~Future Use~~ status by making written application on forms provided by the Department. The Department shall place the well on Temporary Abandonment~~Future Use~~ status and issue a Temporary Abandonment~~Future Use~~ permit if the well meets the following conditions (which shall be continuing requirements):

1) The well shall:

A) have proper bond in effect in accordance with the Act if applicable; and

B) not be the subject of any final administrative decision for abandonment.

2) The well shall have an intact, leak free wellhead, or be capped with a valve, be configured to monitor casing or annular pressure, and have injection lines disconnected.

3) The wellhead shall be above ground level.

4) The fluid level is no higher than 100 feet below the base of the fresh water and evidenced by a~~an annual~~ fluid level test conducted every 2 years by the permittee, after notice to and in the presence of a~~under the supervision of the~~ Department representative, using acoustical or wire line measuring methods. If the Department authorizes the permittee to conduct a~~an annual~~ fluid level test without the presence of a well inspector, the permittee shall report the ~~annual~~ fluid level test on a form prescribed by the Department. The fluid level test shall be conducted every 2 years~~annually~~.

5) If the fluid level, as tested, is higher than 100 feet below the base of the fresh water, the permittee, in the presence of a~~under supervision of the~~ Department representative, shall:

A) set a cast iron plug within 200 feet above the perforated or open hole interval in the cemented portion of the production casing, but no less than 100 feet below the base of the fresh water, remove any fluid to a level at least 100 feet below the base of the freshwater zone, and monitor the fluid level every 2 years~~annually~~; or

B) set a cast iron plug within 200 feet above the perforated or open hole interval in the cemented portion of the production casing, but no less than 100 feet below the base of the fresh water, and pressure test the casing by maintaining a pressure of 300 PSIG (which may vary no more than 5%) for a period of 30 minutes.

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

Section 240.1140 General Plugging Procedures and Requirements

a) Notification of District Office
The permittee shall contact the District Office at least ~~twenty-four (~~24~~)~~ hours prior to plugging a cased well~~,~~ or as soon as possible after determination has been made

to plug an uncased well.

b) Well Drilling and Construction Data
For all cased wells, the permittee shall have a well log and the well completion report at the site for review by the well inspector at the scheduled time of plugging. If the permittee cannot locate well logs or the well completion report, the permittee shall make available at the site copies of any logs and well construction records maintained by the Illinois State Geological Survey. For all uncased wells, all available drilling and well construction information shall be at the well site for review by the well inspector at the time of plugging.

c) Foreign Material Prohibited

1) Except for an unavoidable loss of drilling or logging tools or producing~~procuring~~ equipment, placing or lodging any material or substance in an unplugged well to either fill or bridge the hole for the purpose of avoiding proper plugging procedures is prohibited.

2) Foreign materials that~~which~~ have been placed in the hole shall be removed before plugging operations are commenced.

d) Plugging A Bridged Well
When a well becomes plugged or obstructed because of the loss of drilling or logging tools or producing equipment that~~, which~~ would be impractical to remove, the Department may vary the plugging requirements of this Section and specify alternative plugging requirements. In determining whether to approve and in selecting alternative plugging requirements, the Department shall consider the time and cost of removing lost tools or equipment, the potential for damage to fresh water and coal seams and the depth of the lost tools or equipment in relation to the depth of freshwater zones and coal seams, and well construction characteristics.

e) Methane Monitoring Requirements During Plugging Operations
Plugging operations for all wells shall be continuously monitored by a methane gas detector that is properly calibrated and in proper working order to ensure the methane concentration in the work area remains less than 3%. If the methane concentration in the work area reaches 3%, plugging operations shall cease immediately and shall not resume until corrective actions have been taken and the methane concentration in the work area has been reduced to less than 3%.

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

Section 240.1150 Specific Plugging Procedures

a) Circulation of Cement
Cement may be circulated from total depth or plugged back total depth to surface in lieu of the placing of plugs specified in subsection (b), (c) and (d)~~ below~~, provided both the workable coal and the freshwater zones have been protected by cement in direct contact with both strata.

b) Producing Interval Plug

1) Cased Wells

A) Circulation Method
When using the circulation method~~Circulation Method~~, a cement plug shall be placed opposite each perforated interval, and each interval that is exposed after removal of production casing that~~which~~ has produced oil or gas or into which injection is occurring within ¼ mile radius of the well, and extend ~~fifty (~~50~~)~~ feet below the deepest perforated interval, total depth, or plugged back total depth, and extend to ~~fifty (~~50~~)~~ feet above the shallowest perforated interval or ~~fifty (~~50~~)~~ feet above the open hole interval.

B) Dump Bailer Method
When using the dump bailer method~~Dump Bailer Method~~, a cast iron plug shall be set immediately above each perforated interval, and each interval that is exposed after removal of production casing that~~which~~ has produced oil or gas or into which injection is occurring within ¼ mile radius of the well, and a minimum of ~~ten (~~10~~)~~ feet of cement shall be placed on top of each cast iron plug. As an alternative to setting a cast iron plug, a standard cement pump down plug can be placed in the well and a minimum of ~~fifty (~~50~~)~~ feet of cement placed on top of each plug. To insure the cement plug has been properly set, the cement plug shall be tagged after a minimum of ~~two (~~2~~)~~ hours. The use of the cement pump down plug is prohibited if the well is flowing fluid to the surface.

2) Uncased Wells
Wells shall be filled with mud before commencement of plugging operations and a cement plug shall be placed opposite any exposed interval that~~which~~ has produced oil or gas or into which injection is occurring within ¼ mile radius of the well. The cement plug shall extend from 50 feet below the exposed zone to ~~fifty (~~50~~)~~ feet above the zone. The cement plug may be placed using either the circulation or dump bailer method.

3) All wells shall be left open overnight or for a minimum of 12 hours after the surface plug has been set to allow for the verification of the top of the cement. If, after the required waiting period, the top of the cement has fallen more than 4 feet below the ground surface, additional cement shall be placed in the well to bring the top of the cement up to within approximately 4 feet of the ground surface.

c) Coal Plugs~~plugs~~ ~~–~~
A plug shall be placed across each workable coal seam in accordance with Section 240.1151~~ of this Part~~.

d) Surface Plug~~–~~
Surface casing shall not be pulled from any well and a cement plug shall be placed across the freshwater zones using either the circulation or dump bailer method as follows:

1) Wells with Surface Casing~~surface casing~~

A) If surface casing extends ~~fifty (~~50~~)~~ feet below the freshwater zones with cement circulated to the surface, a cement plug shall be placed in direct physical contact with the strata and surface casing from ~~twenty five (~~25~~)~~ feet below the setting depth of the surface casing and extend to the surface. If production casing is left in the hole and there is no cement behind the production casing, cement shall be placed inside and outside of the production casing from ~~twenty five (~~25~~)~~ feet below the setting depth of the surface casing and extend to the surface. Cement shall be placed outside of the production casing by perforating the casing 25 feet below the setting depth of the surface casing and squeezing cement behind the production casing to the surface, or by inserting tubing down

the backside of the production casing to a depth of 25 feet below the setting depth of the surface casing and circulating cement to the surface.

B) If surface casing does not extend ~~fifty (~~50~~)~~ feet below the base of the freshwater zone, a continuous cement plug shall be placed in direct physical contact with strata from a depth of ~~fifty (~~50~~)~~ feet below the base of the freshwater zone to the surface. If production casing is left in the hole, and there is no cement behind the production casing, cement shall be placed inside and outside of the production casing from ~~fifty (~~50~~)~~ feet below the base of the freshwater zone and extend to the surface. Cement shall be placed outside of the production casing by perforating the casing 50 feet below the base of the freshwater zone and squeezing cement behind the production casing to the surface, or by inserting tubing down the backside of the production casing to a depth of 50 feet below the base of the freshwater zone and circulating cement to the surface.

2) Wells Without~~without~~ a Surface Casing~~surface casing~~ –
A cement plug shall be placed from a depth of ~~fifty (~~50~~)~~ feet below the base of the freshwater zones to the surface.

e) Plugging Requirements for Wells with Uncemented Casings.
When the Department determines that the plugging procedures set forth in this Section cannot be followed due to well construction and the lack of cement behind the casings, the Department will authorize the following alternative plugging procedures:

1) The~~the~~ production casings shall be removed from a point at least ~~fifty (~~50~~)~~ feet below the base of the fresh water, the hole filled with mud, and a surface plug~~Surface Plug~~ set in accordance with subsection (d)~~ above~~;

2) If~~if~~ the production casings cannot be removed to a depth at least ~~fifty (~~50~~)~~ feet below the base of the fresh water, all casings contained within the outermost casing shall be removed to a depth at least ~~fifty (~~50~~)~~ feet below the base of the fresh water, and the outermost casing in direct contact with the borehole wall shall be perforated, ripped or parted at an interval 50 feet below the base of the fresh water to permit cement to infiltrate the annulus

between the casing and the borehole wall. The hole shall be filled with mud, the perforated, ripped or parted interval shall be squeezed with cement, and a surface plug~~Surface Plug~~ must be set in accordance with subsection (d)~~ above~~.

3) If~~if~~ the well cannot retain mud because the producing interval takes fluid, the producing interval shall be covered with sand, crushed rock or other similar material to provide an anchor on which to place the column of mud, and the hole shall be filled with mud and a surface plug set in accordance with subsection~~subsections~~ (e)(1) or (2)~~ above~~.

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

SUBPART L: REQUIREMENTS FOR TEST WELLS

Section 240.1240 Issuance of Permit

a) If the applicant satisfies the requirements of the Act and this Part~~and Rules~~, the Department shall issue a permit.

b) A permit shall not be issued to an applicant not in compliance with Section 240.250(b) ~~if a final administrative order of the Department is outstanding against the applicant or against a person or permittee who is an officer, director, partner or owner of more than a 5% interest of the applicant~~.

c) Mineral or coal groundwater monitoring well permits shall expire ~~one (~~1~~)~~ year from the date of issuance unless acted upon by commencement of drilling.

d) Coal, mineral and structure test hole permits expire ~~one (~~1~~)~~ year from date of issuance.

e) Mineral or coal groundwater monitoring well permits are not transferable prior to the drilling of the well or test hole.

f) Coal, mineral and structure test hole permits are not transferable.

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

SUBPART M: PROTECTION OF WORKABLE COAL BEDS

Section 240.1305 Permit Requirements in Mine Areas

a) Requirements for Areas of Mining Activity~~For Well Penetrating Mine~~
When the location of a well to be drilled for oil or gas, or any purpose in connection with that drilling,~~therewith~~ will penetrate an active mine or through the mined out and inaccessible or sealed off area of an active mine, or will~~shall~~ penetrate those areas~~the same~~ in a temporarily abandoned mine, or the undeveloped limits of any such mine property, as included in the shadow areas set forth in an approved mining permit, a drilling permit shall not be issued by the Mining Board until an agreement shall be reached between the owner of the proposed well and the mine owner, or in the event of failure to reach ~~such~~ an agreement a permit will not be issued until a hearing is held as ~~hereinafter~~ provided in this Section.

1) Agreement with Mine Owner
A copy of the~~such~~ agreement, jointly signed by the applicant for a permit and the mine owner, agreeing to the drilling of the well and the proposed location~~,~~ shall be filed with the application and accompanied by a map or sketch showing the well location, its relation to shafts and mine buildings~~,~~ and to each coal seam ~~or seams~~ and mine workings underlying applicant's lease. As an alternative, ~~or~~ a statement from the mine owner that the location is over the undeveloped limits of the mine shall be filed.

2) Requirements~~Requirement~~ in Absence of Agreement

A) In the absence of the~~such an~~ agreement or statement outlined in subsection (a)(1), the applicant shall file with the application for permit a map or sketch showing the well location, its relation to shafts and mine buildings, if any, and~~as well as~~ its relation to the mine workings underlying applicant's lease, with a sworn statement that a true and exact copy of application and accompanying exhibits was mailed postage prepaid to the coal company or its authorized agent in Illinois, by United States registered mail.

B) If, within ~~ten (~~10~~)~~ days from the receipt of the application for permit by the Mining Board, no written objections are filed, the Mining Board shall issue or deny the permit.

C) Upon the filing of objections to the issuance of the permit, the Mining Board shall promptly set the matter for hearing and decisions.

b) Requirements for Areas with Presence of Workable Coal~~in Inactive Mining Areas~~
In inactive mining areas where the existence of workable coal is known ~~to be present~~ and the coal rights are owned by someone other than the lessor under an oil and gas lease~~ownership of such workable coal has been recorded in the county records~~, the applicant for a permit to drill a well for oil and gas or to drill any well in connection with the production of oil and gas shall notify the owner of the~~said~~ workable coal by registered mail, ~~with~~ return receipt requested. The notice shall show the exact location of the proposed test and the approximate depth of the formation to be tested. The Mining Board shall be furnished with a copy of the notice attached to the application for permit, with the return receipt from the owner of the workable coal or~~, in lieu thereof,~~ a sworn statement that the applicant has the return receipt in his or her possession, giving the names and addresses of the owners of the coal rights and date of delivery of the notice.

1) Notice to ~~Mine~~ Owner of the Workable Coal
No permit shall be issued to the applicant until ~~ten (~~10~~)~~ days have elapsed following the receipt of the registered notice by the owner of the workable coal.

2) Maps Available at Well Site
During the drilling of a well, ~~for which a permit has been issued,~~ the permittee shall keep at the well site for use of the Mining Board and its representatives an exact copy of the maps and sketches that~~which~~ accompanied his or her application for the~~such~~ permit.

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

Section 240.1360 Operational Requirements Over Active Mine

a) Mining Board to Determine Safety Factors

1) No well shall be drilled into any coal mine or mine workings in any active mine until the Mining Board representative~~Representative~~ is present and determines that the mine or mine workings are safe.

2) Until the Mining Board representative~~Representative~~ is satisfied that adequate protection has been provided so that no hazard exists, drilling operation shall be suspended. After any protective or corrective work, required by the Mining Board representative~~Representative~~, has been satisfactorily completed by the well owner, manager or his or her representative, drilling operations may be ordered resumed; but if, in the opinion of the Mining Board representative~~Representative~~ it is impossible to adequately protect the mine or mine workings, he or she shall order the permit revoked and the well plugged in the manner ~~hereinafter~~ provided in this Section.

b) Drilling Methods and Procedure

1) Notice
The permittee is required to notify the mine owner at least 24 hours prior to drilling to the depth of the mine.

2)~~1)~~ General
All wells drilled through an active coal mine or through an abandoned portion of an active mine shall:

A) be located, if possible, in order to pass through an adequate pillar;~~.~~

B) first have at least 100 feet of conductor pipe set and cemented with a blowout preventer attached prior to drilling to the depth of the mine. After the conductor pipe has been set and the blowout preventer has been installed, all further drilling shall be completed through the blowout preventer; and

C) during drilling operations, be continuously monitored by a methane gas detector that is properly calibrated and in proper working order to ensure the methane concentration in the work area remains less than 3%. If the methane concentration in the work area reaches 3%, drilling operations shall cease immediately and shall not resume until corrective actions have been taken and the methane concentration in the work area has been reduced to less than 3%.

3)~~2)~~ Mine Protective String

A) Whether drilled through a pillar or not, a mine string or casing of good quality shall be set to protect the mine. The mine string shall be treated with a heavy impervious coating of asphalt, plastic, or other acid-resisting material from ~~fifty (~~50~~)~~ feet above the mine roof to a point ~~fifty (~~50~~)~~ feet below the mine floor or base of coal seam.

B) The outside diameter of the mine string shall be at least ~~four (~~4~~)~~ inches smaller than the diameter of the well bore and equipped with centralizers or similar mechanical device above and below the coal seam. The mine string shall be set at an approximate depth of ~~fifty (~~50~~)~~ feet below the base of the coal seam and cemented from the casing seat to the surface.

C) If the mine string misses a pillar and is set through an open room of an active mine or the abandoned portion of an active mine, an umbrella, basket, or packer must be used on the mine string to set above the mine roof and the mine string shall be cemented from the casing seat to the mine floor and also cemented from the umbrella, basket, or packer set above the mine roof to the surface.

4)~~3)~~ Cementing Oil String

A) The outside diameter of the oil string shall be at least ~~three (~~3~~)~~ inches smaller than the inside diameter of the mine string when set through a pillar, and the outside diameter of the oil string shall be at least ~~four (~~4~~)~~ inches smaller than the mine string when set through an open room and equipped with centralizers, or similar mechanical devices, immediately above and below the coal seam. The centralizers shall be so spaced as to be within the mine string of casing.

B) The oil string shall be surrounded with cement from the casing shoe to the surface, or the oil string may be cemented using multiple-stage cementing tools, as ~~hereinafter~~ provided in subsection (b)(4)(C) and (D).

C) When the multiple-stage cementing method is used at least ~~one hundred (~~100~~)~~ sacks of cement shall be placed around the casing shoe and the multiple-stage cementing tool placed ~~one hundred (~~100~~)~~ feet below the floor of the mine and cemented from that point to the surface.

D) In areas where thief zones or high permeability horizons occur below the level of the mine, the Mining Board may require multiple-stage cementing tools to be used in the cementing of the oil string in order to assure protection for the mine.

5)~~4)~~ Temperature Survey Required
When drilling through mined out areas that~~which~~ are not accessible, and, if, in the opinion of the Mining Board representative~~Representative~~, it is necessary, a self-registering thermometer shall be lowered to the mined out level~~,~~ and, if the recorded temperature shows the possibility of fire at or near the position of the hole, the drilling permit shall be revoked and the hole plugged, as ~~herein~~ required in this Section.

c) Shooting Wells Over Active Mine or Worked Out Portions of Active Mines

1) Shot Less Than ~~Fifty (~~50~~)~~ Quarts
When any well is located over or penetrates an active mine or worked out portions of an active mine, before shooting the oil-bearing formation, the well owner or manager shall proceed as follows:

A) Notify the Mining Board or Mining Board representative~~Representative~~ at least ~~twenty-four (~~24~~)~~ hours in advance of the time the shot is to be fired.

B) Notify the mining company at least ~~twenty-four (~~24~~)~~ hours in advance of the time the shot is to be fired.

C) Tamp the shot with a minimum of ~~sixty (~~60~~)~~ feet of tamp, at least the top ~~thirty (~~30~~)~~ feet of which shall be of impervious material, being sure that the top of the tamp extends to a place in the hole opposite solid rock formation. Fill the hole to the top with fluid of consistent viscosity and specific gravity.

2) Shot of~~Exceeding Fifty (~~50~~)~~ Quarts or More
When the charge consists of~~exceeds fifty (~~50~~)~~ quarts or more of nitroglycerin:

A) Apply to the Mining Board for permission to shoot, indicating the size of charge to be used.

B) In the absence of written authority from the coal company of the specific shot, the Mining Board shall:

i) Immediately upon receipt of the application, notify the coal company, indicating the location of the well and the size of the charge to be used.

ii) If no objection is filed by the coal company within ~~twenty-four (~~24~~)~~ hours, the Mining Board shall give permission to fire the shot.

iii) If the coal company objects, the Mining Board shall, within ~~twenty-four (~~24~~)~~ hours after~~of~~ receipt of the~~said~~ objection, set the matter for hearing and determination in the county where the well is located.

d) Extend the tamp with impervious material ~~ten (~~10~~)~~ feet beyond the minimum tamp of ~~sixty (~~60~~)~~ feet for each additional ~~ten (~~10~~)~~ quarts of charge used, being sure that the top of the tamp extends to a place in the solid rock formation. Fill the hole to the top with fluid of consistent viscosity and specific gravity.

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

SUBPART N: ISSUANCE OR TRANSFER OF PERMIT TO OPERATE

Section 240.1460 Conditions for and Effect of Issuance or Transfer of Permit to Operate

a) No permit shall be issued to or transferred to a new permittee or proposed new permittee when~~where~~:

1) *the applicant has falsified or otherwise misstated any information on or relative to the permit application;*

2) *the applicant has failed to abate a violation of the Act specified in a final administrative decision of the Department;*

3) *an officer, director,* agent, power of attorney, *or partner* in the applicant*, or person with an interest in the applicant exceeding 5%*, was an officer, director, partner, or person with an interest exceeding 5%~~,~~ in another entity that *failed to abate a violation of the Act specified in a final administrative decision of the Department;*

4) *the applicant* was or *is an officer, director,* agent, power of attorney, *partner, or person with an interest exceeding 5%~~,~~ in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department* (Section 8a of the Act);

5) funds have been expended~~obligated~~ and remain outstanding from the Plugging and Restoration Fund to plug wells, under Subpart P of this Part, for which the applicant was a previous permittee, or the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5%~~,~~ in a permittee for which funds were expended~~obligated~~; or an officer, director, agent, power of attorney, or partner in the applicant, or person with an interest in the applicant exceeding 5%, was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee for which funds were expended~~obligated~~; or

6) the new permittee is delinquent in the payment of Annual Well Fees; or the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5%, in another permittee who is delinquent in payment of Annual Well Fees; or an officer, director, agent, power of attorney, or partner in the applicant, or person with an interest in the applicant exceeding 5%, was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee who is delinquent in payment of Annual Well Fees.

b) The entity or person to whom the permit is transferred or issued shall be called the permittee and shall be responsible for all regulatory requirements relative to the well.

c) When the requirements of this Subpart have been satisfied, and subject to subsections (d) and (e)~~ below~~, the Department shall render permit transfer decisions based upon the manner in which the new permittee or proposed new permittee came into possession of the wells sought to be transferred. Specifically:

1) The~~the~~ new permittee or proposed new permittee requesting the transfer is the mineral owner.~~:~~ If~~if~~ the new permittee or proposed new permittee owns the mineral rights to the tract of land on which production or injection wells subject to a prior lease are located and came into possession of the right to operate the~~such~~ wells by virtue of a voluntary release or involuntary termination of lease rights by court order, this new permittee shall become responsible for all regulatory requirements relative to:

A) only those production wells identified in the transfer request;

B) all wells in existence within the prior lease if the new permittee or proposed new permittee seeks to operate any of the injection wells located within this leasehold, convert any production well to an injection well or drill a new injection well; and

C) all pits, concrete storage structures, tank batteries and other surface production facilities in existence within the lease boundaries.

2) The~~the~~ new permittee or proposed new permittee requesting the transfer is a new base lessee.~~:~~ If~~if~~ the new permittee or proposed new permittee came into possession of the right to operate wells by virtue of a new base lease, the new permittee or proposed new permittee shall provide documentation indicating the termination of the original lease and shall become responsible for all regulatory requirements relative to only the wells identified within the new base lease document, except that:

A) if the new base lease conveys the right to produce from all formations, and the new base lessee or its assignee permits or operates any injection well located within the tract of land being leased, converts any production well to an injection well or drills a new injection well within this area, the new base lessee shall become responsible for all regulatory requirements relative to all wells, concrete storage structures, pits and tank batteries in

existence within that~~such~~ tract of land~~ and all wells producing from or open to the formation into which injection will occur~~; or

B) if the new base lease conveys the right to produce from specified formations only or is for wells currently in PRF, and the new base lessee specifies or the new base lessee or its assignee~~permittee~~ operates any injection well located within the formations specified in the new base lease, converts any production well to an injection well or drills a new injection well to the specified formations, this new base lessee shall become responsible for all regulatory requirements relative to all wells drilled to and completed in the same formation as the injection well, and all concrete storage structures, pits and tank batteries in existence relative to that formation.

3) A~~a~~ new permittee or proposed permittee requesting the transfer is an assignee if the new permittee or proposed new permittee came into possession of the right to operate wells by virtue of a lease assignment or appointment, by a court of competent jurisdiction, as trustee or receiver, in accordance with Section 240.1410(a)(4)~~ of this Part~~. This new permittee or proposed new permittee shall become responsible for all regulatory requirements relative to all wells, concrete storage structures, pits and tank batteries in existence within the lease hold being assigned.

d) If any well, or any lease or other unit associated with the well, is in violation of the Act or this Part at the time of the transfer to the new permittee or proposed new permittee, the new permittee or proposed new permittee shall be notified of the violations and the amount of time allotted by the Department for abatement.

e) The current permittee (Seller) is not liable for any violation of the Act caused by the actions of the new permittee (Buyer) during the permit transfer process, after notice is given to the Department by the current permittee of the pending transfer. However, if the transfer is denied by the Department, the current permittee assumes all responsibility for the violations of the ~~Illinois Oil and Gas~~ Act caused by the new permittee. Nothing in this subsection (e~~d~~) shall affect the contractual rights and obligations of the Seller and Buyer.

f) The transfer of a permit pursuant to this Subpart shall not affect the rights of the Department~~,~~ or any obligation or duty of the current permittee arising under the

Act and this Part. Any cause of action accruing or any action or proceeding had or commenced, whether administrative, civil or criminal, may be instituted or continued without regard to the transfer of the permit in accordance with this Subpart.

g) A current permittee, new permittee or proposed new permittee may request a hearing in accordance with Section 240.1490 to challenge the Department's permit transfer decision.

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

SUBPART O: BONDS

Section 240.1500 When Required, Amount and When Released

a) To Drill, Deepen, Convert or Operate an Oil or Gas Well

1) A bond, in the amount ~~as herein~~ provided in this Section, shall be submitted, along with an application to drill, deepen, convert, operate or transfer a production or Class II well, if:

A) the~~such~~ applicant was not an owner on September 26, 1991 of the right to drill and produce the well or wells in the transfer request; or

B) the~~such~~ applicant was not a permittee of record on September 26, 1991; or

C) the~~such~~ applicant has had a bond forfeited or is the subject of an unappealed, unabated Department final administrative decision requiring wells to be plugged; or

D) the~~such~~ applicant was not assessed an annual well fee as of July 1 preceding the application date, unless applicant was a permittee of record of an unplugged well in the previous fiscal year and not the subject of an unappealed, unabated Department final administrative decision; or

E) the~~such~~ applicant has had funds expended and/or wells plugged on

its behalf by the Department using funds from the PRF~~Plugging and Restoration Fund~~; or

F) the~~such~~ applicant is not an appointed trustee or receiver in accordance with Section 240.1410(a)(4)~~ of this Part~~.

2) When a bond is required to be filed with the Department to drill, deepen, convert or operate an oil or gas well or Class II well, the amount of the bond shall be:

A) $1,500 for a well less than $2,000~~2000~~ feet deep;

B) $3,000 for a well 2,000 or more feet deep;

C) $25,000 for up to 25 wells of a permittee;

D) $50,000 for up to 50 wells of a permittee; or

E) $100,000 for all wells of a permittee.

3) Failure to provide the required bond will result in the issuance of a cessation of operations order in accordance with Section 240.185(b)~~ of this Part~~.

4) A bond submitted pursuant to Section 240.1500(a) shall be released when:

A) all wells covered by the bond are plugged and restored in accordance with Subpart K~~N of these rules~~; or

B) all wells covered by the bond are transferred in accordance with Subpart N~~ of these rules~~; or

C) the permittee has paid assessments to the Department in accordance with Section 19.7 for 2 consecutive years and the~~such~~ permittee is not in violation of the Act.

b) To Operate a Liquid Oilfield Waste Transportation System
The amount of bond required to be filed with the Department before a permit is issued authorizing a person to operate a liquid oilfield waste system shall be

$10,000. When requested by permittee, bond shall be released when the permittee ceases operation and this system and the~~such~~ permittee's system is not in violation of the Act.

c) To Drill a Test Hole
The amount of bond required to be filed with the Department before a permit is issued to drill a geological structure, coal or other mineral test hole, or a monitoring well in connection with any activity regulated by the Department shall be $2500 for each permit or a blanket bond of $25,000 for all permits. The bond requirements of this Subpart shall not apply to a hole or well drilled on acreage permitted and bonded under the Surface-Mined Land Conservation and Reclamation Act [225 ILCS 715] or the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]. When requested by permittee, bonds shall be released when the hole or holes are plugged and restored in accordance with Section 240.1260 and the permittee is not in violation of the Act.

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

SUBPART P: WELL PLUGGING AND RESTORATION PROGRAM

Section 240.1600 Definitions

The following definitions are applicable to this Subpart:

"Abandoned Well" means:

A well:

for which the underlying lease has been released in writing by the lessee or has been declared forfeited or invalid by a court order, the~~such~~ order is final and the appeal period has lapsed; and

the lessor states in writing that the lessor has not leased out the oil and gas working interest to any other person and does not intend to so lease, that the lessor does not intend to operate the well, and that the lessor desires that the well be plugged;

A well owned by a permittee who has made no payment by November 1 of a current annual well fee assessment;

A well for which a bond was forfeited in accordance with Section 6 of the ~~Illinois Oil and Gas~~ Act;

A well that has not had commercial production in the last~~produced for over~~ 2 years;

A well for which the permit has been revoked in accordance with Section 240.251~~ of this Part~~; or

A well that has been plugged but not restored in accordance with Section 240.1170~~ of this Part~~.

"Commercial Production" means oil and/or gas has been produced and sold from the well.

"Emergency Remediation Project" means an emergency crude oil production facility, ~~or~~ crude oil or saltwater spill remediation, or remediation of conditions endangering public health or safety or contaminating surface waters or groundwater, or the surface of the land.

"Emergency Repair Work" means work to repair or contain leaks of produced fluids from production equipment, pits, or other containment structures that are contaminating surface waters or groundwaters or are flowing in sufficient quantity to create an increasing area of contamination on the surface of the land.

"Emergency Well Plugging" means the plugging and abandonment of a well or wells that are actively flowing oil or saltwater and are contaminating surface waters or groundwaters or flowing in sufficient quantity to create an increasing area of contamination on the surface of the land, or a well leaking natural gas or hydrogen sulfide gas in sufficient quantity to endanger public safety or create a fire hazard or a non-leaking well that~~which~~ poses an imminent danger to public safety.

"PRF" means the Department's Plugging and Restoration Fund, established under Section 6 of the ~~Illinois Oil and Gas~~ Act. Monies from this fund shall be spent in accordance with 44 Ill. Adm. Code 610.

"Well Site Equipment" means the equipment, *including but not limited to an*

associated tank battery and production facility equipment, hydrocarbons from the well that are stored in tanks located *on the lease, and hydrocarbons recovered during the plugging operation,* that *may be sold at a public auction~~action~~ or a public or private sale. All well site equipment and hydrocarbons acquired by a person by sale shall be acquired under clear title, subject to any perfected prior legal or equitable claims.* (Section 19.6 of the ~~Oil and Gas~~ Act)

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

Section 240.1610 Plugging Leaking or Abandoned Wells

a) If the Department finds, upon inspection, that a well drilled for the exploration, development, storage or production of oil or gas, or for injection, saltwater disposal, saltwater source, observation, and geological or structure test~~,~~ may be abandoned or leaking saltwater, oil, gas or other deleterious substances into any freshwater formation or onto the surface of the land, the Department may schedule a hearing pursuant to Section 19.1 of the Act to order the well plugged if abandoned or repaired or plugged if leaking.

b) Hearings

1) Notice of Hearing
Whenever the Department holds a hearing pursuant to Section 19.1 of the Act, the Department shall give written notice to the permittee personally or by certified mail sent to the permittee's last known address. The notice shall include the date, time, place and~~,~~ nature of the hearing and the name and address of the Hearing Officer~~hearing officer~~. The notice shall be mailed at least 14 days prior to the scheduled hearing date.

2) Permittee Right to Counsel;~~,~~ Appearance

A) Right to Counsel
Any party may appear and be heard through an attorney ~~at law~~ authorized to practice in the State of Illinois.

B) Appearance of Attorney
An attorney appearing in a representative capacity in any proceeding under this Subpart~~hereunder~~ shall file a written notice of appearance identifying his or her name, address and telephone

number~~,~~ and identifying the party represented.

3) Burden and Standard of Proof
The Department shall have the burden of proof at the hearing. The standard for decision shall be a preponderance of the evidence.

4) Hearing Officer; Powers and Duties

A) The Hearing Officer designated to preside over a hearing shall take all necessary action to avoid delay, to maintain order, and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing, including the following:

i) To administer oaths and affirmations;

ii) To receive relevant evidence;

iii) To regulate the course of the hearing and the conduct of the parties and their counsel~~ therein~~;

iv) To consider and rule upon procedural requests;

v) To hold conferences for the settlement or simplification of the issues; and

vi) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony, and set reasonable limits on the amount of time each witness may testify.

B) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument that~~as~~ may be relevant to the proceeding.

5) Hearing Location
All hearings under this Subpart shall be conducted in the Department's offices located in Springfield, Illinois. However, the Department may conduct a hearing under this Subpart at a site located closer than

Springfield, Illinois~~,~~ to the production and injection/disposal well identified in the Notice of Hearing if facilities are available and satisfactory to the Department.

6) Pre-Hearing Conferences

A) Upon the motion of either party, the Hearing Officer shall schedule a conference in order to:

i) Simplify the factual and legal issues presented by the hearing request;

ii) Receive stipulations and~~,~~ admissions of fact and of the contents and authenticity of documents;

iii) Exchange lists of all witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and

iv) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion of the hearing.

B) Pre-hearing conferences may be held by telephone conference if that~~such~~ procedure is acceptable to all of the parties.

7) Postponement or Continuance of Hearing
A hearing may be postponed or continued for due cause by the Hearing Officer or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuance so that the subject matter of the hearing may be resolved expeditiously.

8) Default

If a party, after proper service of notice, fails to appear at a pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed and make its decision in the absence of that~~such~~ party. If the failure to appear at the~~such~~ pre-hearing conference or hearing is due to emergency situation beyond the party's control, and the Department is notified of the~~such~~ situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to subsection (b)(7)~~ above~~. Emergency situations include sudden unavailability of counsel, sudden illness of a party or his or her representative, or similar situations beyond the parties'~~party's~~ control.

9) Within 30 days after the close of the hearing record, the Hearing Officer shall issue proposed findings of fact, conclusions of law and recommendations as to the disposition of the case.

10) The Director shall review the administrative record in conjunction with the Hearing Officer's~~hearing officer's~~ recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. The Director shall then issue the Department's final administrative decision affirming, vacating or modifying the Hearing Officer's~~hearing officer's~~ decision.

c) Upon the issuance of a final administrative decision that finds that a well has been abandoned or is leaking saltwater, oil, gas or other deleterious substances into any freshwater formation or onto the surface of the land, the permittee shall, within 30 days, properly plug, replug or repair the well so as to remedy the situation.

d) If the permittee fails to remedy the situation within 30 days from the date of the order, the well shall be placed in the PRF Program. A well in the PRF Program shall not be operated unless the Department has approved a transfer of the well or unless the permittee has complied with Section 240.1650 or Section 240.1660.

e) The Department may authorize any person to enter upon the land and plug, replug, or repair the well and restore the well site. The Department may dispose of all well site equipment and hydrocarbons in accordance with Section 19.6 of the ~~Illinois Oil and Gas~~ Act as follows: public sale, auction, private sale, or by assignment or quit claim deed to a third party to offset plugging costs.

f) Proceeds from any public sale, auction or private sale shall be deposited into the PRF~~Plugging and Restoration Fund~~ in accordance with Section 6(19) of the ~~Illinois Oil and Gas~~ Act or used to offset plugging costs.

g) The cost of all work completed under this Section shall be paid from the Annual Well Fee portion of the PRF~~Plugging and Restoration Fund~~.

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

Section 240.1640 Repayment of Funds

a) The permittee must reimburse PRF~~the Plugging and Restoration Fund~~ for all funds expended~~obligated~~ from the PRF~~Plugging and Restoration Fund~~, excepting OPA reimbursed monies, for repair, plugging, restoration or remediation work on the permittee's wells or sites, together with all interest accrued, as provided under Section 19.9 of the Act.

b) Prior to repayment of all expended funds, the permittee shall not operate any other existing wells~~ in the permittee's name~~.

c) If funds were expended to plug wells, the permittee shall be required to post a bond for all unplugged wells in the permittee's name in an amount in accordance with Section 240.1500(a)(2)~~(1)(E) and (a)(2)~~ for a period of 2 consecutive billing cycles, in accordance with Section 240.1500(a)(4)~~(3)~~(C). The permittee shall not operate or permit any wells until the required bond has been posted with the Department~~ prior to permitting or operating any wells~~.

d) If funds were expended to repair a well or production facility, restore a well site or perform remediation resulting from a leak or spill, the permittee shall have 90 days from the date of demand for reimbursement of the expended funds. If reimbursement is not received within 90 days, the permittee shall be required to post a bond for all unplugged wells in the permittee's name in an amount in accordance with Section 240.1500(a)(3)~~(1)(E) and (a)(2)~~ for a period of 2 consecutive billing cycles, in accordance with Section 240.1500(a)(5)~~(3)~~(C). The permittee shall not operate or permit any wells until the required bond has been posted with the Department~~ prior to permitting or operating any wells~~.

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

Section 240.1650 Authorization for a Permittee to Operate Wells Placed into the Plugging and Restoration Fund Program for Abandonment

a) A permittee shall not work on, operate or produce any of its wells or facilities that have been placed into the PRF Program without first obtaining temporary relief through the Department's final administrative decision placing the wells and facilities into the PRF Program.

b) A permittee's application to the Department for temporary relief from the Department's final administrative decision placing wells or facilities in the PRF Program shall contain the following information on a lease by lease basis:

1) A list of all the wells and facilities in the PRF Program on the lease;

2) A plan of action for each well on the lease (e.g., production, injection, plug or temporarily abandon);

3) A plan to bring the wells and facilities on the lease into full compliance with the Act and this Part;

4) The date by which all work bringing the wells and facilities on the lease into full compliance will be completed;

5) Either a new base lease or a copy of a valid lease, along with lease ratifications by the current mineral owners signed within the last 180 days affirming the permittee's existing lease is valid. Lease ratifications shall include the mineral owner's name, address, signature, date, and the name and legal location of the lease. The permittee is required to have 100% of the rights to drill and produce on the lease;

6) Payment of a non-refundable administrative fee of $250 per well for each well the permittee is requesting to remove from the PRF Program, made payable to the Illinois Department of Natural Resources/Plugging and Restoration Fund; and

7) A request to authorize the permittee's access to the lease for the purpose of implementing the proposed plan of action so the wells and facilities can be brought into full compliance and, upon Department approval, removed from the PRF Program.

c) The Department shall approve or deny the application for temporary relief from the Department's final administrative decision placing the wells and facilities in the PRF Program. If the application is approved, the Department shall request that the Hearing Officer issue an Order granting temporary relief. If, however, upon review of the application for temporary relief, the Department determines that property rights or environmental or public safety and welfare will be adversely affected, the proposed plan of action does not meet the requirements of the Act or this Part, the time proposed by the permittee to complete the required work is deemed to be excessive, or the permittee owes the Department civil penalties, annual well fees or funds expended from the PRF Program, the application shall be denied.

d) All Hearing Officer Orders granting temporary relief to permittees to work on, operate and produce wells and facilities in the PRF Program shall subject permittees to the following terms and conditions:

1) All work required to bring the wells and facilities on the lease into full compliance with the Act and this Part shall be completed in accordance with the plan of action submitted by the permittee with the application for temporary relief and by the date specified in the Hearing Officer's Order.

2) All wells, facilities and hydrocarbons on the lease shall remain in the PRF Program until:

A) All wells and facilities on the lease have been inspected by the Department and are in compliance with the Act and this Part; and

B) The Department has modified or vacated the final administrative decision that placed the wells and facilities into the PRF Program; and

C) The Department has removed the wells and facilities from the PRF Program.

3) No equipment or hydrocarbons may be removed or sold from the lease until the Department has removed the wells and facilities on the lease from the PRF Program.

e) The Hearing Officer may approve or deny any request or motion for an extension of time to complete the work required to bring the wells and facilities on the lease into compliance with the Act and this Part. When determining to approve or deny a request for an extension of time to complete the required work, the Hearing Officer will consider factors including, but not limited to, the permittee's diligence in completing the work since the issuance of the Order granting temporary relief, weather conditions, amount and type of work still remaining to be completed in accordance with the plan of action, amount and type of work completed, number of wells and facilities involved in the work, and conditions beyond the permittee's control.

f) Any work performed on the wells or facilities on the lease is solely at the permittee's own expense and risk. If all work required to bring the wells and facilities on the lease into compliance with the Act and this Part is not completed by the date specified in the Hearing Officer's Order, or the Hearing Officer's Order is revoked, the Order including authorization to access the lease shall terminate and the permittee is required to abandon the lease, leaving any equipment, improvements and hydrocarbons on the lease. Any equipment, improvements and hydrocarbons shall be placed into the PRF Program and disposed of by the Department in accordance with Section 240.1610(e).

g) If, after a hearing on the matter, the Hearing Officer determines that a permittee failed to comply with the terms and conditions of the Hearing Officer's Order granting temporary relief from the Department's final administrative decision or violated the requirements of the Act or this Part on the leasehold that is the subject of the Order, the Hearing Officer shall revoke the order granting temporary relief.

h) If the permittee completes all work required to bring the wells and facilities on the lease into compliance with the Act and this Part pursuant to the terms and conditions of the Hearing Officer's Order to work on, operate or produce wells and facilities in the PRF Program, the permittee shall notify the Department of the completion of the work. Upon notification, the Department shall, within 30 days, make an inspection of the wells and facilities on the lease to determine compliance with the Act and this Part. Upon an inspection indicating that the wells and facilities are in compliance with the Act and this Part, the Hearing Officer shall, within 30 days, modify or vacate the final administrative decision that placed the wells and facilities into the PRF Program and notify the permittee in writing that the wells and facilities have been removed from the PRF Program.

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

Section 240.1660 Authorization for a Permittee to Operate Wells Placed into the Plugging and Restoration Fund Program for Non-payment of Annual Well Fees

a) A permittee shall not work on, operate or produce any of its wells or facilities that have been placed into the PRF Program because of delinquent payment of annual wells fees until the wells and facilities have been removed from the PRF Program by the Department.

b) The permittee shall pay to the Department all delinquent annual well fees and all associated civil penalties assessed as a result of the delinquent annual well fees and payment of a non-refundable administrative fee of $250 per well for each of the permittee's wells in the PRF Program, made payable to the Illinois Department of Natural Resources/Plugging and Restoration Fund, before the Department may remove any of the wells and facilities from the PRF Program.

c) Within 60 days after receipt by the Department of payment in full of all delinquent annual well fees, associated civil penalties and non-refundable fees, the Department's Hearing Officer, on his or her own motion, shall modify or vacate the final administrative decision that placed the wells and facilities into the PRF Program and notify the permittee in writing that the wells and facilities have been removed from the PRF Program.

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

SUBPART Q: ANNUAL WELL FEES

Section 240.1700 Fee Liability

a) The Department shall assess annual well fees during each fiscal year for all permits of record as of July 1, including wells reported to be transferred pursuant to Subpart N but not yet approved for transfer by the Department. The permittee for each well is responsible for paying the full assessed amount.

b) The permittee will be assessed annual well ~~remains liable for the payment of such~~ fees until:

1) the well or wells under permit to the permittee are plugged and restored; or

2) the well or wells have been transferred to a new permittee pursuant to Subpart N. The effective date of transfer will be the date stated on the Department's Notification of Transfer Form.

c) Liability for assessed annual well fees does not cease until full payment is received by the Department or until a Department-approved reduced payment is received by the Department~~ceases on the date when the well has been plugged and restored or on the effective date stated on the Department's Notification of Transfer Form~~.

d) If a permittee fee check is returned due to insufficient funds or because payment, was stopped, the permittee is required to repay fees for that fiscal year by cashier's check or money order.

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

Section 240.1710 Annual Permittee Reporting

a) Permittees are required to submit, on a form prescribed by the Department, an annual verification of address and status.

b) The form shall contain the permittee's~~reports for information on Permittees~~:

1) current address;

2) verification of well ownership;

3) type of business entity and supporting documentation;

4) FEIN, or Social Security Number if an individual; and

5) names and addresses of principals, officers or owners.

c) Forms shall accompany the Annual Well Fee payment and shall be submitted by September 1 of each year.

d) Authority of Person Signing Forms~~person signing forms~~

1) If the permittee is a sole proprietor, the form shall be signed by the individual. If the permittee is a partnership, the form shall be signed by a general partner. If the permittee is a corporation, the form shall be signed by an officer of the corporation.

2) In lieu of the signature of the permittee, the form may be signed by a person having a power of attorney to sign for the~~such~~ permittee, provided a certified copy of the power of attorney is on file with the Department or accompanies the form.

e) If a permittee did not submit an annual verification of address and status form during the most recent annual fee payment period, a reporting form is required at the time of all well permit and transfer requests.

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

Section 240.1720 When Annual Well Fees are Due

Annual well~~Well~~ fees shall become due on September 1 of each year and shall be deemed delinquent if not paid by November 1 of each year. The Department may cease mailing the annual well fee bill to a permittee ~~for annual well fees~~ if those~~such~~ fees have been unpaid for 3 consecutive years. However, the~~such~~ permittee may not thereafter operate, permit or transfer wells within the State of Illinois without first paying all delinquent fees and associated civil penalties and submitting a bond in accordance with Subpart O.

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

SUBPART R: REQUIREMENTS IN UNDERGROUND GAS STORAGE FIELDS AND FOR GAS STORAGE AND OBSERVATION WELLS

Section 240.1805 Definitions

a) "Gas Storage Well" means a well drilled for input and/or withdrawal of natural gas or manufactured gas in a ~~natural~~ gas storage field.

b) "Observation Well" means a well drilled to monitor subsurface conditions in oil and gas projects or gas storage fields.

c) "Underground Gas Storage Field" means an area of land that~~which~~ is contained within the lowest closing structural contour for which ~~natural~~ gas can be stored in a substance stratum.

d) "Gas Storage Operator" means any entity that~~which~~ owns or operates an underground gas storage field~~Underground Gas Storage Field~~.

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

Section 240.1810 Submission of Underground Gas Storage Field Map

a) Each gas storage operator~~Gas Storage Operator~~ shall submit to the Department annually a map showing:

1) The lowest closing contour at which ~~natural~~ gas can be stored;~~,~~

2) The area of land ~~which is~~ currently under a valid lease or storage rights agreement;~~,~~ and

3) Any protective boundaries established by a governmental agency.

b) Upon written request to the Department, the ~~above~~ information listed in subsection (a) will be considered proprietary information and shall be held confidential.

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

Section 240.1820 Permit Requests in a Underground Gas Storage Field

a) When the proposed location to drill, deepen, convert or amend an oil or gas production or Class II well, as defined in Subparts B and C, or a test hole~~Test Hole~~, as defined in Subpart L, occurs within the limits of an underground gas storage field~~Underground Gas Storage Field~~, or within any protective boundary shown on the gas storage operators~~Gas Storage Operators~~ map submitted to the Department, a permit shall not be issued until the applicant complies with subsection~~subsections~~ (a)(1) or (2)~~ below~~:

1) The applicant enters~~Enters~~ into an agreement with the gas storage

operator~~Gas Storage Operator~~, outlining safety precautions and well drilling, completion, operating and plugging specifications. The agreement shall be signed by the applicant and the gas storage operator and~~Gas Storage Operator. Agreement~~ shall be submitted with the permit application.

2) The applicant submits~~Submits~~ a copy of an agreement previously reached with the gas storage operator~~Gas Storage Operator~~ which governs the relationship between the applicant and the gas storage operator~~Gas Storage Operator~~ with respect to safety precautions and well drilling, completion, operating and plugging issues. The agreement must be in full effect and cover the proposed drilling location.

3) If an agreement cannot be reached after the applicant has exercised due dilligence in negotiations, the applicant shall notify the gas storage operator~~Gas Storage Operator~~ of the proposed location and depth of the well by certified mail, return receipt requested. The certified mail receipt shall be attached to the permit application. If a written objection is not received by the Department within 15 days after the date of receipt the permit shall be issued. If a written objection to the application is filed with the Department within 15 days after receipt of the notice of application, the Department shall consider the objection in determining whether the permit should be issued. If the objection raises a question regarding public safety, resource ownership or sufficiency of application, the permit objection shall be set for a public hearing. A hearing shall be set only after all other requirements for issuance of the permit have been fulfilled.

b) Public Hearing

1) Any public hearing held pursuant to this Section shall be a formal hearing conducted by the Department solely for the purpose of resolving the factual or legal question raised by the objection.

2) Notice of the hearing shall be sent by the Department to the applicant and to the objector by mailing the~~such~~ notice by United States mail, postage prepaid, addressed to their last known home or business addresses~~address~~.

3) A certified court reporter shall record the hearing at the Department's

expense.

4) A Hearing Officer designated by the Department shall conduct the hearing. The Hearing Officer shall allow all parties at the hearing to present evidence in any form, included by oral testimony or documentary evidence, unless the Hearing Officer determines the~~such~~ evidence is irrelevant, immaterial, unduly repetitious, or of such the~~such~~ a nature that reasonably prudent members of the public or people knowledgeable in the oil and gas field would not rely upon it in the conduct of their affairs.

5) The Hearing Officer shall have the power to continue the hearing or to leave the record open for a certain period of time in order to obtain or receive further relevant evidence.

6) Within 30 days after the closing of the record or the receipt of the transcript of the hearing, whichever comes later, the Department shall render a decision on the objection.

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

Section 240.1835 Contents of Application for Permit to Drill or Convert to an Observation or Gas Storage Well

The application for a permit shall include:

a) the name of the well;

b) the surveyed well location, the GPS latitude and longitude location and ground elevation of the well. All GPS locations shall be recorded as degrees and minutes with the minutes recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet. The reported GPS location is required to be an actual GPS field measurement and not a calculated or conversion measurement. All ~~(all~~ well locations shall be surveyed by a registered Illinois Land Surveyor or an Illinois Registered Professional Engineer; a survey is not required for a converted or deepened well or a drilled out plugged hole if the original well location was surveyed;

c) a brief statement of the purpose of the well and a schematic showing the proposed construction of the well;

d) the necessary information, on a form prescribed by the Department, to show applicant has 100% of the rights~~the right~~ to drill and to operate;

e) a statement as to whether the proposed well location is within the limits of any incorporated city, town, or village (and a certified copy of the official consent of the municipal authorities if the well is within the corporate limits);

f) the name and address of the drilling contractor~~,~~ and the type of drilling tools or equipment to be used;

g) a statement whether the well is located over an active mine, temporarily abandoned mine or within the undeveloped limits of a mine~~,~~ and whether the coal rights are owned by someone other than the lessor under the oil and gas lease;

h) the proposed depth of the well and the name of the lowest geologic formation to be penetrated.

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

Section 240.1850 Issuance of Permit

a) If the applicant satisfies the requirements of the Act and this Part, the Department shall issue a permit.

b) A permit shall not be issued to an applicant not in compliance with Section 240.250(b)~~if a final administrative order of the department is outstanding against the applicant or against a person or permittee who is an officer, director, partner or owner of more than a 5% interest of the applicant~~.

c) Gas storage, observation and other service well permits shall expire ~~one (~~1~~)~~ year from the date of issuance unless acted upon by the commencement of drilling or converting operations authorized by the permit~~Permit~~.

d) Gas storage, observation and other service well permits are not transferable prior to the drilling of the well or test hole.

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Section 240.1852 Gas Storage and Observation Well, Construction, Operating and Reporting Requirements

a) Wells shall, at a minimum, be constructed in accordance with Section 240.610(a) and (b)~~ of this Part~~.

b) Wells shall be subject to the operating requirements of Section 240.630(a), (b) and (c)~~ of this Part~~ and the leaking well provisions of Section 240.1610~~ of this Part~~. Production of hydrocarbons from a well permitted as an observation well is prohibited until a permit is obtained to convert the well to a production well under Section 240.210.

c) Wells shall be subject to the reporting requirements of Section 240.640 and confidentiality provisions of Section 240.650~~ of this Part~~.

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

SUBPART S: REQUIREMENTS FOR SERVICE WELLS

Section 240.1910 Contents of Application for Permit to Drill or Convert to a Service Well

The application for a permit shall include:

a) The name of the well;

b) The surveyed well location, the GPS latitude and longitude location of an actual field (all GPS locations shall be recorded as degrees and decimal degrees recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet), and ground elevation of the well. All~~ (all~~ well locations shall be surveyed by a registered Illinois Land Surveyor or an Illinois Registered Professional Engineer. A~~; a~~ survey or GPS location is not required for a converted or deepened well or a drilled out plugged hole if the original well location was surveyed~~)~~;

c) A brief statement of the purpose of the well and a schematic showing the proposed construction of the well;

d) The necessary information, on a form prescribed by the Department, to show applicant has 100% of the rights~~the right~~ to drill and to operate;

e) A statement as to whether the proposed well location is within the limits of any incorporated city, town, or village (and a certified copy of the official consent of the municipal authorities if the well is within the corporate limits);

f) The name and address of the drilling contractor~~,~~ and the type of drilling tools or equipment to be used;

g) A statement whether the well is located over an active mine, temporarily abandoned mine or within the undeveloped limits of a mine~~,~~ and whether the coal rights are owned by someone other than the lessor under the oil and gas lease;

h) A statement whether the well or drill hole is located within the limits of a gas storage field~~Gas Storage Field~~ in accordance with Subpart R~~ of this Part~~.

i) The proposed depth of the well and the name of the lowest geologic formation to be penetrated.

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

Section 240.1930 Issuance of Permit

a) If the applicant satisfies the requirements of the Act and this Part, the Department shall issue a permit.

b) A permit shall not be issued to an applicant not in compliance with Section 240.250(b) ~~if a final administrative order of the Department is outstanding against the applicant or against a person or permittee who is an officer, director, partner or owner of more than a 5% interest of the applicant~~.

c) Service well permits shall expire ~~one (~~1~~)~~ year from the date of issuance unless acted upon by commencement of drilling or converting operations authorized by the permit.

d) Service well permits are not transferable prior to the drilling of the well or test hole.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Solid Waste

2) Code Citation: 35 Ill. Adm. Code 807

3)

Section Numbers:	Proposed Action:
807.600	Amend
807.640	Amend
807.661	Amend
807.662	Amend
807.663	Amend
807.664	Amend
807.665	Amend
800.666	Amend
807.APPENDIX A	
807.ILLUSTRATION A	Amend
807.ILLUSTRATION C	Amend
807.ILLUSTRATION D	Amend
807.ILLUSTRATION E	Amend
807.ILLUSTRATION F	Amend
807.ILLUSTRATION G	Amend
807.ILLUSTRATION H	Amend

4) Statutory Authority: Implementing Section 22 of the Environmental Protection Act [415 ILCS 5/22] and Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8], and authorized by Sections 22, 27, and 28 of the Illinois Environmental Protection Act [415 ILCS 5/10, 27, 28] and Section 8 of the Illinois Groundwater Protection Act [415 ICLS 55/8]

5) A Complete Description of the Subjects and Issues Involved: The proposal updates specific segments of the Board's non-hazardous solid waste landfill regulations. The segments relate to financial assurance. The purpose of the financial assurance rules is to establish requirements for performance bonds and other securities insuring closure and post-closure care and corrective action at non-hazardous waste disposal sites and to prescribe the conditions under which the State of Illinois is entitled to collect monies from these instruments.

6) Published studies or reports and sources of underlying data, used to compose this rulemaking: No published study or research report was used in developing the proposed amendments to 35 Ill. Adm. Code 807.

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

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

9) Does this rulemaking contain incorporations by reference? Yes

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

11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of 45 days after the date of publication in the Illinois Register. Comments should refer to docket R10-09 and be addressed to:

John Therriault
Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

Interested persons may request copies of the Board's opinion and order in R10-09 by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us. For more information, contact hearing officer Daniel Robertson at 312/814-6931 or e-mail robertsd@ipcb.state.il.us.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Affected sources and facilities would include those sources and facilities required to obtain financial assurance for the closure and post closure care of waste disposal sites and any sources and facilities that provide financial assurance services for waste disposal sites.

B) Reporting, bookkeeping or other procedures required for compliance: Are detailed in the rule and include submitting to the Illinois Environmental Protection Agency.

C) Types of Professional skills necessary for compliance: Professional skills held by financial advisors/planners such as accountants, bookkeepers.

14) Regulatory Agenda in which this rulemaking was summarized: January 2011

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 807
SOLID WASTE

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Implementing Sections 5, 21.1 and 22 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21.1, 22, and 27].

SOURCE: Adopted as an emergency rule and filed with the Secretary of State July 27, 1973; amended at 2 Ill. Reg. 16, p. 3, effective April 10, 1978; codified at 7 Ill. Reg. 13636; recodified from Subchapter h to Subchapter i at 8 Ill. Reg. 13198; emergency amendment in R84-22A at 9 Ill. Reg. 741, effective January 3, 1985, for a maximum of 150 days; amended in R84-22B at 9 Ill. Reg. 6722, effective April 29, 1985; amended in R84-22C at 9 Ill. Reg. 18942, effective November 25, 1985; amended in R84-45 at 12 Ill. Reg. 15566, effective September 14, 1988; amended in R88-7 at 14 Ill. Reg. 15832, effective September 18, 1990; emergency amendment in R93-25 at 17 Ill. Reg. 17268, effective September 24, 1993, for a maximum of 150 days; amended in R90-26 at 18 Ill. Reg. 12451, effective August 1, 1994; amended in R96-1 at 20 Ill. Reg. 12549, effective August 15, 1996; amended in R10-9 at 35 Ill. Reg. _____, effective _____.

~~NOTE: Capitalization denotes statutory language.~~

SUBPART F: FINANCIAL ASSURANCE FOR CLOSURE AND POST-CLOSURE CARE

Section 807.600 Purpose, Scope and Applicability

a) This Subpart provides procedures by which an operator of a waste disposal site can give "financial assurance" satisfying the requirement of Section 21.1(a) of the Act that the~~such~~ operator post with the Agency a performance bond or other security for the purpose of insuring closure of the site and post-closure care in accordance with the Act and Board rules.

b) Each operator must file a closure plan as part of a permit application. The operator of a disposal site or indefinite storage unit must also file a post-closure care plan (Sections 807.205, 807.503 and 807.523). The operator of a disposal site or indefinite storage unit must prepare a cost estimate of closure and post-closure care, and provide financial assurance in this amount (Sections 807.601 and 807.620). Financial assurance shall~~may~~ be given through a combination of a trust agreement, bond guaranteeing payment, bond guaranteeing payment or performance, letter of credit, insurance or self-insurance (Section 807.640). The cost estimate and amount of financial assurance is to be updated at least on a biennial basis (Section 807.623).

c) This Subpart applies only to the non-governmental operators of disposal sites or indefinite storage units (Section 807.601). Whether a site is a disposal site or, alternatively, a treatment or storage site, depends on whether the closure plan provides for removal of all wastes and waste residues from the site prior to completion of closure. Whether a unit is an indefinite storage unit depends on the technical feasibility and economic reasonableness of removal of all wastes and waste residues prior to closure (Section 807.104).

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

Section 807.640 Mechanisms for Financial Assurance

The operator of a waste disposal site shall~~may~~ utilize any of the following mechanisms to give financial assurance for closure and post-closure care:

a) Trust Fund (Section 807.661);

b) Surety Bond Guaranteeing Payment (Section 807.662);

c) Surety Bond Guaranteeing Performance (Section 807.663);

d) Letter of Credit (Section 807.664);

e) Closure Insurance (Section 807.665); or~~,~~

f) Self-insurance (Section 807.666).

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

Section 807.661 Trust Fund

a) An operator may satisfy the requirements of this Subpart by establishing a trust fund which conforms to the requirements of this Section and submitting an original, signed duplicate of the trust agreement to the Agency.

b) The trustee must be an entity which has the authority to act as a trustee and:

1) Whose trust operations are regulated by the Department of Financial and

Professional Regulation~~Illinois Commissioner of Banks and Trust Companies~~; or~~,~~

2) Who complies with the Corporate Fiduciary Act [205 ILCS 620]~~Foreign Corporations as Fiduciaries Act, (Ill. Rev. Stat. 1983, ch. 17, par. 2801 et seq.)~~.

c) The trust agreement must be on forms specified in Appendix A and the trust agreement must be accompanied by a formal certification of acknowledgment. Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current closure and post-closure cost estimates covered by the agreement.

d) Payments into the trust:

1) The operator must make a payment into the trust fund each year during the pay-in period.

2) The pay-in period is the number of years remaining until the site reaches the stage in its expected operating life at which the cost of premature closure would be the greatest, as indicated by its closure plan. Provided, however, that the pay-in period shall not be less than three years nor greater than ten years.

3) Annual payments are determined by the following formula:

$$\text{Annual payment} = (CE-CV)/Y$$

Where:

CE = Current cost estimate

Y = Current value of the trust fund

= Number of years remaining in the pay in period.

4) The operator must make the first annual payment prior to the initial receipt of waste for disposal, or prior to March 1, 1985 for sites receiving waste for disposal prior to that date. The operator must also, prior to such initial receipt of waste, submit to the Agency a receipt from the trustee for the first annual payment.

5) Subsequent annual payments must be made no later than 30 days after each anniversary of the first payment.

6) The operator may accelerate payments into the trust fund, or may deposit the full amount of the current cost estimate at the time the fund is established.

e) The trustee must evaluate the trust fund annually as of the day the trust was created, or on an~~such~~ earlier date as may be provided in the agreement. The trustee must notify the operator and the Agency of the value within 30 days after the evaluation date.

f) Release of excess funds:

1) If the value of the financial assurance is greater than the total amount of the current cost estimate, the operator may submit a written request to the Agency for release from the trust fund of the amount in excess of the current cost estimate.

2) Within 60 days after receiving a request from the operator for release of funds, the Agency will instruct the trustee to release to the operator those~~such~~ funds ~~as~~ the Agency specifies in writing.

g) Reimbursement for closure and post-closure care expenses:

1) After initiating closure, an operator or any other person authorized to perform closure or post-closure care may request reimbursement for closure or post-closure care expenditures by submitting itemized bills to the Agency.

2) Within 60 days after receiving bills for closure or post-closure care activities, the Agency will determine whether the expenditures are in accordance with the closure or post-closure care plan and if so, it will instruct the trustee to make reimbursement in ~~such~~ amounts ~~as~~ the Agency specifies in writing.

3) If the Agency has reason to believe that the cost of closure and post-closure care will be significantly greater than the value of the trust fund, it

may withhold reimbursement of those~~such~~ amounts as it deems prudent until it determines that the operator is no longer required to maintain financial assurance for closure and post-closure care.

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

Section 807.662 Surety Bond Guaranteeing Payment

a) An operator may satisfy the requirements of this Subpart by obtaining a surety bond that~~which~~ conforms to the requirements of this Section and submitting the bond to the Agency.

b) The surety company issuing the bond must be licensed by the Illinois Department of Insurance, pursuant to the Illinois Insurance Code [215 ILCS 5], or at a minimum the insurer must be licensed to transact the business of insurance, or approved to provide insurance as an excess or surplus lines insurer, by the insurance department in one or more states, and approved by the U.S. Department of the Treasury as an acceptable surety~~Department of Insurance~~.

c) The surety bond must be on forms specified in Appendix A.

d) Any payments made under the bond will be placed in the Landfill Closure and Post-Closure Fund~~landfill closure and post-closure fund~~ within the State Treasury.

e) Conditions:

1) The bond must guarantee that the operator will:

A) Provide~~provide~~ closure and post-closure care in accordance with the closure and post-closure care plans in the permit; and

B) Provide alternate financial assurance, as specified in this Subpart, and obtain the Agency's written approval of the assurance provided within 90 days after receipt by both the operator and the Agency of a notice from the surety that the bond will not be renewed for another term.

2) The surety will become liable on the bond obligation when, during the term of the bond, the operator fails to perform as guaranteed by the bond.

The operator fails to perform when the operator:

A) Abandons the site;

B) Is adjudicated bankrupt;

C) Fails to initiate closure of the site or post-closure care when ordered to do so by the Board or a court of competent jurisdiction; ~~or,~~

D) Notifies the Agency that it has initiated closure, or initiates closure, but fails to close the site or provide post-closure care in accordance with the closure and post-closure care plans; or

E) Fails to provide alternate financial assurance, as specified in this Subpart, and obtain the Agency's written approval of the assurance provided within 90 days after receipt by both the operator and the Agency of a notice from the surety that the bond will not be renewed for another term.

f) Penal sum:

1) The penal sum of the bond must be in an amount at least equal to the current cost estimate.

2) Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate, following written approval by the Agency.~~The Agency shall approve a reduction in the penal sum whenever the current cost estimate decreases.~~

3) Whenever the current cost estimate increases to an amount greater than the penal sum, the operator, within 90 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current cost estimate and submit evidence of the increase to the Agency or obtain other financial assurance, as specified in this Subpart, to cover the increase and submit evidence of the alternate financial assurance to the Agency.

g) Term:

1) The bond shall be issued for a term of at least four years and shall not be cancelable during that term.

2) The surety bond must provide that, on the current expiration date and on each successive expiration date, the term of the surety bond will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the surety notifies both the operator and the Agency by certified mail of a decision not to renew the bond. Under the terms of the surety bond, the 120 days will begin on the date when both the operator and the Agency have received the notice, as evidenced by the return receipts.~~If the operator fails to provide substitute financial assurance prior to expiration of a bond, the term of the bond shall be automatically extended for one twelve-month period starting with the date of expiration of the bond. During such extension the bond will not serve as financial assurance satisfying the requirements of this Part, and will not excuse the operator from the duty to provide substitute financial assurance.~~

3) The Agency shall release the surety by providing written authorization for termination of the bond to the operator and the surety when either of the following occurs:

A) An operator substitutes alternate financial assurance, as specified in the Subpart; or

B) The Agency releases the operator from the requirements of this Subpart in accordance with Section 807.606(b) of this Part.

h) Cure of default and refunds:

1) The Agency shall release the surety if, after the surety becomes liable on the bond, the operator or another person provides financial assurance for closure and post-closure care of the site, unless the Agency determines that a plan or the amount of substituted financial assurance is inadequate to provide closure and post-closure care as required by this Part.

2) After closure and post-closure care have been completed in accordance with the plans and requirements of this Part, the Agency shall refund any

unspent money that~~which~~ was paid to the Agency by the surety subject to appropriation of funds by the Illinois General Assembly.

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

Section 807.663 Surety Bond Guaranteeing Performance

a) An operator may satisfy the requirements of this Subpart by obtaining a surety bond that~~which~~ conforms to the requirements of this Section and submitting the bond to the Agency.

b) The surety company issuing the bond must be licensed by the Illinois Department of Insurance, pursuant to the Illinois Insurance Code [215 ILCS 5], or at a minimum the insurer must be licensed to transact the business of insurance, or approved to provide insurance as an excess or surplus lines insurer, by the insurance department in one or more states, and approved by the U.S. Department of the Treasury as an acceptable surety~~Department of Insurance~~.

c) The surety bond must be on forms specified in Appendix A.

d) Any payments made under the bond will be placed in the Landfill Closure and Post-Closure Fund~~landfill closure and post-closure fund~~ within the State Treasury.

e) Conditions:

1) The bond must guarantee that the operator will:

A) Provide~~provide~~ closure and post-closure care in accordance with the closure and post-closure care plans in the permit~~. The surety shall have the option of providing closure and post-closure care in accordance with the closure and post-closure care plans, or of paying the penal sum.~~; and

B) Provide alternate financial assurance, as specified in this Subpart, and obtain the Agency's written approval of the assurance provided within 90 days after receipt by both the operator and the Agency of a notice from the surety that the bond will not be renewed for another term.

2) The surety will become liable on the bond obligation when, during the term of the bond, the operator fails to perform as guaranteed by the bond. The operator fails to perform when the operator:

A) Abandons the site;

B) Is adjudicated bankrupt;

C) Fails to initiate closure of the site or post-closure care when ordered to do so by the Board or a court of competent jurisdiction; ~~or,~~

D) Notifies the Agency that it has initiated closure, or initiates closure, but fails to close the site or provide post-closure care in accordance with the closure and post-closure care plans; or~~.~~

E) Fails to provide alternate financial assurance, as specified in this Subpart, and obtain the Agency's written approval of the assurance provided within 90 days after receipt by both the operator and the Agency of a notice from the surety that the bond will not be renewed for another term.

3) Upon the failure of the operator to perform as guaranteed by the bond, the surety shall have the option of providing closure and post-closure care in accordance with the closure and post-closure care plans, or of paying the penal sum.

f) Penal sum:

1) The penal sum of the bond must be in an amount at least equal to the current cost estimate.

2) Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate, following written approval by the Agency.~~The Agency shall approve a reduction in the penal sum whenever the current cost estimate decreases.~~

3) Whenever the current cost estimate increases to an amount greater than the penal sum, the operator, within 90 days after the increase, must either

cause the penal sum to be increased to an amount at least equal to the current cost estimate and submit evidence of the increase to the Agency or obtain other financial assurance, as specified in this Subpart, to cover the increase and submit evidence of the alternate financial assurance to the Agency.

g) Term:

1) The bond shall be issued for a term of at least one year~~four years~~ and shall not be cancelable during that term.

2) The surety bond must provide that, on the current expiration date and on each successive expiration date, the term of the surety bond will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the surety notifies both the operator and the Agency by certified mail of a decision not to renew the bond. Under the terms of the surety bond, the 120 days will begin on the date when both the operator and the Agency have received the notice, as evidenced by the return receipts.~~If the operator fails to provide substitute financial assurance prior to expiration of a bond, the term of the bond shall be automatically extended for one twelve-month period starting with the date of expiration of the bond. During such extension the bond will not serve as financial assurance satisfying the requirements of this Part, and will not excuse the operator from the duty to provide substitute financial assurance.~~

3) The Agency shall release the surety by providing written authorization for termination of the bond to the operator and the surety when either of the following occurs:

A) An operator substitutes alternate financial assurance, as specified in this Subpart; or

B) The Agency releases the operator from the requirements of this Subpart in accordance with Section 807.606(b) of this Part.

h) Cure of default and refunds:

1) The Agency shall release the surety if, after the surety becomes liable on

the bond, the operator or another person provides financial assurance for closure and post-closure care of the site, unless the Agency determines that a plan or the amount of substituted financial assurance is inadequate to provide closure and post-closure care as required by this Part.

2) After closure and post-closure care have been completed in accordance with the plans and requirements of this Part, the Agency shall refund any unspent money that~~which~~ was paid to the Agency by the surety subject to appropriation of funds by the Illinois General Assembly.

i) The surety will not be liable for deficiencies in the performance of closure by the operator after the Agency releases the operator from the requirements of this Subpart.

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

Section 807.664 Letter of Credit

a) An operator may satisfy the requirements of this Subpart by obtaining an irrevocable standby letter of credit that~~which~~ conforms to the requirements of this Section and submitting the letter to the Agency.

b) The issuing institution must be an entity that~~which~~ has the authority to issue letters of credit and:

1) Whose letter-of-credit operations are regulated by the Department of Financial and Professional Regulation~~Illinois Commissioner of Banks and Trust Companies~~; or~~,~~

2) Whose deposits are insured by the Federal Deposit Insurance Corporation ~~or the Federal Savings and Loan Insurance Corporation~~.

c) Forms:

1) The letter of credit must be on forms specified in Appendix A.

2) The letter of credit must be accompanied by a letter from the operator referring to the letter of credit by number, issuing institution and date and providing the following information: name and address of the site and the

amount of funds assured for closure of the site by the letter of credit.

d) Any amounts drawn by the Agency pursuant to the letter of credit will be deposited in the Landfill Closure and Post-Closure Fund~~landfill closure and post-closure fund~~ within the State Treasury.

e) Conditions on which the Agency shall~~may~~ draw on the letter of credit:

1) The Agency shall~~may~~ draw on the letter of credit if the operator fails to perform closure or post-closure care in accordance with the closure and post-closure care plans.

2) The Agency shall~~may~~ draw on the letter of credit when the operator:

A) Abandons the site;

B) Is adjudicated bankrupt;

C) Fails to initiate closure or post-closure care of the site when ordered to do so by the Board or a court of competent jurisdiction; ~~or~~

D) Notifies the Agency that it has initiated closure, or initiates closure, but fails to provide closure and post-closure care in accordance with the closure and post-closure care plans; or

E) Fails to provide alternate financial assurance, as specified in this Subpart, and obtain the Agency's written approval of the assurance provided within 90 days after receipt by both the operator and the Agency of a notice from the issuing institution that the letter of credit will not be extended for another term.

f) Amount:

1) The letter of credit must be issued in an amount at least equal to the current cost estimate.

2) Whenever the current cost estimate decreases, the amount of credit may be reduced to the amount of the current cost estimate, following written

approval by the Agency.~~The Agency shall approve a reduction in the amount whenever the current cost estimate decreases.~~

3) Whenever the current cost estimate increases to an amount greater than the amount of the credit, the operator, within 90 days after the increase, must either cause the amount of the credit to be increased to an amount at least equal to the current cost estimate and submit evidence of the increase to the Agency or obtain other financial assurance, as specified in this Subpart, to cover the increase and submit evidence of the alternate financial assurance to the Agency.

g) Term:

1) The letter of credit shall be irrevocable and shall be issued for a term of at least one year~~four years~~.

2) The letter of credit must provide that, on the current expiration date and on each successive expiration date, the letter of credit will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the operator and the Agency by certified mail of a decision not to extend the letter of credit for another term. Under the terms of the letter of credit, the 120 days will begin on the date when both the operator and the Agency have received the notice, as evidenced by the return receipts.~~If the operator fails to substitute alternate financial assurance prior to expiration of a letter of credit, the term of the letter of credit shall be automatically extended for one twelve-month period starting with the date of expiration. During such extension the letter of credit will not serve as financial assurance satisfying the requirements of this Part, and will not excuse the operator from the duty to provide substitute financial assurance.~~

3) The Agency must return the letter of credit to the issuing institution for termination when either of the following occurs:

A) An operator substitutes alternate financial assurance, as specified in this Subpart; or

B) The Agency releases the operator from the requirements of this Subpart in accordance with Section 807.606(b) of this Part.

h) Cure of default and refunds:

1) The Agency shall release the financial institution if, after the Agency is allowed to draw on the letter of credit, the operator or another person provides financial assurance for closure and post-closure care of the site, unless the Agency determines that a plan or the amount of substituted financial assurance is inadequate to provide closure and post-closure care as required by this Part.

2) After closure and post-closure care have been completed in accordance with the plans and requirements of this Part, the Agency shall refund any unspent money which was paid to the Agency by the financial institution subject to appropriation of funds by the Illinois General Assembly.

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

Section 807.665 Closure Insurance

a) An operator may satisfy the requirements of this Subpart by obtaining closure and post-closure care insurance that~~which~~ conforms to the requirements of this Section and submitting to the Agency an executed duplicate original of the insurance policy and the certificate of insurance for closure and/or post-closure care specified in Appendix A, Illustration F.~~an executed duplicate original of such insurance policy to the Agency.~~

b) The insurer must be licensed to transact the business of insurance by the Illinois Department of Insurance or at a minimum the insurer must be licensed to transact the business of insurance, or approved to provide insurance as an excess or surplus lines insurer, by the insurance department in one or more states~~Department of Insurance~~.

c) The policy must be on forms filed with the Illinois Department of Insurance pursuant to Section 143(2) of the Illinois Insurance Code [215 ILCS 5/143(2)] and 50 Ill. Adm. Code 753, or on forms approved by the insurance department of one or more states.~~approved by the Illinois Department of Insurance.~~

d) Face amount:

1) The closure and post-closure care insurance policy must be issued for a face amount at least equal to the current cost estimate. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

2) Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current cost estimate following written approval by the Agency.~~The Agency shall approve a reduction in the amount of the policy whenever the current cost estimate decreases.~~

3) Whenever the current cost estimate increases to an amount greater than the face amount, the operator, within 90 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current cost estimate and submit evidence of the increase to the Agency or obtain other financial assurance, as specified in this Subpart, to cover the increase and submit evidence of the alternate financial assurance to the Agency.

e) The closure and post-closure care insurance policy must guarantee that funds will be available to close the site and to provide post-closure care thereafter. The policy must also guarantee that, once closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency to a~~such~~ party or parties ~~as~~ the Agency specifies. The insurer will be liable when:

1) The operator abandons the site;

2) The operator is adjudicated bankrupt;

3) The Board or a court of competent jurisdiction orders the site closed;

4) The operator notifies the Agency that it is initiating closure; or

5) Any person initiates closure with approval of the Agency.

f) After initiating closure, an operator or any other person authorized to perform closure or post-closure care may request reimbursement for closure and post-

closure care expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for closure or post-closure care activities, the Agency will determine whether the expenditures are in accordance with the closure plan or post-closure care plan, and if so, will instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing. If the Agency has reason to believe that the cost of closure and post-closure care will be significantly greater than the face amount of the policy, it may withhold reimbursement of those~~such~~ amounts ~~as~~ it deems prudent until it determines that the operator is no longer required to maintain financial assurance.

g) Cancellation:

1) The operator shall maintain the policy in full force and effect until the Agency consents to termination of the policy.

2) The policy must provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate or fail to renew the policy by sending notice by certified mail to the operator and the Agency. Cancellation, termination or failure to renew may not occur, however, during the 120 days beginning on~~with~~ the date of receipt of the notice by both the Agency and the operator, as evidenced by the return receipts. Cancellation, termination or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration the premium due is paid.

h) Each policy must contain a provision allowing assignment of the policy to a successor operator. The~~Such~~ assignment may be conditional upon consent of the insurer, provided that~~such~~ consent is not unreasonably refused.

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

Section 807.666 Self-insurance for Non-Commercial~~commercial~~ Sites

a) Definitions: The following terms are used in this Section. The definitions are intended to assist in the understanding of this Section~~these regulations~~ and are not intended to limit the meanings of terms in a way that conflicts with generally

accepted accounting principles.

"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

"Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

"Generally accepted accounting principles" means the accounting and auditing standards incorporated by reference at 35 Ill. Adm. Code 810.104(a)(2).

~~"Generally accepted accounting principles" means Accounting Standards, Financial Accounting Standards Board, June, 1984, which is hereby incorporated by reference. This incorporation includes no later amendments or editions.~~

"Gross Revenue" means total receipts less returns and allowances.

"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

"Net working capital" means current assets minus current liabilities.

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

"Tangible net worth" means the tangible assets less liabilities; tangible assets do not include intangibles such as goodwill and rights to patents or

royalties.

b) An operator may satisfy the financial assurance requirements of this Part by providing the following:

1) Bond without surety promising to pay the cost estimate (subsection~~paragraph~~ (c)).

2) Proof that the operator meets the gross revenue test (subsection~~paragraph~~ (d)).

3) Proof that the operator meets the financial test (subsection~~paragraph~~ (e)).

c) Bond without surety. An operator utilizing self-insurance must provide a bond without surety on forms provided in Appendix A. The operator must promise to pay the current cost estimate to the Agency unless the operator provides closure and post-closure care in accordance with the closure and post-closure care plans.

d) Gross revenue test. The operator must demonstrate that less than one-half of its gross revenues are derived from waste disposal operations.

e) Financial test:

1) To pass the financial test, the operator must meet the criteria of either subsection~~paragraph~~ (e)(1)(A) or (e)(1)(B):

A) The operator must have:

i) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; or a ratio of current assets to current liabilities greater than 1.5; and

ii) Net working capital and tangible net worth each at least six times the current cost estimate; and

iii) Tangible net worth of at least $10 million; and

iv) Assets in the United States amounting to at least 90 percent of the operator's total assets and at least six times the current cost estimate.

B) The operator must have:

i) A current rating for its most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; and

ii) Tangible net worth at least six times the current cost estimate; and

iii) Tangible net worth of at least $10 million; and

iv) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the current cost estimate.

2) To demonstrate that it meets this test, the operator must submit the following items to the Agency:

A) A letter signed by the operator's chief financial officer and worded as specified in Appendix A; and

B) A copy of the independent certified public accountant's report on examination of the operator's financial statements for the latest completed fiscal year; and

C) A special report from the operator's independent certified public accountant to the operator stating that:

i) The accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

ii) In connection with that procedure, no matters came to the

accountant's attention that~~which~~ caused the accountant to believe that the specified data should be adjusted.

f) Updated information:

1) After the initial submission of items specified in subsections~~paragraphs~~ (d) and (e), the operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year.

2) If the operator no longer meets the requirements of subsections~~paragraphs~~ (d) and (e), the operator must send notice to the Agency of intent to establish alternate financial assurance. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the operator no longer meets the requirements.

g) Qualified opinions. If the opinion required in subsections~~paragraphs~~ (e)(2)(B) and (e)(2)(C) includes an adverse opinion or a disclaimer of opinion, the Agency shall disallow the use of self-insurance. If the opinion includes other qualifications, the Agency shall disallow the use of self-insurance if:

1) The qualifications relate to the numbers that~~which~~ are used in the gross revenue test or the financial test; and~~;~~

2) In light of the qualifications, the operator has failed to demonstrate that it meets the gross revenue test or financial test.

h) Parent corporation. An operator may satisfy the financial assurance requirements of this Part by:

1) Demonstrating~~demonstrating~~ that a corporation that~~which~~ owns an interest in the operator meets the requirements of this Section~~gross revenue and financial tests.~~; and

2) Providing a bond to the Agency with the parent corporation as surety on a form specified in Appendix A, Illustration H in accordance with Section 807.662(d), (e), (f), and (g) of this Part.~~The operator must also provide a bond with the parent as surety (Appendix A).~~

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

Section 807.APPENDIX A Financial Assurance Forms

Section 807.ILLUSTRATION A Trust Agreement

TRUST AGREEMENT

Trust Fund Number _____

Trust Agreement, the "Agreement," entered into as of the ____ day of _____, by and between _____, a _____, the "Grantor," and _____, _____, the "Trustee."

Whereas, Section 21.1 of the Environmental Protection Act, "Act", prohibits any person from conducting any waste disposal operation unless such person has posted with the Illinois Environmental Protection Agency, "IEPA", a performance bond or other security for the purpose of insuring closure of the site and post-closure care in accordance with the Act and Illinois Pollution Control Board, "IPCB", rules.

Whereas, the IPCB has established certain regulations applicable to the Grantor, requiring that an operator of a waste disposal site provide assurance that funds will be available when needed for closure and/or post-closure care of the site.

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the sites identified in this agreement.

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

Whereas, Trustee is an entity which has authority to act as a trustee and whose trust operations are regulated by the Illinois Department of Financial and Professional Regulation~~Commissioner of Banks & Trust Companies~~ or who complies with the Corporate Fiduciary Act [205 ILCS 620].~~Foreign Corporations as Fiduciaries Act (Ill. Rev. Stat. 1983, ch. 17, par. 2801, et seq.)~~ (Line through any condition that~~which~~ does not apply.)

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

a) The term "Grantor" means the operator who enters into this Agreement and any

successors or assigns of the operator.

b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Sites and Cost Estimates. This Agreement pertains to the sites and cost estimates identified on attached Schedule A (on Schedule A, list the name and address and current~~initial~~ cost estimate of each site for which financial assurance is demonstrated by this agreement).

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the IEPA. The Grantor and the Trustee intend that no other third party have access to the Fund except as provided in this agreement. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached to this agreement. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits on the Fund, less any payments or distributions made by the Trustee pursuant to this agreement. The Fund shall be held by the Trustee, in trust, as provided in this agreement. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor.

Section 4. Payment for Closure and Post-Closure Care. The Trustee shall make payments from the Fund as the IEPA shall direct, in writing, to provide for the payment of the costs of closure and/or post-closure care of the sites covered by this agreement. The Trustee shall reimburse the Grantor or other persons as specified by the IEPA from the Fund for closure and post-closure expenditures in such amounts as the IEPA shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the IEPA specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trust Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence and diligence under the circumstances then prevailing which

persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

a) Securities or other obligations of the Grantor, or any other owner or operator of the site, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 USC~~U.S.C.~~ 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal government or the State of Illinois;

b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by the Federal Deposit Insurance Corporation~~ or Federal Savings & Loan Insurance Corporation~~.

c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

a) To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 USC~~U.S.C.~~ 80a-1 et seq., including one which may be created, managed, underwritten or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this agreement or by law, the Trustee is expressly authorized and empowered:

a) To sell, exchange, convey, transfer or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expedience of any such sale or other disposition;

b) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers granted in this agreement;

c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository~~depositary~~ even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository~~depositary~~ with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund.

d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by the Federal Deposit Insurance Corporation~~ or Federal Savings & Loan Insurance Corporation~~; and

e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee, to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually furnish to the Grantor and to the IEPA a statement confirming the value of the Trust. The evaluation day shall be each year on the _____ day of _____. Any securities in the Fund shall be valued at market value as of the evaluation day. The Trustee shall mail the evaluation statement to the Grantor and the IEPA within 30 days after the evaluation day. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the IEPA shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for

its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and the successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the IEPA and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests and instructions. All orders, requests and instructions by the IEPA to the Trustee shall be in writing, signed by the IEPA Director or his/her designee~~designees~~, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or IEPA hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests and instructions from the Grantor and/or IEPA, except as provided in this agreement.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor and the IEPA, by certified mail within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee and the IEPA Director or his/her designee, or by the Trustee and the IEPA Director or his/her designee if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this

Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee and the IEPA Director or his/her designee, or by the Trustee and the IEPA Director or his/her designee, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the IEPA Director or his/her designee issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed and enforced according to the laws of the State of Illinois.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in 35 Ill. Adm. Code 807.Appendix A, Illustration A as these regulations were constituted on the date this Agreement was entered.

Attest: _____

Signature of Grantor

_____

Typed Name

_____

Title

Seal

Attest: _____
Signature of Trustee

_____
Typed Name

_____
Title

Seal

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

Section 807.APPENDIX A Financial Assurance Forms

Section 807.ILLUSTRATION C Forfeiture Bond

FORFEITURE BOND

Date bond executed: _____

Effective date: _____

Principal: _____

_____

Type of organization: _____

State of incorporation: _____

Surety: _____

Sites:

Name _____

Address _____

City _____

Amount guaranteed by this bond: $ _____

Name _____

Address _____

City _____

Amount guaranteed by this bond: $ _____

Please attach a separate page if more space is needed for all sites.

Total penal sum of bond: $ _____

Surety's bond number: _____

The Principal and the Surety promise to pay the Illinois Environmental Protection Agency ("IEPA") the above penal sum unless the principal provides closure and post-closure care for each site in accordance with the closure and post-closure care plans for that site. To the payment of this obligation the Principal and Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns.

Whereas the Principal is required, under Section 21(d) of the Environmental Protection Act [415 ILCS 5/21(d)], ~~Ill. Rev. Stat. 1983, ch. 111½, par. 1021(d)~~ to have a permit to conduct a waste disposal operation;

Whereas the Principal is required, under Section 21.1 of the Environmental Protection Act [415 ILCS 5/21.1]~~Ill. Rev. Stat. 1983, ch. 111½, par. 1021.1~~, to provide financial assurance for closure and post-closure and post-closure care; and

Whereas the Surety is licensed by the Illinois Department of Insurance or is licensed to transact the business of insurance, or approved to provide insurance as an excess or surplus lines insurer, by the insurance department in one or more states;

Whereas the Principal and Surety agree that this bond shall be governed by the laws of the State of Illinois;

The Surety shall pay the penal sum to the IEPA if, during the term of the bond, the Principal fails to provide closure or~~and~~ post-closure care for any site in accordance with the closure and post-closure care plans for that site as guaranteed by this bond. The Principal fails to so provide when the Principal:

a) Abandons the site;

b) Is adjudicated bankrupt;

c) Fails to initiate closure of the site or post-closure care when ordered to do so by the Board or a court of competent jurisdiction; or

d) Notifies the IEPA~~Agency~~ that it has initiated closure, or initiates closure, but fails

to close the site or provide post-closure care in accordance with the closure and post-closure care plans; or

e) Fails to provide alternate financial assurance and obtains the IEPA written approval of the assurance provided within 90 days after receipt by both the Principal and the IEPA of a notice from the Surety that the bond will not be renewed for another term.

The Surety shall pay the penal sum of the bond to the IEPA within 30 days after the IEPA mails notice to the Surety that the Principal has met one or more of the conditions described above~~failed to so provide closure and post-closure care~~. Payment shall be made by check or draft payable to the State of Illinois, Landfill Closure and Post-Closure~~closure~~ Fund. The liability of the Surety shall not be discharged by any payment or succession of payments unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond. In no event shall the obligation of the Surety exceed the amount of the penal sum.

This bond shall expire on the _____ [date] day of _____ [month], _____[year]; but such expiration date shall be automatically extended for a period of _____ [at least one year] on _____ [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, the Surety notifies both the IEPA and the owner or operator by certified mail that the Surety has decided not to extend the term of this surety bond beyond the current expiration date. The 120 days will begin on the date when both the owner or operator and the IEPA have received the notice, as evidenced by the return receipts.~~provided, however, that if the Principal fails to provide substitute financial assurance prior to the expiration date, and the IEPA mails notice of such failure to the Surety within 30 days after such date, the term of this bond shall be automatically extended for one twelve-month period starting with the date of expiration of the bond.~~

The Principal may terminate this bond by sending written notice to the Surety; provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond from the IEPA in accordance with 35 Ill. Adm. Code 807.604.

In Witness Whereof, the Principal and Surety have executed this Forfeiture Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below certify that they are authorized to execute this surety bond on behalf of the Principal and Surety and that the wording of this surety bond is identical to the wording specified in 35 Ill. Adm. Code 807.Appendix A, Illustration C as such regulation

was constituted on the date this bond was executed.

Principal	Corporate Surety
Signature	Name
_____	_____
Typed Name	Address
_____	_____
Title	State of Incorporation
_____	_____
Date	Signature
_____	_____
	Typed Name
	_____
	Title
	_____
Corporate seal	Corporate seal

Bond premium: $ _____

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

Section 807.APPENDIX A Financial Assurance Forms

Section 807.ILLUSTRATION D Performance Bond

PERFORMANCE BOND

Date bond executed: _____

Effective date: _____

Principal: _____

_____

Type of organization: _____

State of incorporation: _____

Surety: _____

Sites:

Name _____

Address _____

City _____

Amount guaranteed by this bond: $ _____

Name _____

Address _____

City _____

Amount guaranteed by this bond: $ _____

Please attach a separate page if more space is needed for all sites.

Total penal sum of bond: $ _____

Surety's bond number: _____

The Principal and the Surety promise to pay the Illinois Environmental Protection Agency~~agency~~ ("IEPA") the above penal sum unless the Principal or Surety provides closure and post-closure care for each site in accordance with the closure and post-closure care plans for that site. To the payment of this obligation the Principal and Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns.

Whereas the Principal is required, under Section 21(d) of the Environmental Protection Act [415 ILCS 5/21(d)], ~~Ill. Rev. Stat. 1983, ch. 111½, par. 1021(d)~~ to have a permit to conduct a waste disposal operation;

Whereas the Principal is required, under Section 21.1 of the Environmental Protection Act [415 ILCS 5/21.1]~~Ill. Rev. Stat. 1983, ch. 111½, par. 1021.1~~, to provide financial assurance for closure and post-closure care; and

Whereas the Surety is licensed by the Illinois Department of Insurance or is licensed to transact the business of insurance, or approved to provide insurance as an excess or surplus lines insurer, by the insurance department in one or more states;

Whereas the Principal and Surety agree that this bond shall be governed by the laws of the State of Illinois;

The Surety shall pay the penal sum to the IEPA or provide closure and post-closure care in accordance with the closure and post-closure care plans for the site if, during the term of the bond, the Principal fails to provide closure or~~and~~ post-closure care for any site in accordance with the closure and post-closure care plans for that site as guaranteed by this bond. The Principal fails to so provide when the Principal:

a) Abandons the site;

b) Is adjudicated bankrupt;

c) Fails to initiate closure of the site or post-closure care when ordered to do so by the Board or a court of competent jurisdiction;~~ or~~

d) Notifies the IEPA~~Agency~~ that it has initiated closure, or initiates closure, but fails to close the site or provide post-closure care in accordance with the closure and post-closure care plans; or

e) Fails to provide alternate financial assurance and obtain the IEPA written approval of the assurance provided within 90 days after receipt by both the Principal and the IEPA of a notice from the Surety that the bond will not be renewed for another term.

The Surety shall pay the penal sum of the bond to the IEPA or notify the IEPA that it intends to provide closure and post-closure care in accordance with the closure and post-closure care plans for the site within 30 days after the IEPA mails notice to the Surety that the Principal has failed to fulfill one or more of the conditions described above~~failed to so provide closure and post-closure care~~. Payment shall be made by check or draft payable to the State of Illinois, Landfill Closure and Post-Closure~~closure~~ Fund.

If the Surety notifies the IEPA~~Agency~~ that it intends to provide closure and post-closure care, then the Surety must initiate closure and post-closure care within 60 days after the IEPA mailed notice to the Surety that the Principal failed to fulfill one or more of the conditions described above~~failed to provide closure and post-closure care~~. The Surety must complete closure and post-closure care in accordance with the closure and post-closure care plans, or pay the penal sum.

The liability of the Surety shall not be discharged by any payment or succession of payments unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond. In no event shall the obligation of the Surety exceed the amount of the penal sum.

This bond shall expire on the _____ day of _____, _____ [date]; but such expiration date shall be automatically extended for a period of _____ [at least one year] on _____ [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, the Surety notifies both the IEPA and the Principal by certified mail that the Surety has decided not to extend the term of this surety bond beyond the current expiration date. The 120 days will begin on the date when both the operator and the IEPA have received the notice, as evidenced by the return receipts.~~provided, however, that if the Principal fails to provide substitute financial assurance prior to the expiration date, and the IEPA mails notice of such failure to the Surety within 30 days after such date, the term of this bond shall be automatically extended for one twelve-month period starting with the date of expiration of the bond.~~

The Principal may terminate this bond by sending written notice to the Surety; provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond from the IEPA in accordance with 35 Ill. Adm. Code 807.604.

In Witness Whereof, the Principal and Surety have executed this Performance~~Forfeiture~~ Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below certify that they are authorized to execute this surety bond on behalf of the Principal and Surety and that the wording of this surety bond is identical to the wording specified in 35 Ill. Adm. Code 807.Appendix A, Illustration D as such regulation was constituted on the date this bond was executed.

Principal	Corporate Surety
Signature	Name
_____	_____
Typed Name	Address
_____	_____
Title	State of Incorporation
_____	_____
Date	Signature
_____	_____
	Typed Name
	_____
	Title
	_____
Corporate seal	Corporate seal

Bond premium: $ _____

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 807.APPENDIX A Financial Assurance Forms

Section 807.ILLUSTRATION E Irrevocable Standby Letter of Credit

IRREVOCABLE STANDBY LETTER OF CREDIT

Director
Illinois Environmental Protection Agency
C/O Bureau of Land #24
Financial Assurance Program
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
~~2200 Churchill Road~~
~~Springfield, Illinois 62706~~

Dear Sir or Madam:

We have authority to issue letters of credit. Our letter-of-credit operations are regulated by the Illinois Department of Financial and Professional Regulation~~Commissioner of Banks and Trusts~~ or our deposits are insured by the Federal Deposit Insurance Corporation~~ or Federal Savings and Loan Insurance Corporation~~. (Omit language that~~which~~ does not apply.)

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in your favor, at the request and for the account of _____ up to the aggregate amount of _____ U.S. dollars ($_____), available upon presentation of:

1. your sight draft, bearing reference to this letter of credit No. _____; and~~,~~

2. your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Environmental Protection Act [415 ILCS 5]~~, Ill. Rev. Stat. 1983, ch. 111½, par. 1001 et seq.~~ and 35 Ill. Adm. Code 807.664(e)."

This letter of credit is effective as of _____ [date] and shall expire on _____[date at least one year later], but, such expiration date shall be automatically extended for a period of _____ [at least one year] on _____ [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and [operator's

name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. The 120 days will begin on the date when both the operator and the IEPA have received the notice, as evidenced by the return receipts. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and _____ [owner's or operator's name], as shown on the signed return receipts.~~; but, such expiration date shall be automatically extended for one period of twelve months starting with the expiration date if the operator fails to substitute alternate financial assurance prior to the expiration of this letter of credit and you notify us of such failure within 30 days after the above expiration date.~~

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the State of Illinois Landfill Closure and Post-Closure Fund~~landfill closure and post-closure fund~~ in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in 35 Ill. Adm. Code 807.Appendix A, Illustration E as such regulations were constituted on the date shown below.~~This letter of credit is governed by the Uniform Commercial Code (Ill. Rev. Stat. 1983, ch. 26, pars. 1-101 et seq.).~~

_____
Typed Name

_____
Title

_____
Date

_____
Name and address of issuing institution

This credit is subject to [insert "the most recent edition of the Uniform Commercial Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"].

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

Section 807.APPENDIX A Financial Assurance Forms

Section 807.ILLUSTRATION F Certificate of Insurance for Closure and/or Post-Closure Care

CERTIFICATE OF INSURANCE FOR CLOSURE AND/OR POST-CLOSURE CARE

Name and Address of Insurer ("Insurer"):

_____

_____

Name and Address of Insured ("Insured"):

_____

_____

Sites Covered:

Name _____

Address _____

City _____

Amount insured for this site: $ _____

Name _____

Address _____

City _____

Amount insured for this site: $ _____

Please attach a separate page if more space is needed for all sites.

Face Amount _____

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Policy Number _____

Effective Date _____

The Insurer hereby certifies that it is licensed to transact the business of insurance by the Illinois Department of Insurance or that it is licensed to transact the business of insurance, or approved to provide insurance as an excess or surplus lines insurer, by the insurance department in one or more states~~Department of Insurance~~.

The insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for closure and post-closure care for the sites identified above. The Insurer further warrants that such policy conforms in all respects with the requirements of 35 Ill. Adm. Code 807.665, as applicable and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the Illinois Environmental Protection Agency ("IEPA"), the Insurer agrees to furnish to the IEPA a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the wording of this certificate is identical to the wording specified in 35 Ill. Adm. Code 807.Appendix A, Illustration F as such regulations were constituted on the date shown below.

Name (Authorized signature for Insurer)

_____
Typed Name

_____
Title

_____
Date

_____

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

Section 807.APPENDIX A Financial Assurance Forms

Section 807.ILLUSTRATION G Owner's or Operator's Bond Without Surety

OWNER'S OR OPERATOR'S BOND WITHOUT SURETY

Date bond executed: _____

Effective date: _____

Owner or Operator: _____

Owner's or Operator's address: _____

_____

Site: _____

Site address: _____

_____

Penal sum: $ _____

The owner or operator promises to pay the penal sum to the Illinois Environmental Protection Agency unless the owner or operator~~Operator~~ provides closure and post-closure care of the site in accordance with the closure and post-closure care plans for the site.

Owner or Operator

_____

Signature

_____

Typed Name

_____

Title

_____

_____

Date

Corporate Seal

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

Section 807.APPENDIX A Financial Assurance Forms

Section 807.ILLUSTRATION H Owner's or Operator's Bond with Parent Surety

OWNER'S OR OPERATOR'S BOND WITH PARENT SURETY

Date bond executed: _____

Effective Date: _____

Surety: _____

Surety's address: _____

Owner or Operator: _____

Owner or Operator's address: _____

Site: _____

Site address: _____

Penal sum: $ _____

The Owner or Operator and Surety promise to pay the above penal sum to the Illinois Environmental Protection Agency ("IEPA") unless the Owner or Operator provides closure and post-closure care of the site in accordance with the closure and post-closure care plans for the site. To the payment of this obligation the Owner or Operator and Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns.

Whereas the Owner or Operator is required, under Section 21(d) of the Environmental Protection Act [415 ILCS 5/21(d)], ~~Ill. Rev. Stat. 1983, ch. 111½, par. 1021(d)~~ to have a permit to conduct a waste disposal operation; and

Whereas the Owner or Operator is required, under Section 21.1 of the Environmental Protection Act [415 ILCS 5/21.1]~~Ill. Rev. Stat. 1983, ch. 111½, par. 1021.1~~, to provide financial assurance for closure and post-closure care; and

Whereas the Owner or Operator and Surety agree that this bond shall be governed by the laws of

the State of Illinois; and

Whereas the Surety is a corporation which owns an interest in the Owner or Operator;

The Surety shall pay the penal sum to the IEPA if, during the term of the bond, the Owner or Operator fails to provide closure or~~and~~ post-closure care for any site in accordance with the closure and post-closure care plans for that site as guaranteed by this bond. The Owner or Operator fails to so provide when the Owner or Operator:

a) Abandons the site;

b) Is adjudicated bankrupt;

c) Fails to initiate closure of the site or post-closure care when ordered to do so by the Board or a court of competent jurisdiction; ~~or~~

d) Notifies the Agency that it has initiated closure, or initiates closure, but fails to close the site or provide post-closure care in accordance with the closure and post-closure care plans; or

e) Fails to provide alternate financial assurance and obtain the IEPA written approval of the assurance provided within 90 days after receipt by the IEPA of a notice from the Surety that the bond will not be renewed for another term.

The Surety shall pay the penal sum of the bond to the IEPA within 30 days after the IEPA mails notice to the Surety that the Owner or Operator has met one or more of the conditions described above~~failed to so provide closure and post-closure care~~. Payment shall be made by check or draft payable to the State of Illinois, Landfill Closure and Post-Closure~~closure~~ Fund.

The liability of the Surety shall not be discharged by any payment or succession of payments unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond. In no event shall the obligation of the Surety exceed the amount of the penal sum.

This bond shall expire on the _____ [date] day of _____ [month], _____ [year]; but such expiration date shall be automatically extended for a period of _____ [at least one year] on _____ [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, the Surety notifies both the IEPA and the Owner or Operator by certified mail that the Surety has decided not to extend this surety bond beyond the current

expiration date. The 120 days will begin on the date when both the Owner or Operator and the IEPA have received the notice, as evidenced by the return receipts.

The Owner or Operator may terminate this bond by sending written notice to the Surety; provided, however, that no such notice shall become effective until the Surety received written authorization for termination of the bond from the IEPA in accordance with 35 Ill. Adm. Code 807.604.

In Witness Whereof, the Owner or Operator and Surety have executed this bond and have affixed their seals on the date set forth below~~above~~.

The persons whose signatures appear below certify that they are authorized to execute this surety bond on behalf of the Owner or Operator and Surety and that the wording of this surety bond is identical to the wording specified in 35 Ill. Adm. Code 807.Appendix A, Illustration H as such regulation was constituted on the date this bond was executed.

Owner or Operator	Surety
Signature	Name
_____	_____
Typed Name	Address
_____	_____
Title	State of Incorporation
_____	_____
Date	Signature
_____	_____
	Typed Name
	_____
	Title
	_____

Corporate seal

Corporate seal

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Solid Waste Disposal: General Provisions

2) Code Citation: 35 Ill. Adm. Code 810

3) Section Number: 810.104 Proposed Action: Amend

4) Statutory Authority: Implementing Section 22 of the Environmental Protection Act [415 ILCS 5/22] and Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8], and authorized by Sections 22, 27, and 28 of the Illinois Environmental Protection Act [415 ILCS 5/10, 27, 28] and Section 8 of the Illinois Groundwater Protection Act [415 ICLS 55/8]

5) A Complete Description of the Subjects and Issues Involved: The proposal updates specific segments of the Board's non-hazardous solid waste landfill regulations. The segments relate to financial assurance. The purpose of the financial assurance rules is to establish requirements for performance bonds and other securities insuring closure and post-closure care and corrective action at non-hazardous waste disposal sites and to prescribe the conditions under which the State of Illinois is entitled to collect monies from these instruments.

6) Published studies or reports and sources of underlying data, used to compose this rulemaking: No published study or research report was used in developing the proposed amendments to 35 Ill. Adm. Code 810.

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

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

9) Does this rulemaking contain incorporations by reference? Yes

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

11) Statement of Statewide Policy Objectives: This proposed amendment does not create or enlarge a State mandate as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3].

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period

of 45 days after the date of publication in the Illinois Register. Comments should refer to docket R10-09 and be addressed to:

Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

Interested persons may request copies of the Board's opinion and order in R10-09 by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us. For more information, contact hearing officer Daniel Robertson at 312/814-6931 or e-mail robertsd@ipcb.state.il.us.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Affected sources and facilities would include those sources and facilities required to obtain financial assurance for the closure and post closure care of waste disposal sites and any sources and facilities that provide financial assurance services for waste disposal sites.

B) Reporting, bookkeeping or other procedures required for compliance: Are detailed in the rule and include submitting to the Illinois Environmental Protection Agency.

C) Types of Professional skills necessary for compliance: Professional skills held by financial advisors/planners such as accountants, bookkeepers.

14) Regulatory Agenda in which this amendment was summarized: January 2011

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

PART 810
SOLID WASTE DISPOSAL: GENERAL PROVISIONS

Section
810.101 Scope and Applicability
810.102 Severability
810.103 Definitions
810.104 Incorporations by Reference
810.105 Electronic Reporting

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15838, effective September 18, 1990; amended in R93-10 at 18 Ill. Reg. 1268, effective January 13, 1994; amended in R90-26 at 18 Ill. Reg. 12457, effective August 1, 1994; amended in R95-9 at 19 Ill. Reg. 14427, effective September 29, 1995; amended in R96-1 at 20 Ill. Reg. 11985, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15825, effective November 25, 1997; amended in R04-5/R04-15 at 28 Ill. Reg. 9090, effective June 18, 2004; amended in R05-1 at 29 Ill. Reg. 5028, effective March 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4130, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1425, effective December 20, 2006; amended in R07-8 at 31 Ill. Reg. 16166, effective November 27, 2007; amended in R10-9 at 35 Ill. Reg. _____, effective _____.

Section 810.104 Incorporations by Reference

a) The Board incorporates the following material by reference:

1) Code of Federal Regulations:

40 CFR 3.2, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (How Does This Part Provide for Electronic Reporting?), referenced in Section 810.105.

40 CFR 3.3, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (What Definitions Are Applicable to This Part?), referenced in Section 810.105.

40 CFR 3.10, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 810.105.

40 CFR 3.2000, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 810.105.

40 CFR 141.40 (2005) (Monitoring Requirements for Unregulated Contaminants).

40 CFR 258.Appendix I (2006).

40 CFR 258.Appendix II (2006).

2) American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York NY 10036:

Financial Accounting Standards Board (FASB) Accounting Standards – Current Text, 2008 Edition.

American Institute of Certified Public Accountants (AICPA) Professional Standards – Statements on Auditing Standards, June 1, 2008 Edition.

~~Auditing Standards – Current Text, August 1, 1990 Edition.~~

3) ASTM. American Society for Testing and Materials, 1976 Race Street, Philadelphia PA 19103 215-299-5585:

Method D2234-76, "Test Method for Collection of Gross Samples of Coal," approved 1976.

Method D3987-85, "Standard Test Method for Shake Extraction of Solid Waste with Water," approved 1985.

4) GASB. Governmental~~Government~~ Accounting Standards Board, 401 Merritt 7, P.O. Box 5116, Norwalk CT 06856-5116:

Statement 18, Accounting for Municipal Solid Waste Landfill Closure and Postclosure Care Costs, August 1993.

5) U.S. Army Corps of Engineers, Publication Department, 2803 52nd Ave., Hyattville MD~~, Maryland~~ 20781, 301-394-0081:

Engineering Manual 1110-2-1906 Appendix VII, Falling-Head Permeability Cylinder (1986).

6) U.S. Government Printing Office, Washington DC~~, D.C.~~ 20402, Ph: 202-783-3238:

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846 (Third Edition, 1986; Revision 6, January 2005), as amended by Update I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1).

b) This incorporation includes no later amendments or editions.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Standards For New Solid Waste Landfills

2) Code Citation: 35 Ill. Adm. Code 811

3)

Section Numbers:	Proposed Action:
811.309	Amend
811.700	Amend
811.703	Amend
811.704	Amend
811.706	Amend
811.710	Amend
811.711	Amend
811.712	Amend
811.713	Amend
811.714	Amend
811.715	Amend
811.716	Amend
811.718	Amend
811.719	Amend
811.ILLUSTRATION A	Amend
811.ILLUSTRATIONC	Amend
811.ILLUSTRATION D	Amend
811.ILLUSTRATION E	Amend
811.ILLUSTRATION F	Amend
811.ILLUSTRATION G	Amend
811.ILLUSTRATION H	Amend
811.ILLUSTRATION I	Amend

4) Statutory Authority: Implementing Section 22 of the Environmental Protection Act [415 ILCS 5/22] and Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8], and authorized by Sections 22, 27, and 28 of the Illinois Environmental Protection Act [415 ILCS 5/10, 27, 28] and Section 8 of the Illinois Groundwater Protection Act [415 ICLS 55/8]

5) A Complete Description of the Subjects and Issues Involved: The proposal updates specific segments of the Board's non-hazardous solid waste landfill regulations. The segments relate to financial assurance. The purpose of the financial assurance rules is to establish requirements for performance bonds and other securities insuring closure and postclosure care and corrective action at non-hazardous waste disposal sites and to

prescribe the conditions under which the State of Illinois is entitled to collect monies from these instruments.

6) Published studies or reports and sources of underlying data, used to compose this rulemaking: No published study or research report was used in developing the proposed amendments to 35 Ill. Adm. Code 811.

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

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

9) Does this rulemaking contain incorporations by reference? Yes

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

11) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of 45 days after the date of publication in the *Illinois Register*. Comments should refer to docket R10-09 and be addressed to:

John Therriault
Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

Interested persons may request copies of the Board's opinion and order in R10-09 by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us. For more information, contact hearing officer Daniel Robertson at 312/814-6931 or e-mail robertsd@ipcb.state.il.us.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Affected sources and facilities would include those sources and

facilities required to obtain financial assurance for the closure and post closure care of waste disposal sites and any sources and facilities that provide financial assurance services for waste disposal sites.

B) Reporting, bookkeeping or other procedures required for compliance: Are detailed in the rule and include submitting to the Illinois Environmental Protection Agency.

C) Types of Professional skills necessary for compliance: Professional skills held by financial advisors/planners such as accountants, bookkeepers.

14) Regulatory Agenda in which this rulemaking was summarized: January 2011

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 811
STANDARDS FOR NEW SOLID WASTE LANDFILLS

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section
811.101 Scope and Applicability
811.102 Location Standards
811.103 Surface Water Drainage
811.104 Survey Controls
811.105 Compaction
811.106 Daily Cover
811.107 Operating Standards
811.108 Salvaging
811.109 Boundary Control
811.110 Closure and Written Closure Plan
811.111 Postclosure Maintenance
811.112 Recordkeeping Requirements for MSWLF Units
811.113 Electronic Reporting

SUBPART B: INERT WASTE LANDFILLS

Section
811.201 Scope and Applicability
811.202 Determination of Contaminated Leachate
811.203 Design Period
811.204 Final Cover
811.205 Final Slope and Stabilization
811.206 Leachate Sampling
811.207 Load Checking

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section

811.301 Scope and Applicability
811.302 Facility Location
811.303 Design Period
811.304 Foundation and Mass Stability Analysis
811.305 Foundation Construction
811.306 Liner Systems
811.307 Leachate Drainage System
811.308 Leachate Collection System
811.309 Leachate Treatment and Disposal System
811.310 Landfill Gas Monitoring
811.311 Landfill Gas Management System
811.312 Landfill Gas Processing and Disposal System
811.313 Intermediate Cover
811.314 Final Cover System
811.315 Hydrogeologic Site Investigations
811.316 Plugging and Sealing of Drill Holes
811.317 Groundwater Impact Assessment
811.318 Design, Construction, and Operation of Groundwater Monitoring Systems
811.319 Groundwater Monitoring Programs
811.320 Groundwater Quality Standards
811.321 Waste Placement
811.322 Final Slope and Stabilization
811.323 Load Checking Program
811.324 Corrective Action Measures for MSWLF Units
811.325 Selection of remedy for MSWLF Units
811.326 Implementation of the corrective action program at MSWLF Units

SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

Section
811.401 Scope and Applicability
811.402 Notice to Generators and Transporters
811.403 Special Waste Manifests
811.404 Identification Record
811.405 Recordkeeping Requirements
811.406 Procedures for Excluding Regulated Hazardous Wastes

SUBPART E: CONSTRUCTION QUALITY ASSURANCE PROGRAMS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section
811.501 Scope and Applicability
811.502 Duties and Qualifications of Key Personnel
811.503 Inspection Activities
811.504 Sampling Requirements
811.505 Documentation
811.506 Foundations and Subbases
811.507 Compacted Earth Liners
811.508 Geomembranes
811.509 Leachate Collection Systems

SUBPART G: FINANCIAL ASSURANCE

Section
811.700 Scope, Applicability and Definitions
811.701 Upgrading Financial Assurance
811.702 Release of Financial Institution
811.703 Application of Proceeds and Appeals
811.704 Closure and Postclosure Care Cost Estimates
811.705 Revision of Cost Estimate
811.706 Mechanisms for Financial Assurance
811.707 Use of Multiple Financial Mechanisms
811.708 Use of a Financial Mechanism for Multiple Sites
811.709 Trust Fund for Unrelated Sites
811.710 Trust Fund
811.711 Surety Bond Guaranteeing Payment
811.712 Surety Bond Guaranteeing Performance
811.713 Letter of Credit
811.714 Closure Insurance
811.715 Self-Insurance for Non-Commercial~~commercial~~ Sites
811.716 Local Government Financial Test
811.717 Local Government Guarantee
811.718 Discounting
811.719 Corporate Financial Test
811.720 Corporate Guarantee

811.APPENDIX A Financial Assurance Forms
811.ILLUSTRATION A Trust Agreement
811.ILLUSTRATION B Certificate of Acknowledgment

811.ILLUSTRATION C	Forfeiture Bond
811.ILLUSTRATION D	Performance Bond
811.ILLUSTRATION E	Irrevocable Standby Letter of Credit
811.ILLUSTRATION F	Certificate of Insurance for Closure and/or Postclosure Care or Corrective Action
811.ILLUSTRATION G	Owner's or Operator's Bond Without Surety
811.ILLUSTRATION H	Owner's or Operator's Bond With Parent Surety
811.ILLUSTRATION I	Letter from Chief Financial Officer
811.APPENDIX B	Section-by-Section correlation between the Standards of the RCRA Subtitle D MSWLF regulations and the Board's nonhazardous waste landfill regulations.
811.APPENDIX C	List of Leachate Monitoring Parameters

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15861, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12413, effective July 19, 1993; amended in R93-10 at 18 Ill. Reg. 1308, effective January 13, 1994; expedited correction at 18 Ill. Reg. 7504, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12481, effective August 1, 1994; amended in R95-13 at 19 Ill. Reg. 12257, effective August 15, 1995; amended in R96-1 at 20 Ill. Reg. 12000, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15831, effective November 25, 1997; amended in R98-9 at 22 Ill. Reg. 11491, effective June 23, 1998; amended in R99-1 at 23 Ill. Reg. 2794, effective February 17, 1999; amended in R98-29 at 23 Ill. Reg. 6880, effective July 1, 1999; amended in R04-5/R04-15 at 28 Ill. Reg. 9107, effective June 18, 2004; amended in R05-1 at 29 Ill. Reg. 5044, effective March 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4136, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1435, effective December 20, 2006; amended in R07-8 at 31 Ill. Reg. 16172, effective November 27, 2007; amended in R10-9 at 35 Ill. Reg. _____, effective _____.

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section 811.309 Leachate Treatment and Disposal Systems

a) Leachate shall be allowed to flow freely from the drainage and collection system. The operator is responsible for the operation of a leachate management system designed to handle all leachate as it drains from the collection system. The leachate management system shall consist of any combination of storage,

treatment, pretreatment, and disposal options designed and constructed in compliance with the requirements of this Section.

b) The leachate management system shall consist of any combination of multiple treatment and storage structures, to allow the management and disposal of leachate during routine maintenance and repairs.

c) Standards for Onsite Treatment and Pretreatment

1) All onsite treatment or pretreatment systems shall be considered part of the facility.

2) The onsite treatment or pretreatment system shall be designed in accordance with the expected characteristics of the leachate. The design may include modifications to the system necessary to accommodate changing leachate characteristics.

3) The onsite treatment or pretreatment system shall be designed to function for the entire design period.

4) All of the facility's unit operations, tanks, ponds, lagoons and basins shall be designed and constructed with liners or containment structures to control seepage to groundwater.

5) All treated effluent discharged to waters of the State shall meet the requirements of 35 Ill. Adm. Code 309.

6) The treatment system shall be operated by an operator certified under the requirements of 35 Ill. Adm. Code 312.

d) Standards for Leachate Storage Systems

1) Except as otherwise provided in subsection (d)(6) of this Section, the leachate storage facility must be able to store a minimum of at least five days' worth of accumulated leachate at the maximum generation rate used in designing the leachate drainage system in accordance with Section 811.307. The minimum storage capacity may be built up over time and in stages, so long as the capacity for five consecutive days of accumulated leachate is available at any time during the design period of the facility.

2) All leachate storage tanks shall be equipped with secondary containment systems equivalent to the protection provided by a clay liner 0.61 meter (2 feet thick) having a permeability no greater than 10^{-7} centimeters per second.

3) Leachate storage systems shall be fabricated from material compatible with the leachate expected to be generated and resistant to temperature extremes.

4) The leachate storage system shall not cause or contribute to a malodor.

5) The leachate drainage and collection system shall not be used for the purpose of storing leachate.

6) A facility may have less than five days' worth of storage capacity for accumulated leachate as required by subsection (d)(1) of this Section, if the owner or operator of the facility demonstrates that multiple treatment, storage and disposal options in the facility's approved leachate management system developed in accordance with subsection (b) of this Section will achieve equivalent performance. Such options shall consist of not less than one day's worth of storage capacity for accumulated leachate plus at least two alternative means of managing accumulated leachate through treatment or disposal, or both treatment and disposal, each of which means is capable of treating or disposing of all leachate generated at the maximum generation rate on a daily basis.

e) Standards for Discharge to an Offsite Treatment Works

1) Leachate may be discharged to an offsite treatment works that meets the following requirements:

A) All discharges of effluent from the treatment works shall meet the requirements of 35 Ill. Adm. Code 309.

B) The treatment systems shall be operated by an operator certified under the requirements of 35 Ill. Adm. Code 312.

C) No more than 50 percent of the average daily influent flow can be

attributable to leachate from the solid waste disposal facility. Otherwise, the treatment works shall be considered a part of the solid waste disposal facility.

2) The operator is responsible for securing permission from the offsite treatment works for authority to discharge to the treatment works.

3) All discharges to a treatment works shall meet the requirements of 35 Ill. Adm. Code 310.

4) Pumps, meters, valves and monitoring stations that control and monitor the flow of leachate from the unit and which are under the control of the operator shall be considered part of the facility and shall be accessible to the operator at all times.

5) Leachate shall be allowed to flow into the sewage system at all times; however, if access to the treatment works is restricted or anticipated to be restricted for longer than five days, then an alternative leachate management system shall be constructed in accordance with subsection (c).

6) Where leachate is not directly discharged into a sewage system, the operator shall provide storage capacity sufficient to transfer all leachate to an offsite treatment works. The storage system shall meet the requirements of subsection (d).

f) Standards for Leachate Recycling Systems

1) Leachate recycling systems may be utilized only at permitted waste disposal units that meet the following requirements:

A) The unit must have a liner designed, constructed and maintained to meet the minimum standards of Section 811.306.

B) The unit must have a leachate collection system in place and operating in accordance with Section 811.307.

C) A gas management system, equipped with a mechanical device such as a compressor to withdraw gas, must be implemented to

control odors and prevent migration of methane in accordance with Section 811.311.

D) The topography must be such that any accidental leachate runoff can be controlled by ditches, berms or other equivalent control means.

2) Leachate shall not be recycled during precipitation events or in volumes large enough to cause runoff or surface seeps.

3) The amount of leachate added to the unit shall not exceed the ability of the waste and cover soils to transmit leachate flow downward. All other leachate shall be considered excess leachate, and a leachate management system capable of disposing of all excess leachate must be available.

4) The leachate storage and distribution system shall be designed to avoid exposure of leachate to air unless aeration or functionally equivalent devices are utilized.

5) The distribution system shall be designed to allow leachate to be evenly distributed beneath the surface over the recycle area.

6) Daily and intermediate cover shall be permeable to the extent necessary to prevent the accumulation of water and formation of perched watertables and gas buildup; alternatively cover shall be removed prior to additional waste placement.

7) Daily and intermediate cover shall slope away from the perimeter of the site to minimize surface discharges.

g) Leachate Monitoring

1) Representative samples of leachate shall be collected from each established leachate monitoring location in accordance with subsection (g)(5) and tested for the parameters referenced in subsections (g)(2)(G) and (g)(3)(D). The Agency may, by permit condition, require additional, or allow less, leachate sampling and testing as necessary to ensure compliance with this Section and Sections 811.312, 811.317, and 811.319.

2) Discharges of leachate from units that dispose of putrescible wastes shall be tested for the following constituents prior to treatment or pretreatment:

A) Five day biochemical oxygen demand (BOD_5);

B) Chemical oxygen demand;

C) Total Suspended Solids;

D) Total Iron;

E) pH;

F) Any other constituents listed in the operator's National Pollution Discharge Elimination System (NPDES) discharge permit, pursuant to 35 Ill. Adm. Code 304, or required by a publicly owned treatment works, pursuant to 35 Ill. Adm. Code 310; and

G) All the monitoring parameters listed in Section 811.Appendix C, unless an alternate monitoring list has been approved by the Agency.

3) Discharges of leachate from units which dispose only chemical wastes shall be monitored for constituents determined by the characteristics of the chemical waste to be disposed of in the unit. They shall include, as a minimum:

A) pH;

B) Total Dissolved Solids;

C) Any other constituents listed in the operator's NPDES discharge permit, pursuant to 35 Ill. Adm. Code 304, or required by a publicly owned treatment works, pursuant to 35 Ill. Adm. Code 310; and

D) All the monitoring parameters listed in Section 811.Appendix C, unless an alternate monitoring list has been approved by the

Agency.

4) A network of leachate monitoring locations shall be established, capable of characterizing the leachate produced by the unit. Unless an alternate network has been approved by the Agency, the network of leachate monitoring locations shall include:

A) At least four leachate monitoring locations; and

B) At least one leachate monitoring location for every 25 acres within the unit's waste boundaries.

5) Leachate monitoring shall be performed at least once every six months and each established leachate monitoring location shall be monitored at least once every two years.

h) Time of Operation of the Leachate Management System

1) The operator shall collect and dispose of leachate for a minimum of five years after closure and thereafter until treatment is no longer necessary.

2) Treatment is no longer necessary if the leachate constituents do not exceed the wastewater effluent standards in 35 Ill. Adm. Code 304.124, 304.125, 304.126 and do not contain a BOD_5 concentration greater than 30 mg/L for six consecutive months.

3) Leachate collection at a MSWLF unit shall be continued for a minimum period of 30 years after closure, except as otherwise provided by subsections (h)(4) and (h)(5).

4) The Agency may reduce the leachate collection period at a MSWLF unit upon a demonstration by the owner or operator that the reduced period is sufficient to protect human health and environment.

5) The owner or operator of a MSWLF unit shall petition the Board for an adjusted standard in accordance with Section 811.303, if the owner or operator seeks a reduction of the postclosure care monitoring period for all of the following requirements:

i) Inspection and maintenance (Section 811.111);

ii) Leachate collection (Section 811.309);

iii) Gas monitoring (Section 811.310~~811.130~~); and

iv) Groundwater monitoring (Section 811.319).

BOARD NOTE: Subsection (h) is derived from 40 CFR 258.61 (1992).

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

SUBPART G: FINANCIAL ASSURANCE

Section 811.700 Scope, Applicability and Definitions

a) This Subpart provides procedures by which the owner or operator of a permitted waste disposal facility provides financial assurance satisfying the requirements of Section 21.1(a) of the Act.

b) Financial assurance shall~~may~~ be provided, as specified in Section 811.706, by a trust agreement, a bond guaranteeing payment, a bond guaranteeing payment or performance, a letter of credit, insurance or self-insurance. The owner operator shall provide financial assurance to the Agency before the receipt of the waste.

c) Except as provided in subsection (f), this Subpart does not apply to the State of Illinois, its agencies and institutions, or to any unit of local government; provided, however, that any other persons who conduct such a waste disposal operation on a site that is owned or operated by such a governmental entity shall provide financial assurance for closure and postclosure care of the site.

d) The owner or operator is not required to provide financial assurance pursuant to this Subpart if the owner or operator demonstrates:

1) That closure and postclosure care plans filed pursuant to 35 Ill. Adm. Code 724 or 725 will result in closure and postclosure care of the site in accordance with the requirements of this Part; and

2) That the owner or operator has provided financial assurance adequate to

provide for such closure and postclosure care pursuant to 35 Ill. Adm. Code 724 or 725.

e) Definition: "Assumed closure date" means the point in time when the extent and manner of the facility's development, as permitted for operation in accordance with 35 Ill. Adm. Code 813.203 when applicable, would make closure the most expensive~~date during the next permit term on which the costs of premature final closure of the facility, in accordance with the standards of this Part, will be greatest~~.

f) On or after April 9, 1997, no person, other than the State of Illinois, its agencies and institutions, shall conduct any disposal operation at an MSWLF unit that requires a permit under ~~subsection (d) of~~ Section 21(d)~~21.1~~ of the Act, unless that person complies with the financial assurance requirements of this Part.

g) The Board will grant a variance pursuant to Sections 35 through 38 of the Act and 35 Ill. Adm. Code 104 that allows a facility to operate not in compliance with the otherwise applicable requirements of this Section for up to one year, until April 9, 1998, for good cause, if it determines that an owner or operator has demonstrated that the prior April 9, 1997 effective date for the requirements of this Section did not provide sufficient time to comply and that operating not in compliance with the otherwise applicable provisions of this Section would not adversely affect human health or the environment.

BOARD NOTE: Subsection (f) clarifies the applicability of the financial assurance requirements to units of local government, since the Subtitle D regulations exempt only federal and state governments from financial assurance requirements. (See 40 CFR 258.70 (1996).) P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to the date that the federal financial assurance requirements actually become effective, which was April 9, 1997. On November 27, 1996 (61 Fed. Reg. 60327), USEPA added 40 CFR 258.70(c) (1996), codified here as subsection (g), to allow states to waive the compliance deadline until April 9, 1998.

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

Section 811.703 Application of Proceeds and Appeals

a) The Agency may sue in any court of competent jurisdiction to enforce its rights

under financial instruments. The filing of an enforcement action before the Board is not a condition precedent to such an Agency action, except when this Subpart or the terms of the instrument provide otherwise.

b) As provided in Titles VIII and IX of the Act and 35 Ill. Adm. Code 103 and 104, the Board may order modifications in permits to change the type or amount of financial assurance pursuant to an enforcement action or a variance petition. Also, the Board may order that an owner or operator modify a closure or postclosure care plan or order that proceeds from financial assurance be applied to the execution of a closure or postclosure care plan.

c) The following Agency actions may be appealed to the Board as a permit denial pursuant to 35 Ill. Adm. Code 105 and Section 21.1(e)~~Section 21.5(e)~~ of the Act:

1) A refusal to accept financial assurance tendered by the owner or operator;

2) A refusal to release the owner or operator from the requirement to maintain financial assurance;

3) A refusal to release excess funds from a trust;

4) A refusal to approve a reduction in the penal sum of a bond;

5) A refusal to approve a reduction in the amount of a letter of credit;

6) A refusal to approve a reduction in the face amount of an insurance policy; or

7) A determination that an owner or operator no longer meets the gross revenue test or financial test.

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

Section 811.704 Closure and Postclosure Care and Corrective Action Cost Estimates

a) Written cost estimate. The owner or operator shall have a written estimate of the cost of closure of all parts of the facility where wastes have been deposited in accordance with the requirements of this Part; the written closure plan, required by Section 811.110 and 35 Ill. Adm. Code 812.114; and the cost of postclosure

care and plans, required by this Part and the written postclosure care plans required by 35 Ill. Adm. Code 812.115. The cost estimate is the total cost for closure and postclosure care.

b) The owner or operator shall revise the cost estimate whenever a change in the closure plan or postclosure care plan increases the cost estimate.

c) The cost estimate must be based on the steps necessary for the premature final closure of the facility on the assumed closure date.

d) The cost estimate must be based on the assumption that the Agency will contract with a third party to implement the closure plan.

e) The cost estimate may not be reduced by allowance for the salvage value of equipment or waste, for the resale value of land, or for the sale of landfill gas.

f) The cost estimate must, at a minimum, include all costs for all activities necessary to close the facility in accordance with all requirements of this Part.

g) (Blank)~~Except for a MSWLF unit, the postclosure monitoring and maintenance cost estimate must be prepared:~~

~~1) On the basis of the design period for each unit at a facility, assuming operations will cease on the assumed closure date; and~~

~~2) Reduced to present value, as follows:~~

~~A) Based on a 4 percent discount rate;~~

~~B) Without allowing for inflation;~~

~~C) Over a period including the time remaining until the assumed closure date, plus the postclosure care period;~~

h) The postclosure care cost estimate must, at a minimum, be based on the following elements in the postclosure care plan:

1) Groundwater monitoring, based on the number of monitoring points and parameters and the frequency of sampling specified in the permit.

2) The annual Cost of Cover Placement and Stabilization, including an estimate of the annual residual settlement and erosion control and the cost of mowing.

3) Alternative Landfill Gas Disposal. If landfill gas is transported to an off-site processing system, then the owner or operator shall include in the cost estimate the costs necessary to operate an onsite gas disposal system, should access to the off-site facility become unavailable. The cost estimate must include the following information: installation, operation, maintenance and monitoring of an on-site gas disposal system.

4) Cost Estimates Beyond the Design Period. When a facility must extend the postclosure care period beyond the applicable design period, the cost estimate must be based upon such additional time and the care activities occurring during that time.

i) This Section does not authorize the Agency to require the owner or operator to perform any of the indicated activities upon which cost estimates are to be based; however, if the site permit requires a closure activity, the owner or operator shall include the cost of that activity in the cost estimate.

j) Once the owner or operator has completed an activity, the owner or operator may file an application for significant permit modification pursuant to 35 Ill. Adm. Code 813.201 indicating that the activity has been completed, and zeroing that element of the cost estimate.

k) Cost estimate for corrective action at MSWLF units.

1) An owner or operator of a MSWLF unit required to undertake a corrective action program pursuant to Section 811.326 shall have a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the Section 811.326. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period. The owner or operator shall notify the Agency that the estimate has been placed in the operating record.

2) The owner or operator must annually adjust the estimate for inflation until

the corrective action program is completed in accordance with Section 811.326(f).

3) The owner or operator must increase the corrective action cost estimate and the amount of financial assurance provided pursuant to subsections (k)(5) and (k)(6)~~under paragraph (b)~~ of this Section~~section~~ if changes in the corrective action program or MSWLF unit conditions increase the maximum costs of corrective action.

4) The owner or operator may reduce the amount of the corrective action cost estimate and the amount of financial assurance provided pursuant to subsections (k)(5) and (k)(6) of this Section~~section~~ if the cost estimate exceeds the maximum remaining costs of corrective action. The owner or operator shall notify the Agency that the justification for the reduction of the corrective action cost estimate and the amount of financial assurance has been placed in the operating record.

5) The owner or operator of each MSWLF unit required to undertake a corrective action program under Section 811.326 shall establish, in accordance with Section 811.706, financial assurance for the most recent corrective action program.

6) The owner or operator shall provide continuous coverage for corrective action until released from the financial assurance requirements for corrective action by demonstrating compliance with Section 811.326 (f) and (g).

BOARD NOTE: Subsection (k) is derived from 40 CFR 258.73 (1992).

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

Section 811.706 Mechanisms for Financial Assurance

a) The owner or operator of a waste disposal site shall~~may~~ utilize any of the mechanisms listed in subsections (a)(1) through (a)(10) to provide financial assurance for closure and postclosure care, and for corrective action at an MSWLF unit. An owner or operator of an MSWLF unit shall also meet the requirements of subsections (b), (c), and (d). The mechanisms are as follows:

1) A trust fund (see Section 811.710);

2) A surety bond guaranteeing payment (see Section 811.711);

3) A surety bond guaranteeing performance (see Section 811.712);

4) A letter of credit (see Section 811.713);

5) Closure insurance (see Section 811.714);

6) Self-insurance (see Section 811.715);

7) Local government financial test (see Section 811.716);

8) Local government guarantee (see Section 811.717);

9) Corporate financial test (see Section 811.719); or

10) Corporate guarantee (see Section 811.720).

b) The owner or operator of an MSWLF unit shall ensure that the language of the mechanisms listed in subsection (a), when used for providing financial assurance for closure, postclosure, and corrective action, satisfies the following:

1) The amount of funds assured is sufficient to cover the costs of closure, post-closure care, and corrective action; and

2) The funds will be available in a timely fashion when needed.

c) The owner or operator of an MSWLF unit shall provide financial assurance utilizing one or more of the mechanisms listed in subsection (a) within the following dates:

1) By April 9, 1997, or such later date granted pursuant to Section 811.700(g), or prior to the initial receipt of solid waste, whichever is later, in the case of closure and post-closure care; or

2) No later than 120 days after the remedy has been selected in accordance with the requirements of Section 811.325, in the case of corrective action.

d) The owner or operator shall provide continuous coverage until the owner or operator is released from the financial assurance requirements pursuant to 35 Ill. Adm. Code 813.403(b) or Section 811.326.

BOARD NOTE: Subsections (b) and (c) are derived from 40 CFR 258.74(1) (1996). Amendments prompted by amendments to 40 CFR 258.74(a)(5) (1996). P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to the date that the federal financial assurance requirements actually become effective, which was April 9, 1997. On November 27, 1996 (61 Fed. Reg. 60327), USEPA added 40 CFR 258.70(c) (1996), codified here as Section 811.700(g), to allow states to waive the compliance deadline until April 9, 1998.

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

Section 811.710 Trust Fund

a) An owner or operator may satisfy the requirements of this Subpart G by establishing a trust fund that conforms to the requirements of this Section and submitting an original signed duplicate of the trust agreement to the Agency.

b) The trustee must be an entity that has the authority to act as a trustee and of whom either of the following is true:

1) It is an entity whose trust operations are examined by the Illinois Department of Financial and Professional Regulation~~Commissioner of Banks and Trust Companies~~ pursuant to the Illinois Banking Act [205 ILCS 5]; or

2) It is an entity that complies with the Corporate Fiduciary Act [205 ILCS 620].

c) The trust agreement must be on the forms specified in Appendix A, Illustration A of this Part, and the trust agreement must be accompanied by a formal certification of acknowledgement, on the form specified in Appendix A, Illustration B. Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current closure, post-closure, and corrective action cost estimates covered by the agreement. ~~of this Part.~~

d) Payments into the trust.

1) For closure and post-closure care.

A) The owner or operator must make a payment into the trust fund each year during the pay-in period.

B) The pay-in period is the initial permit term or the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter.~~number of years remaining until the assumed closure date.~~

C) Annual payments are determined by the following formula:

$$\text{Annual payment} = \frac{CE-CV}{Y}$$

Where~~ the variables are defined as follows~~:

CE = Current cost estimate

CV = Current value of the trust fund

Y = Number of years remaining in the pay-in period.

D) The owner or operator must make the first annual payment prior to the initial receipt of waste for disposal. The owner or operator must also, prior to ~~such~~ initial receipt of waste, submit to the Agency a receipt from the trustee for the first annual payment.

E) Subsequent annual payments must be made no later than 30 days after each anniversary of the first payment.

F) The owner or operator may accelerate payments into the trust fund, or may deposit the full amount of the current cost estimate at the time the fund is established.

G) An owner or operator required to provide additional financial assurance for an increase in the cost estimate because of an amendment to this Subchapter i may provide such additional

financial assurance pursuant to this subsection (d)(1)(G). The owner or operator may provide the increase by contributing to a new or existing trust fund pursuant to this Section. Subsection (d)(2) of this Section notwithstanding, the pay-in period for such additional financial assurance must be not less than three years.

2) For corrective action at MSWLF units.

A) The owner or operator must make payments into the trust fund annually over one-half of the estimated length of the corrective action program in the case of corrective action for known releases. This period is referred to as the pay-in period.

B) The owner or operator must make the first payment into the trust fund equal to at least one-half of the current cost estimate for corrective action divided by the number of years in the corrective action pay-in period, as defined in subsection (d)(2)(A) of this Section. The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment} = \frac{RB\text{-}CV}{Y}$$

Where ~~the variables are defined as follows~~:

RB = Most recent estimate of the required trust fund balance for corrective action (i.e., the total costs that will be incurred during the second half of the corrective action period)
CV = Current value of the trust fund
Y = Number of years remaining in the pay-in period.

C) The owner or operator must make the initial payment into the trust fund no later than 120 days after the remedy has been selected in accordance with the requirements of Section 811.325.

BOARD NOTE: Subsection (d) of this Section is partly derived from 40 CFR 258.74(a)(2), (a)(4), and (a)(5) (2005).

e) The trustee must evaluate the trust fund annually, as of the day the trust was created or on such earlier date as may be provided in the agreement. The trustee must notify the owner or operator and the Agency of the value within 30 days after the evaluation date.

f) If the owner or operator of a MSWLF unit establishes a trust fund after having used one or more alternative mechanisms specified in this Subpart G, the initial payment into the trust fund must be at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the specifications of this Section.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 258.74(a)(6) (2005).

g) Release of excess funds.

1) If the value of the financial assurance is greater than the total amount of the current cost estimate, the owner or operator may submit a written request to the Agency for a release of the amount in excess of the current cost estimate.

2) Within 60 days after receiving a request from the owner or operator for a release of funds, the Agency must instruct the trustee to release to the owner or operator ~~to release~~ such funds as the Agency specifies in writing to be in excess of the current cost estimate.

h) Reimbursement for closure, postclosure care, and corrective action expenses.

1) After initiating closure or corrective action, an owner or operator, or any other person authorized to perform closure, postclosure care, or corrective action, may request reimbursement for closure, postclosure care, or corrective action expenditures, by submitting itemized bills to the Agency.

2) Within 60 days after receiving the itemized bills for closure, postclosure care, or correction action activities, the Agency must determine whether the expenditures are in accordance with the closure, postclosure care, or corrective action plan. The Agency must instruct the trustee to make reimbursement in such amounts as the Agency specifies in writing as expenditures in accordance with the closure, postclosure care, or

corrective action plan.

3) If the Agency determines, based on such information as is available to it, that the cost of closure and postclosure care or corrective action will be greater than the value of the trust fund, it must withhold reimbursement of such amounts as it determines are necessary to preserve the fund in order to accomplish closure and postclosure care or corrective action until it determines that the owner or operator is no longer required to maintain financial assurance for closure and postclosure care or corrective action. In the event the fund is inadequate to pay all claims, the Agency must pay claims according to the following priorities:

A) Persons with whom the Agency has contracted to perform closure, postclosure care, or corrective action activities (first priority);

B) Persons who have completed closure, postclosure care, or corrective action authorized by the Agency (second priority);

C) Persons who have completed work that furthered the closure, postclosure care, or corrective action (third priority);

D) The owner or operator and related business entities (last priority).

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

Section 811.711 Surety Bond Guaranteeing Payment

a) An owner or operator may satisfy the requirements of this Subpart by obtaining a surety bond which conforms to the requirements of this Section and submitting the bond to the Agency. A surety bond obtained by an owner or operator of an MSWLF unit must be effective before the initial receipt of waste or before April 9, 1997 (the effective date of the financial assurance requirements under RCRA Subtitle D regulations), or such later date granted pursuant to Section 811.700(g), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the remedy has been selected in accordance with the requirements of Section 811.325.

b) The surety company issuing the bond shall be *licensed to transact the business of insurance by the Department of Insurance,* pursuant to the Illinois Insurance Code

[215 ILCS 5]*, or at a minimum the insurer must be licensed to transact the business of insurance or approved to provide insurance as an excess or surplus lines insurer by the insurance department in one or more states,* and approved by the U.S. Department of the Treasury as an acceptable surety. ~~Section 21.1(a.5) of the Act~~ [415 ILCS 5/21.1(a.5)]

BOARD NOTE: The U.S. Department of the Treasury lists acceptable sureties in its Circular 570.

c) The surety bond must be on the forms specified in Appendix A, Illustration C~~, D, or H~~.

d) Any payments made under the bond will be placed in the Landfill Closure~~landfill closure~~ and Post-Closure~~postclosure~~ fund within the State Treasury.

e) Conditions:

1) The bond must guarantee that the owner or operator will:

A) Provide~~provide~~ closure and postclosure care in accordance with the approved closure and postclosure care plans and, if the bond is a corrective action bond, provide~~. If the facility is an MSWLF unit, then the corrective action bond must guarantee that the owner or operator will implement~~ corrective action in accordance with Section 811.326; and

B) Provide alternative financial assurance, as specified in this Subpart, and obtain the Agency's written approval of the assurance provided within 90 days after receipt by both the owner or operator and the Agency of a notice from the surety that the bond will not be renewed for another term.

2) The surety will become liable on the bond obligation when, during the term of the bond, the owner or operator fails to perform as guaranteed by the bond. The owner or operator fails to perform when the owner or operator:

A) Abandons the site;

B) Is adjudicated bankrupt;

C) Fails to initiate closure of the site or postclosure care or corrective action when ordered to do so by the Board pursuant to Title VIII~~Title VII~~ of the Act, or when ordered to do so by a court of competent jurisdiction;

D) Notifies the Agency that it has initiated closure or corrective action, or initiates closure or corrective action, but fails to close the site or provide postclosure care or corrective action in accordance with the closure and postclosure care or corrective action plans; ~~or~~

E) For a corrective action bond, fails to implement corrective action at an MSWLF unit in accordance with Section 811.326; or

F) Fails to provide alternative financial assurance, as specified in this Subpart, and obtain the Agency's written approval of the assurance provided within 90 days after receipt by both the owner or operator and the Agency of a notice from the surety that the bond will not be renewed for another term.

f) Penal sum:

1) The penal sum of the bond must be in an amount at least equal to the current cost estimate.

2) Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the Agency~~The Agency shall approve a reduction in the penal sum whenever the current cost estimate decreases~~.

3) Whenever the current cost estimate increases to an amount greater than the penal sum, the owner of operator, within 90 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current cost estimate and submit evidence of that increase to the Agency or obtain other financial assurance, as specified in this Subpart, to cover the increase and submit evidence of the alternative financial assurance to the Agency.

g) Term:

1) The bond must be issued for a term of at least one year~~five years~~ and must not be cancelable during that term.

2) The surety bond must provide that, on the current expiration date and on each successive expiration date, the term of the surety bond will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the surety notifies both the owner and operator and the Agency by certified mail of a decision not to renew the bond. Under the terms of the surety bond, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts. ~~If the owner or operator fails to provide substitute financial assurance prior to expiration of a bond, the term of the bond must be automatically extended for one twelve-month period starting with the date of expiration of the bond. During such extension the bond will cease to serve as financial assurance satisfying the requirements of this Part, and will not excuse the owner or operator from the duty to provide substitute financial assurance.~~

3) The Agency shall release the surety by providing written authorization for termination of the bond to the owner or operator and the surety when either of the following occurs:

A) An owner or operator substitutes alternative financial assurance, as specified in this Subpart; or

B) The Agency releases the owner or operator from the requirements of this Subpart in accordance with 35 Ill. Adm. Code 813.403(b). ~~The Agency shall release the surety if, after the surety becomes liable on the bond, the owner or operator or another person provides financial assurance for closure and postclosure care of the site or corrective action program at an MSWLF unit, unless the Agency determines that the closure or postclosure care plan, corrective action at an MSWLF unit, or the amount of substituted financial assurance is inadequate to provide closure and postclosure care or implement corrective action in compliance with this Part.~~

h) Cure of default and refunds:

1) The Agency shall release the surety if, after the surety becomes liable on the bond, the owner or operator or another person provides financial assurance for closure and postclosure care of the site or corrective action at an MSWLF unit, unless the Agency determines that the closure or postclosure care plan, corrective action at an MSWLF unit or the amount of substituted financial assurance is inadequate to provide closure and postclosure care or implement corrective action in compliance with this Part.

2) After closure and postclosure care have been completed in accordance with the plans and requirements of this Part or after the completion of corrective action at an MSWLF unit in accordance Section 811.326, the Agency shall refund any unspent money which was paid into the "Landfill Closure and Post-Closure~~Postclosure~~ Fund" by the surety, subject to appropriation of funds by the Illinois General Assembly.

BOARD NOTE: MSWLF corrective action language at subsection (a) is derived from 40 CFR 258.74(b)(1) (1996). P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to the date that the federal financial assurance requirements actually become effective, which was April 9, 1997. On November 27, 1996 (61 Fed. Reg. 60337), USEPA added 40 CFR 258.70(c) (1996), codified here as Section 811.700(g), to allow states to waive the compliance deadline until April 9, 1998. The other clarifying changes reflect the inclusion of financial assurance requirements for implementing corrective action at MSWLF units under this Section.

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

Section 811.712 Surety Bond Guaranteeing Performance

a) An owner or operator may satisfy the requirements of this Subpart by obtaining a surety bond which conforms to the requirements of this Section and submitting the bond to the Agency. A surety bond obtained by an owner or operator of an MSWLF unit must be effective before the initial receipt of waste or before April 9, 1997 (the effective date of the financial assurance requirements under RCRA Subtitle D regulations), or such later date granted pursuant to Section 811.700(g), whichever is later, in the case of closure and post-closure care, or no later than

120 days after the remedy has been selected in accordance with the requirements of Section 811.325.

b) The surety company issuing the bond shall be *licensed to transact the business of insurance by the Department of Insurance,* pursuant to the Illinois Insurance Code [215 ILCS 5]*, or at a minimum the insurer must be licensed to transact the business of insurance or approved to provide insurance as an excess or surplus lines insurer by the insurance department in one or more states,* and approved by the U.S. Department of the Treasury as an acceptable surety. ~~Section 21.1(a.5) of the Act~~ [415 ILCS 5/21.1(a.5)]

BOARD NOTE: The U.S. Department of the Treasury lists acceptable sureties in its Circular 570.

c) The surety bond must be on the forms ~~as~~ specified in Appendix A, Illustration ~~C,~~ D~~, or H~~.

d) Any payments made under the bond will be placed in the Landfill Closure~~landfill closure~~ and Post-Closure Fund~~postclosure fund~~ within the State Treasury.

e) Conditions:

1) The bond must guarantee that the owner or operator will:

A) Provide~~provide~~ closure and postclosure care in accordance with the closure and postclosure care plans in the permit and, if the bond is a corrective action bond, provide~~. If the facility is an MSWLF unit, then a corrective action bond must guarantee that the owner or operator will implement~~ corrective action in accordance with Section 811.326; and~~. The surety shall have the option of providing closure and postclosure care or carrying out corrective action, or of paying the penal sum~~

B) Provide alternative financial assurance, as specified in this Subpart, and obtain the Agency's written approval of the assurance provided within 90 days after receipt by both the owner or operator and the Agency of a notice from the surety that the bond will not be renewed for another term.

2) The surety will become liable on the bond obligation when, during the term of the bond, the owner or operator fails to perform as guaranteed by the bond. The owner or operator fails to perform when the owner or operator:

A) Abandons the site;

B) Is adjudicated bankrupt;

C) Fails to initiate closure of the site or postclosure care or corrective action when ordered to do so by the Board pursuant to Title VIII~~Title VII~~ of the Act, or when ordered to do so by a court of competent jurisdiction; ~~or~~

D) Notifies the Agency that it has initiated closure or corrective action, or initiates closure or corrective action, but fails to close the site or provide postclosure care or corrective action in accordance with the closure and postclosure care or corrective action plans.

E) For a corrective action bond, fails to implement corrective action at an MSWLF unit in accordance with Section 811.326; or

F) Fails to provide alternative financial assurance, as specified in this Subpart, and obtain the Agency's written approval of the assurance provided within 90 days after receipt by both the owner or operator and the Agency of a notice from the surety that the bond will not be renewed for another term.

3) Upon failure of the owner or operator to perform as guaranteed by the bond, the surety shall have the option of providing closure and postclosure care, carrying out corrective action, or paying the penal sum.

f) Penal sum:

1) The penal sum of the bond must be in an amount at least equal to the current cost estimate.

2) Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written

approval by the Agency.~~The Agency shall approve a reduction in the penal sum whenever the current cost estimate decreases.~~

3) Whenever the current cost estimate increases to an amount greater than the penal sum, the owner or operator, within 90 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current cost estimate and submit evidence of that increase to the Agency or obtain other financial assurance, as specified in this Subpart, to cover the increase and submit evidence of the alternative financial assurance to the Agency.

g) Term:

1) The bond must be issued for a term of at least one year~~five years~~ and must not be cancelable during that term.

2) The surety bond must provide that, on the current expiration date and on each successive expiration date, the term of the surety bond will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the surety notifies both the owner or operator and the Agency by certified mail of a decision not to renew the bond. Under the terms of the surety bond, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.~~If the owner or operator fails to provide substitute financial assurance prior to expiration of a bond, the term of the bond must be automatically extended for one twelve-month period starting with the date of expiration of the bond. During such extension, the bond will cease to serve as financial assurance satisfying the requirements of this Part, and will not excuse the owner or operator from the duty to provide substitute financial assurance.~~

3) The Agency shall release the surety by providing written authorization for termination of the bond to the owner or operator and the surety when either of the following occurs:

A) An owner or operator substitutes alternative financial assurance, as specified in this Subpart; or

B) The Agency releases the owner or operator from the requirements of this Subpart in accordance with 35 Ill. Adm. Code 813.403(b).

h) Cure of default and refunds:

1) The Agency shall release the surety if, after the surety becomes liable on the bond, the owner or operator or another person provides financial assurance for closure and postclosure care of the site or corrective action at an MSWLF unit, unless the Agency determines that the closure or postclosure care plan, corrective action at an MSWLF unit, or the amount of substituted financial assurance is inadequate to provide closure and postclosure care or implement corrective action at an MSWLF unit in compliance with this Part.

2) After closure and postclosure care have been completed in accordance with the closure and postclosure care plans and the requirements of this Part or after the completion of corrective action at an MSWLF unit in accordance with Section 811.326, the Agency shall refund any unspent money which was paid into the "Landfill Closure and Post-Closure~~closure~~ Fund" by the surety, subject to appropriation of funds by the Illinois General Assembly.

i) The surety will not be liable for deficiencies in the performance of closure by the owner or operator after the Agency releases the owner or operator from the requirements of this Subpart.

BOARD NOTE: MSWLF corrective action language at subsection (a) is derived from 40 CFR 258.74(b)(1) (1996). P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to the date that the federal financial assurance requirements actually become effective, which was April 9, 1997. On November 27, 1996 (61 Fed. Reg. 60337), USEPA added 40 CFR 258.70(c) (1996), codified here as Section 811.700(g), to allow states to waive the compliance deadline until April 9, 1998. The other clarifying changes reflect the inclusion of financial assurance requirements for implementing corrective action at MSWLF units under this Section.

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

Section 811.713 Letter of Credit

a) An owner or operator may satisfy the requirements of this Subpart by obtaining an irrevocable standby letter of credit which conforms to the requirements of this Section and submitting the letter to the Agency. A letter of credit obtained by an owner or operator of an MSWLF unit must be effective before the initial receipt of waste or before April 9, 1997 (the effective date of the financial assurance requirements under RCRA Subtitle D regulations), or such later date granted pursuant to Section 811.700(g), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the remedy has been selected in accordance with the requirements of Section 811.325.

b) The issuing institution shall be an entity that~~which~~ has the authority to issue letters of credit and:

1) Whose letter-of-credit operations are regulated by the Illinois Department of Financial and Professional Regulation~~Commissioner of Banks and Trust Companies~~ pursuant to the Illinois Banking Act [205 ILCS 5]; or

2) Whose deposits are insured by the Federal Deposit Insurance Corporation ~~or the Federal Savings and Loan Insurance Corporation~~.

c) Forms:

1) The letter of credit must be on the forms specified in Appendix A, Illustration E.

2) The letter of credit must be accompanied by a letter from the owner or operator, referring to the letter of credit by number, the name and address of the issuing institution, and the effective date of the letter, and providing the following information: the name and address of the site and the amount of funds assured for closure and postclosure care of the site, or for corrective action at an MSWLF unit by the letter of credit.

d) Any amounts drawn by the Agency pursuant to the letter of credit will be deposited in the Landfill Closure and Post-Closure Fund~~landfill closure and postclosure fund~~ within the State Treasury.

e) Conditions on which the Agency shall~~may~~ draw on the letter of credit:

1) The Agency shall draw on the letter of credit if the owner or operator fails to perform closure or postclosure care in accordance with the closure and postclosure care plans, or fails to implement corrective action at an MSWLF unit in accordance with Section 811.326.

2) The Agency shall draw on the letter of credit when the owner or operator:

A) Abandons the site;

B) Is adjudicated bankrupt;

C) Fails to initiate closure of the site or postclosure care or corrective action when ordered to do so by the Board pursuant to Title VIII~~Title VII~~ of the Act, or when ordered to do so by a court of competent jurisdiction;

D) Notifies the Agency that it has initiated closure or corrective action, or initiates closure or corrective action, but fails to Provide closure and postclosure care or corrective action in accordance with the closure and postclosure care or corrective action plans;~~ or~~

E) For a corrective action bond, fails to implement corrective action at an MSWLF unit in accordance with Section 811.326; or

F) Fails to provide alternative financial assurance, as specified in this Subpart, and obtain the Agency's written approval of the assurance provided within 90 days after receipt by both the owner or operator and the Agency of a notice from the issuing institution that the letter of credit will not be extended for another term.

f) Amount:

1) The letter of credit must be issued in an amount at least equal to the current cost estimate.

2) Whenever the current cost estimate decreases, the amount of credit may be reduced to the amount of the current cost estimate following written approval by the Agency.~~The Agency shall approve a reduction in the amount whenever the current cost estimate decreases.~~

3) Whenever the current cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 90 days after the increase, must either cause the amount of the credit to be increased to an amount at least equal to the current cost estimate and submit evidence of that increase to the Agency or obtain other financial assurance, as specified in this Subpart, to cover the increase and submit evidence of the alternative financial assurance to the Agency.

g) Term:

1) The letter of credit must be issued for a term of at least one year~~five years~~ and must be irrevocable during that term.

2) The letter of credit must provide that, on the current expiration date and on each successive expiration date, the letter of credit will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Agency by certified mail of a decision not to extend the letter of credit for another term. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts. ~~If the owner or operator fails to substitute alternative financial assurance prior to expiration of a letter of credit, the term of the letter of credit must be automatically extended for one twelve-month period starting with the date of expiration. During such extension, the letter of credit will cease to serve as financial assurance satisfying the requirements of this Part, and will not excuse the owner or operator from the duty to provide substitute financial assurance.~~

3) The Agency must return the letter of credit to the issuing institution for termination when either of the following occurs:

A) An owner or operator substitutes alternative financial assurance, as specified in this Subpart; or

B) The Agency releases the owner or operator from the requirements of this Subpart in accordance with Ill. Adm. Code 813.403(b).

h) Cure of default and refunds:

1) The Agency shall release the financial institution if, after the Agency is allowed to draw on the letter of credit, the owner or operator or another person provides financial assurance for closure and postclosure care of the site or corrective action at an MSWLF unit, unless the Agency determines that a plan or the amount of substituted financial assurance is inadequate to provide closure and postclosure care, or implement corrective action at an MSWLF unit, as required by this Part.

2) After closure and postclosure care have been completed in accordance with the closure and postclosure care plans and the requirements of this Part or after the completion of corrective action at an MSWLF unit in accordance with Section 811.326, the Agency shall refund any unspent money which was paid into the "Landfill Closure and Post-Closure~~Postclosure~~ Fund" by the financial institution, subject to appropriation of funds by the Illinois General Assembly.

BOARD NOTE: MSWLF corrective action language at subsection (a) is derived from 40 CFR 258.74(c)(1) (1996). P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to the date that the federal financial assurance requirements actually become effective, which was April 9, 1997. On November 27, 1996 (61 Fed. Reg. 60337), USEPA added 40 CFR 258.70(c) (1996), codified here as Section 811.700(g), to allow states to waive the compliance deadline until April 9, 1998. The other clarifying changes reflect the inclusion of financial assurance requirements for implementing corrective action at MSWLF units under this Section.

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

Section 811.714 Closure Insurance

a) An owner or operator may satisfy the requirements of this Subpart by obtaining closure and postclosure care insurance which conforms to the requirements of this Section and submitting to the Agency an executed duplicate original of the~~such~~ insurance policy and the certificate of insurance for closure and/or postclosure care specified in Appendix A, Illustration F~~to the Agency~~.

b) The insurer shall be *licensed to transact the business of insurance by the Department of Insurance,* pursuant to the Illinois Insurance Code [215 ILCS 5]*, or at a minimum the insurer must be licensed to transact the business of insurance or approved to provide insurance as an excess or surplus lines insurer by the insurance department in one or more states*. ~~Section 21.1(a.5) of the Act~~ [415 ILCS 5/21.1(a.5)]

c) The policy must be on forms filed with the Illinois Department of Insurance,~~approved by the Illinois Department of Insurance~~ pursuant to 50 Ill. Adm. Code 753 and Section 143(2) of the Illinois Insurance Code [215 ILCS 5/143(2)] or on forms approved by the insurance department of one or more states.

d) Face amount:

1) The closure and postclosure care insurance policy must be issued for a face amount at least equal to the current cost estimate. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

2) Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current cost estimate, following written approval by the Agency.~~The Agency shall approve a reduction in the amount of the policy whenever the current cost estimate decreases.~~

3) Whenever the current cost estimate increases to an amount greater than the face amount, the owner or operator, within 90 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current cost estimate and submit evidence of that increase to the Agency or obtain other financial assurance, as specified in this Subpart, to cover the increase and submit evidence of the alternative financial assurance to the Agency.

e) The closure and postclosure care insurance policy must guarantee that funds will be available to close the site and to provide postclosure care thereafter. The policy must also guarantee that, once closure begins, the insurer will be

responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency to such party or parties as the Agency specifies. The insurer will be liable when:

1) The owner or operator abandons the site;

2) The owner or operator is adjudicated bankrupt;

3) The Board, pursuant to Title VIII of the Act, or a court of competent jurisdiction orders the site closed;

4) The owner or operator notifies the Agency that it is initiating closure; or

5) Any person initiates closure with approval of the Agency.

f) Reimbursement for closure and postclosure care expenses:

1) After initiating closure, an owner or operator or any other person authorized to perform closure or postclosure care may request reimbursement for closure and postclosure care expenditures by submitting itemized bills to the Agency.

2) Within 60 days after receiving bills for closure or postclosure care activities, the Agency shall determine whether the expenditures are in accordance with the closure or postclosure care plan. The Agency shall direct the insurer to make reimbursement in such amounts as the Agency specifies in writing as expenditures in accordance with the closure and postclosure care plans.

3) If the Agency determines based on such information as is available to it that the cost of closure and postclosure care will be greater than the face amount of the policy, it shall withhold reimbursement of such amounts as it deems prudent until it determines that the owner or operator is no longer required to maintain financial assurance. In the event the face amount of the policy is inadequate to pay all claims, the Agency shall pay claims according to the following priorities:

A) Persons with whom the Agency has contracted to perform closure or postclosure care activities (first priority);

B) Persons who have completed closure or postclosure care authorized by the Agency (second priority);

C) Persons who have completed work which furthered the closure or postclosure care (third priority);

D) The owner or operator and related business entities (last priority).

g) Cancellation:

1) The owner or operator shall maintain the policy in full force and effect until the Agency releases the insurer pursuant to Section 811.702.

2) The policy must provide that the insurer may not cancel, terminate or fail to renew the policy, except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Agency and the owner or operator, as evidenced by the return receipts. Cancellation, termination or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration the premium due is paid.

h) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

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

Section 811.715 Self-Insurance for Non-Commercial~~commercial~~ Sites

a) Definitions. The following definitions are intended to assist in the understanding of this Part and are not intended to limit the meanings of terms in any way that conflicts with generally accepted accounting principles:

"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

"Current assets" means cash or other assets or resources commonly identified as those that~~which~~ are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

"Generally accepted accounting principles" means the accounting and auditing standards incorporated by reference at 35 Ill. Adm. Code 810.104(a)(2).

~~"Generally accepted accounting principles" means Auditing Standards – Current Text, incorporated by reference at 35 Ill. Adm. Code 810.104.~~

"Gross Revenue" means total receipts less returns and allowances.

"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

"Net working capital" means current assets minus current liabilities.

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

"Tangible net worth" means tangible assets less liabilities; tangible assets to not include intangibles such as goodwill and rights to patents or royalties.

b) Information to be filed

An owner or operator may satisfy the financial assurance requirements of this Part by providing the following:

1) Bond without surety promising to pay the cost estimate (subsection (c) of this Section).

2) Proof that the owner or operator meets the gross revenue test (subsection (d) of this Section).

3) Proof that the owner or operator meets the financial test (subsection (e) of this Section).

c) Bond without surety. An owner or operator utilizing self-insurance must provide a bond without surety on the forms specified in Appendix A, Illustration G. The owner or operator must promise to pay the current cost estimate to the Agency unless the owner or operator provides closure and postclosure care in accordance with the closure and postclosure care plans.

d) Gross revenue test. The owner or operator must demonstrate that less than one-half of its gross revenues are derived from waste disposal operations. Revenue is "from waste disposal operations" if it would stop upon cessation of the owner or operator's waste disposal operations.

e) Financial test.

1) To pass the financial test, the owner or operator must meet the criteria of either subsection (e)(1)(A) or (e)(1)(B) of this Section:

A) The owner or operator must have:

i) Two of the following three ratios: a ratio of total liabilities to net worth of less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities of greater than 0.1; or a ratio of current assets to current liabilities of greater than 1.5; and

ii) Net working capital and tangible net worth each at least six times the current cost estimate; and

iii) Tangible net worth of at least $10 million; and

iv) Assets in the United States amounting to at least 90 percent

of the owner's or operator's total assets and at least six times the current cost estimate.

B) The owner or operator must have:

i) A current rating of AAA, AA, A, or BBB for its most recent bond issuance as issued by Standard and Poor, or a rating of Aaa, Aa, A, or Baa, as issued by Moody; and

ii) Tangible net worth at least six times the current cost estimate; and

iii) Tangible net worth of at least $10 million; and

iv) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the current cost estimate.

2) To demonstrate that it meets this test, the owner or operator must submit the following items to the Agency:

A) A letter signed by the owner or operator's chief financial officer and worded as specified in Appendix A, Illustration I; and

B) A copy of the independent certified public accountant's report on examination of the owner or operator's financial statements for the latest completed fiscal year; and

C) A special report from the owner or operator's independent certified public accountant to the owner or operator stating that:

i) The accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

ii) In connection with that procedure, no matters came to the accountant's attention that caused the accountant to believe

that the specified data should be adjusted.

f) Updated Information.

1) After the initial submission of items specified in subsections (d) and (e) of this Section, the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year.

2) If the owner or operator no longer meets the requirements of subsections (d) and (e) of this Section, the owner or operator must send notice to the Agency of intent to establish alternative financial assurance. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the operator no longer meets the requirements.

g) Qualified Opinions. If the opinion required by subsections (e)(2)(B) and (e)(2)(C) of this Section includes an adverse opinion or a disclaimer of opinion, the Agency must disallow the use of self-insurance. If the opinion includes other qualifications, the Agency must disallow the use of self-insurance if:

1) The qualifications relate to the numbers that are used in the gross revenue test or the financial test; and,

2) In light of the qualifications, the owner or operator has failed to demonstrate that it meets the gross revenue test or financial test.

h) Parent Corporation. An owner or operator may satisfy the financial assurance requirements of this Part by:

1) Demonstrating~~demonstrating~~ that a corporation that~~which~~ owns an interest in the owner or operator meets the requirements of this Section; and~~gross revenue and financial tests.~~

2) Providing a bond to the Agency with the parent corporation as surety on a form specified in Appendix A, Illustration H in accordance with Section 811.711(d), (e), (f), and (g) of this Part.~~The owner or operator must also provide a bond with the parent as surety (Appendix A, Illustration H).~~

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

Section 811.716 Local Government Financial Test

A unit of local government owner or operator that satisfies the requirements of subsections (a) through (c) of this Section may demonstrate financial assurance up to the amount specified in subsection (d) of this Section.

a) Financial component.

1) The unit of local government owner or operator must satisfy subsection (a)(1)(A) or (a)(1)(B) of this Section, as applicable:

A) If the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's, on all such general obligation bonds; or

B) The owner or operator must satisfy each of the following financial ratios based on the owner or operator's most recent audited annual financial statement:

i) A ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and

ii) A ratio of annual debt service to total expenditures less than or equal to 0.20.

2) The unit of local government owner or operator must prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310].

3) A unit of local government is not eligible to assure its obligations pursuant to this Section if any of the following is true:

A) It is currently in default on any outstanding general obligation bonds;

B) It has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's;

C) It operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years; or

D) It receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310] auditing its financial statement as required pursuant to subsection (a)(2) of this Section. However, the Agency must evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems the qualification insufficient to warrant disallowance of use of the test.

4) Terms used in this Section are defined as follows:

"Cash plus marketable securities" is all the cash plus marketable securities held by the unit of local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

"Debt service" is the amount of principal and interest due on a loan in a given time period, typically the current year.

"Deficit" equals total annual revenues minus total annual expenditures.

"Total revenues" include revenues from all taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by a unit of local government on behalf of a specific third party.

"Total expenditures" include all expenditures excluding capital outlays and debt repayment.

b) Public notice component.

1) The unit of local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR), or prior to the initial receipt of waste at the facility, whichever is later.

2) Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years.

3) A reference to corrective action costs must be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Sections 811.319(d) and 811.325.

4) For the first year the financial test is used to assure costs at a particular facility, the reference may instead be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget.

5) For closure and post-closure costs, conformance with Government Accounting Standards Board Statement 18, incorporated by reference in 35 Ill. Adm. Code 810.104, assures compliance with this public notice component.

c) Recordkeeping and reporting requirements.

1) The unit of local government owner or operator must place the following items in the facility's operating record:

A) A letter signed by the unit of local government's chief financial officer that provides the following information:

i) It lists all the current cost estimates covered by a financial test, as described in subsection (d) of this Section;

ii) It provides evidence and certifies that the unit of local

government meets the conditions of subsections (a)(1), (a)(2), and (a)(3) of this Section; and

iii) It certifies that the unit of local government meets the conditions of subsections (b) and (d) of this Section.

B) The unit of local government's independently audited year-end financial statements for the latest fiscal year (except for a unit of local government where audits are required every two years, where unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor who must be an independent certified public accountant (CPA) or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310].

C) A report to the unit of local government from the unit of local government's independent CPA or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310] based on performing an agreed upon procedures engagement relative to the financial ratios required by subsection (a)(1)(B) of this Section, if applicable, and the requirements of subsections (a)(2), (a)(3)(C), and (a)(3)(D) of this Section. The CPA or Comptroller's report should state the procedures performed and the CPA or Comptroller's findings.~~; and~~

D) A copy of the comprehensive annual financial report (CAFR) used to comply with subsection (b) of this Section or certification that the requirements of General Accounting Standards Board Statement 18, incorporated by reference in Section 810.104, have been met.

2) The items required in subsection (c)(1) of this Section must be placed in the facility operating record as follows:

A) In the case of closure and post-closure care, before November 27, 1997 or prior to the initial receipt of waste at the facility, whichever is later; or

B) In the case of corrective action, not later than 120 days after the

corrective action remedy is selected in accordance with the requirements of Sections 811.319(d) and 811.325.

3) After the initial placement of the items in the facility operating record, the unit of local government owner or operator must update the information and place the updated information in the operating record within 180 days following the close of the owner or operator's fiscal year.

4) The unit of local government owner or operator is no longer required to meet the requirements of subsection (c) of this Section when either of the following occurs:

A) The owner or operator substitutes alternative financial assurance as specified in this Section; or

B) The owner or operator is released from the requirements of this Section in accordance with Section 811.326(g), 811.702(b), or 811.704(j) or (k)(6).

5) A unit of local government must satisfy the requirements of the financial test at the close of each fiscal year. If the unit of local government owner or operator no longer meets the requirements of the local government financial test it must, within 120~~210~~ days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Subpart, place the required submissions for that assurance in the operating record, ~~and~~ notify the Agency that the owner or operator no longer meets the criteria of the financial test and that alternative assurance has been obtained, and submit evidence of the alternative financial assurance to the Agency.

6) The Agency, based on a reasonable belief that the unit of local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the unit of local government at any time. If the Agency determines, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of the local government financial test, the unit of local government must provide alternative financial assurance in accordance with this Subpart.

d) Calculation of Costs to Be Assured. The portion of the closure, post-closure, and corrective action costs that an owner or operator may assure pursuant to this Section is determined as follows:

1) If the unit of local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the unit of local government's total annual revenue.

2) If the unit of local government assures other environmental obligations through a financial test, including those associated with UIC facilities pursuant to 35 Ill. Adm. Code 704.213, petroleum underground storage tank facilities pursuant to 40 CFR 280, PCB storage facilities pursuant to 40 CFR 761, and hazardous waste treatment, storage, and disposal facilities pursuant to 35 Ill. Adm. Code 724 and 725, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure pursuant to this Section. The total that may be assured must not exceed 43 percent of the unit of local government's total annual revenue.

3) The owner or operator must obtain an alternative financial assurance instrument for those costs that exceed the limits set in subsections (d)(1) and (d)(2) of this Section.

BOARD NOTE: Derived from 40 CFR 258.74(f) (2005).

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

Section 811.718 Discounting

For facilities providing financial assurance solely through a trust fund, the~~The~~ Agency shall allow discounting of closure cost estimates, post-closure cost estimates, and corrective action cost estimates in Section 811.704 up to the rate of return for essentially risk free investments, net of inflation, under the following conditions:

a) The Agency determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a professional engineer, as defined in Section 810.103, so stating;

b) The Agency finds the facility in compliance with applicable and appropriate

permit conditions; ~~and~~

c) The Agency determines that the closure date is certain, and the owner or operator certifies that there are no foreseeable factors that will change the estimate of site life; and~~.~~

d) Discounted cost estimates are~~must be~~ adjusted annually to reflect inflation and the anticipated years of remaining life.

BOARD NOTE: Derived from 40 CFR 258.75, added at 61 Fed. Reg. 60327 (Nov. 27, 1996).

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

Section 811.719 Corporate Financial Test

An MSWLF owner or operator that satisfies the requirements of this Section may demonstrate financial assurance up to the amount specified in this Section as follows:

a) Financial component.

1) The owner or operator must satisfy one of the following three conditions:

A) A current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; or

B) A ratio of less than 1.5 comparing total liabilities to net worth; or

C) A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus $10 million, to total liabilities.

2) The tangible net worth of the owner or operator must be greater than:

A) The sum of the current closure, post-closure care, corrective action cost estimates and any other environmental obligations, including guarantees, covered by a financial test plus $10 million except as provided in subsection (a)(2)(B) of this Section.

B) $10 million in net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements, provided all of the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the Agency.

3) The owner or operator must have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test, as described in subsection (c) of this Section.

b) Recordkeeping and reporting requirements.

1) The owner or operator must place the following items into the facility's operating record:

A) A letter signed by the owner's or operator's chief financial officer that includes the following:

i) All the current cost estimates covered by a financial test, including, but not limited to, cost estimates required for municipal solid waste management facilities pursuant to this Part; cost estimates required for UIC facilities pursuant to 35 Ill. Adm. Code 730, if applicable; cost estimates required for petroleum underground storage tank facilities pursuant to 40 CFR 280, if applicable; cost estimates required for PCB storage facilities pursuant to 40 CFR 761, if applicable; and cost estimates required for hazardous waste treatment, storage, and disposal facilities pursuant to 35 Ill. Adm. Code 724 or 725, if applicable; and

ii) Evidence demonstrating that the firm meets the conditions of subsection (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Section and subsection (a)(2) and (a)(3) of this Section.

B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the

latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Agency must evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems that the matters that form the basis for the qualification are insufficient to warrant disallowance of the test. If the Agency does not allow use of the test, the owner or operator must provide alternative financial assurance that meets the requirements of this Section.

C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies subsection (a)(1)(B) or (a)(1)(C) of this Section that are different from data in the audited financial statements referred to in subsection (b)(1)(B) of this Section or any other audited financial statement or data filed with the federal Security Exchange Commission, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report must be based upon an agreed upon procedures engagement in accordance with professional auditing standards and must describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.

D) If the chief financial officer's letter provides a demonstration that the firm has assured for environmental obligations, as provided in subsection (a)(2)(B) of this Section, then the letter must include a report from the independent certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements, how these obligations have been measured and reported, and that the tangible net worth of the firm is at least

$10 million plus the amount of any guarantees provided.

2) An owner or operator must place the items specified in subsection (b)(1) of this Section in the operating record and notify the Agency in writing that these items have been placed in the operating record before the initial receipt of waste or before February 17, 1999, whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Section 811.324.

BOARD NOTE: Corresponding 40 CFR 258.74(e)(2)(ii) provides that this requirement is effective "before the initial receipt of waste or before the effective date of the requirements of this Section (April 9, 1997 or October 9, 1997 for MSWLF units meeting the conditions of Sec. 258.1(f)(1)), whichever is later." The Board has instead inserted the date on which these amendments are to be filed and become effective in Illinois.

3) After the initial placement of items specified in subsection (b)(1) of this Section in the operating record, the owner or operator must annually update the information and place updated information in the operating record within 90 days following the close of the owner's or operator's fiscal year. The Agency must provide up to an additional 45 days for an owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in subsection (b)(1) of this Section.

4) The owner or operator is no longer required to submit the items specified in this subsection (b) or comply with the requirements of this Section when either of the following occurs:

A) It substitutes alternative financial assurance, as specified in this Subpart G, that is not subject to these recordkeeping and reporting requirements; or

B) It is released from the requirements of this Subpart G in accordance with Sections 811.700 and 811.706.

5) If the owner or operator no longer meets the requirements of subsection

(a) of this Section, the owner or operator must obtain alternative financial assurance that meets the requirements of this Subpart G within 120 days following the close of the facility's fiscal year. The owner or operator must also place the required submissions for the alternative financial assurance in the facility operating record and notify the Agency that it no longer meets the criteria of the financial test and that it has obtained alternative financial assurance. The owner or operator must submit evidence of the alternative financial assurance to the Agency.

6) The Agency may require the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation specified in subsection (b) of this Section at any time it has a reasonable belief that the owner or operator may no longer meet the requirements of subsection (a) of this Section. If the Agency finds that the owner or operator no longer meets the requirements of subsection (a) of this Section, the owner or operator must provide alternative financial assurance that meets the requirements of this Subpart G.

c) Calculation of costs to be assured. When calculating the current cost estimates for closure, post-closure care, corrective action, the sum of the combination of such costs to be covered, and any other environmental obligations assured by a financial test referred to in this Section, the owner or operator must include cost estimates required for municipal solid waste management facilities pursuant to this Part, as well as cost estimates required for the following environmental obligations, if it assures them through a financial test: obligations associated with UIC facilities pursuant to 35 Ill. Adm. Code 730; petroleum underground storage tank facilities pursuant to 40 CFR 280; PCB storage facilities pursuant to 40 CFR 761; and hazardous waste treatment, storage, and disposal facilities pursuant to 35 Ill. Adm. Code 724 or 725.

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

Section 811.APPENDIX A Financial Assurance Forms

Section 811.ILLUSTRATION A Trust Agreement

TRUST AGREEMENT

Trust Fund Number _____

Trust Agreement, the "Agreement," entered into as of the _____ day of _____, by and between _____, a _____, the "Grantor," and _____, the "Trustee."

Whereas, Section 21.1 of the Environmental Protection Act, "Act", prohibits any person from conducting any waste disposal operation unless such person has posted with the Illinois Environmental Protection Agency, "IEPA", a performance bond or other security for the purpose of insuring closure of the site and postclosure care or corrective action in accordance with the Act and Illinois Pollution Control Board, "IPCB", rules.

Whereas, the IPCB has established certain regulations applicable to the Grantor, requiring that an operator of a waste disposal site provide assurance that funds will be available when needed for closure and/or postclosure care or corrective action of the site.

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the sites identified in this agreement.

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

Whereas, Trustee is an entity that~~which~~ has authority to act as a trustee and whose trust operations are regulated by the Illinois Department of Financial and Professional Regulation~~Commissioner of Banks & Trust Companies~~ or who complies with the Corporate Fiduciary Act ~~(Ill. Rev. Stat. 1991, ch. 17, par. 1551-1 et. seq.~~ [205 ILCS 5~~/1~~]~~)~~. (Line through any condition that~~which~~ does not apply.)

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions.

As used in this Agreement:

a) The term "Grantor" means the operator who enters into this Agreement and any successors or assigns of the operator.

b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Sites and Cost Estimates.

This Agreement pertains to the sites and cost estimates identified on attached Schedule A (on Schedule A, list the name and address and current~~initial~~ cost estimate of each site for which financial assurance is demonstrated by this agreement).

Section 3. Establishment of Fund.

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the IEPA. The Grantor and the Trustee intend that no other third party have access to the Fund except as provided in this agreement. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached to this agreement. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits on the Fund, less any payments or distributions made by the Trustee pursuant to this agreement. The Fund shall be held by the Trustee, in trust, as provided in this agreement. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor.

Section 4. Payment for Closure and Postclosure care or Corrective Action.

The Trustee shall make payments from the Fund as the IEPA shall direct, in writing, to provide for the payment of the costs of closure and/or postclosure care or corrective action of the sites covered by this agreement. The Trustee shall reimburse the Grantor or other persons as specified by the IEPA from the Fund for closure and postclosure or corrective action expenditures in such amounts as the IEPA shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the IEPA specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund.

Section 5. Payments Comprising the Fund.

Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trust Management.

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

a) Securities or other obligations of the Grantor, or any other owner or operator of the site, or any of their affiliates as defined in Section 80a-2(a)(2) of the Investment Company Act of 1940, as amended (15 USC 80a-2(a)(2)~~U.S.C. 80-2(a)~~ shall not be acquired or held, unless they are securities or other obligations of the Federal government or the State of Illinois;

b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by the Federal Deposit Insurance Corporation.

c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment.

The Trustee is expressly authorized in its discretion:

a) To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

b) To purchase shares in any investment company registered under the Investment Company Act of 1940 (15 USC~~U.S.C.~~ 80a-1 et~~.~~ seq.) including one which may be created,

managed, underwritten or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee.

Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this agreement or by law, the Trustee is expressly authorized and empowered;

a) To sell, exchange, convey, transfer or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expedience of any such sale or other disposition;

Section 9. Taxes and Expenses.

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee, to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation.

The Trustee shall annually furnish to the Grantor and to the IEPA a statement confirming the value of the Trust. The evaluation day shall be each year on the _____ day of _____. Any securities in the Fund shall be valued at market value as of the evaluation day. The Trustee shall mail the evaluation statement to the Grantor and the IEPA within 30 days after the evaluation day. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the IEPA shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of counsel.

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation.

The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee.

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and the successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the IEPA and the present Trustee by certified mail ten days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee.

All orders, requests and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests and instructions. All orders, requests and instructions by the IEPA to the Trustee shall be in writing, signed by the IEPA Director or his/her designee ~~designees~~, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or IEPA hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests and instructions from the Grantor and/or IEPA, except as provided in this agreement.

Section 15. Notice of Nonpayment.

The Trustee shall notify the Grantor and the IEPA, by certified mail within ten days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement.

This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee and the IEPA Director or his/her designee, or by the Trustee and the IEPA Director or his/her designee if the Grantor ceases to exist.

Section 17. Irrevocability and Termination.

Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee and the IEPA Director or his/her designee, or by the Trustee and the IEPA Director or his/her designee, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification.

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the IEPA Director or his/her designee issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law.

This Agreement shall be administered, construed and enforced according to the laws of the State of Illinois.

Section 20. Interpretation.

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical

to the wording specified in 35 Ill. Adm. Code 811.Appendix A, Illustration A as those regulations were constituted on the date this Agreement was entered.

Attest: Signature of Grantor _____

Typed Name _____

Title _____

Seal

Attest: Signature of Trustee _____

Typed Name _____

Title _____

Seal

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 811.APPENDIX A Financial Assurance Forms

Section 811.ILLUSTRATION C Forfeiture Bond

FORFEITURE BOND

Date bond executed: _____

Effective date: _____

Principal: _____

Type of organization: _____

State of incorporation: _____

Surety: _____

Sites:

Name _____

Address _____

City _____

Amount guaranteed by this bond: $ _____

Name _____

Address _____

City _____

Amount guaranteed by this bond: $ _____

Please attach a separate page if more space is needed for all sites.

Total penal sum of bond: _____

Surety's bond number: _____

The Principal and the Surety promise to pay the Illinois Environmental Protection Agency ("IEPA") the above penal sum unless the Principal provides closure and postclosure care or corrective action for each site in accordance with the closure and postclosure care or corrective action plans for that site. To the payment of this obligation the Principal and Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns.

Whereas the Principal is required, under Section 21(d) of the Environmental Protection Act [415 ILCS 5/21(d)], to have a permit to conduct a waste disposal operation.~~;~~

Whereas the Principal is required, under Section 21.1 of the Environmental Protection Act [415 ILCS 5/21.1], to provide financial assurance for closure and postclosure care or corrective action.~~; and~~

Whereas the Surety is licensed by the Illinois Department of Insurance or is licensed to transact the business of insurance or approved to provide insurance as an excess or surplus lines insurer by the insurance department in one or more states.~~;~~

Whereas the Principal and Surety agree that this bond shall be governed by the laws of the State of Illinois.~~;~~

The Surety shall pay the penal sum to the IEPA if, during the term of the bond, the Principal fails to provide closure or~~and~~ postclosure care or corrective action for any site in accordance with the closure and postclosure care or corrective action plans for that site as guaranteed by this bond. The Principal fails to so provide when the Principal:

a) Abandons the site;

b) Is adjudicated bankrupt;

c) Fails to initiate closure of the site or postclosure care or corrective action when ordered to do so by the Board or a court of competent jurisdiction;

d) Notifies the IEPA~~Agency~~ that it has initiated closure, or initiates closure, but fails to close the site or provide postclosure care or corrective action in accordance with the closure and postclosure care or corrective action plans; ~~or~~

e) For corrective action, fails to implement corrective action at a municipal solid waste landfill unit in accordance with 35 Ill. Adm. Code 811.326; or

f) Fails to provide alternative financial assurance and obtain the IEPA written approval of the assurance provided within 90 days after receipt by both the Principal and the IEPA of a notice from the Surety that the bond will not be renewed for another term.

The Surety shall pay the penal sum of the bond to the IEPA within 30 days after the IEPA mails notice to the Surety that the Principal has failed to fulfill one or more of the conditions described in this document~~failed to so provide closure and postclosure care or corrective action~~. Payment shall be made by check or draft payable to the State of Illinois, Landfill Closure and Post-Closure~~Postclosure~~ Fund.

The liability of the Surety shall not be discharged by any payment or succession of payments unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond. In no event shall the obligation of the Surety exceed the amount of the penal sum.

This bond shall expire on the ____day of _____[month],_____ [year,]~~;~~ but that expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, the Surety notifies both the IEPA and the Principal by certified mail that the Surety has decided not to extend the term of this surety bond beyond the current expiration date. The 120 days will begin on the date when both the owner or operator and the IEPA have received the notice, as evidenced by the return receipts. ~~provided, however, that if the Principal fails to provide substitute financial assurance prior to the expiration date, and the IEPA mails notice of such failure to the Surety within 30 days after such date, the term of this bond shall be automatically extended for one twelve-month period starting with the date of expiration of the bond.~~

The Principal may terminate this bond by sending written notice to the Surety; provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond from the IEPA in accordance with 35 Ill. Adm. Code 811.702.

In Witness Whereof, the Principal and Surety have executed this Forfeiture Bond and have affixed their seals on the date this bond was executed~~set forth above~~.

The persons whose signatures appear below certify that they are authorized to execute this surety

bond on behalf of the Principal and Surety and that the wording of this surety bond is identical to the wording specified in 35 Ill. Adm. Code 811.Appendix A, Illustration C as that regulation was constituted on the date this bond was executed.

PRINCIPAL	SURETY
Signature	Name
Typed Name	Address
Title	State of Incorporation
Date	Signature
	Typed Name
Corporate Seal	Title
	Corporate Seal
	Bond Premium: $

~~PRINCIPAL~~

~~Signature Name~~ _____

~~Typed Name~~ _____

~~Address~~ _____

~~Title~~ _____

~~State of Incorporation~~ _____

~~Date~~ _____

~~Corporate seal~~

~~CORPORATE SURETY~~

~~Signature~~ _____

~~Typed Name~~ _____

~~Title~~ _____

~~Corporate seal~~

~~Bond premium:~~ ~~$~~ _____

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 811.APPENDIX A Financial Assurance Forms

Section 811.ILLUSTRATION D Performance Bond

PERFORMANCE BOND

Date bond executed: _____

Effective date: _____

Principal: _____

Type of organization: _____

State of incorporation: _____

Surety: _____

Sites:

Name _____

Address _____

City _____

Amount guaranteed by this bond: $ _____

Name _____

Address _____

City _____

Amount guaranteed by this bond: $ _____

Please attach a separate page if more space is needed for all sites.

Total penal sum of bond: $ _____

Surety's bond number: _____

The Principal and the Surety promise to pay the Illinois Environmental Protection Agency ("IEPA") the above penal sum unless the Principal or Surety provides closure and postclosure care or corrective action for each site in accordance with the closure and postclosure care or corrective action plans for that site. To the payment of this obligation the Principal and Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns.

Whereas the Principal is required, under Section 21(d) of the Environmental Protection Act [415 ILCS 5/21(d)], to have a permit to conduct a waste disposal operation.~~;~~

Whereas the Principal is required, under Section 21.1 of the Environmental Protection Act [415 ILCS 5/21.1], to provide financial assurance for closure and postclosure care or corrective action.~~; and~~

Whereas the Surety is licensed by the Illinois Department of Insurance or is licensed to transact the business of insurance or approved to provide insurance as an excess or surplus lines insurer by the insurance department in one or more states.~~;~~

Whereas the Principal and Surety agree that this bond shall be governed by the laws of the State of Illinois.~~;~~

The Surety shall pay the penal sum to the IEPA if, during the term of the bond, the Principal fails to provide closure or~~and~~ postclosure care or corrective action for any site in accordance with the closure and postclosure care or corrective action plans for that site as guaranteed by this bond. The Principal fails to so provide when the Principal:

a) Abandons the site;

b) Is adjudicated bankrupt;

c) Fails to initiate closure of the site or postclosure care or corrective action when ordered to do so by the Board or a court of competent jurisdiction;

d) Notifies the IEPA~~Agency~~ that it has initiated closure, or initiates closure, but fails to close the site or provide postclosure care or corrective action in accordance with the closure and postclosure care or corrective action plans;

e) For corrective action, fails to implement corrective action at a municipal solid waste landfill unit in accordance with 35 Ill. Adm. Code 811.326; or

f) Fails to provide alternative financial assurance and obtain the IEPA written approval of the assurance provided within 90 days after receipt by both the Principal and the IEPA of a notice from the Surety that the bond will not be renewed for another term.

The Surety shall pay the penal sum of the bond to the IEPA within 30 days after the IEPA mails notice to the Surety that the Principal has failed to fulfill one or more of the conditions described in this document~~failed to so provide closure and postclosure care or corrective action~~. Payment shall be made by check or draft payable to the State of Illinois, Landfill Closure and Post-Closure~~Postclosure~~ Fund.

If the Surety notifies the IEPA~~Agency~~ that it intends to provide closure and postclosure care or corrective action, then the Surety must initiate closure and postclosure care or corrective action within 60 days after the IEPA mailed notice to the Surety that the Principal failed to fulfill one or more of the conditions described in this document~~provide closure and postclosure care or corrective action~~. The Surety must complete closure and postclosure care or corrective action in accordance with the closure and postclosure care or corrective action plans, or pay the penal sum.

The liability of the Surety shall not be discharged by any payment or succession of payments unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond. In no event shall the obligation of the Surety exceed the amount of the penal sum.

This bond shall expire on the ____ [date] day of _____ [month], _____ [year],~~;~~ but that expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, the Surety notifies both the IEPA and the Principal by certified mail that the Surety has decided not to extend the term of this surety bond beyond the current expiration date. The 120 days will begin on the date when both the owner or operator and the IEPA have received the notice, as evidenced by the return receipts. ~~provided, however, that if the Principal fails to provide substitute financial assurance prior to the expiration date, and the IEPA mails notice of such failure to the Surety within 30 days after such date, the term of this bond shall be automatically extended for one twelve-month period starting with the date of expiration of the bond.~~

The Principal may terminate this bond by sending written notice to the Surety; provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond from the IEPA in accordance with 35 Ill. Adm. Code 811.702.

In Witness Whereof, the Principal and Surety have executed this Performance~~Forfeiture~~ Bond and have affixed their seals on the date this bond was executed~~set forth above~~.

The persons whose signatures appear below certify that they are authorized to execute this surety bond on behalf of the Principal and Surety and that the wording of this surety bond is identical to the wording specified in 35 Ill. Adm. Code 811.Appendix A, Illustration D as that regulation was constituted on the date this bond was executed.

PRINCIPAL	SURETY
Signature	Name
Typed Name	Address
Title	State of Incorporation
Date	Signature
	Typed Name
Corporate Seal	Title
	Corporate Seal
	Bond Premium: $

~~PRINCIPAL~~

~~Signature Name~~ _____

~~Typed Name~~ _____

~~Address~~ _____

~~Title~~ _____

~~State of Incorporation~~ _____

~~Date~~ _____

~~Corporate seal~~

~~CORPORATE SURETY~~

~~Signature~~ _____

~~Typed Name~~ _____

~~Title~~ _____

~~Corporate seal~~

~~Bond premium:~~ ~~$~~ _____

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 811. APPENDIX A Financial Assurance Forms

Section.811.ILLUSTRATION E Irrevocable Standby Letter of Credit

IRREVOCABLE STANDBY LETTER OF CREDIT

Director
Illinois Environmental Protection Agency
C/O Bureau of Land #24
Financial Assurance Program
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
~~2200 Churchill Road~~
~~Springfield, Illinois 62706~~

Dear Sir or Madam:

We have authority to issue letters of credit. Our letter-of-credit operations are regulated by the Illinois Department of Financial and Professional Regulation~~Commissioner of Banks and Trusts~~ or our deposits are insured by the Federal Deposit Insurance Corporation. (Omit language that~~which~~ does not apply.)

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in your favor, at the request and for the account of _____ up to the aggregate amount of _____ U.S. dollars ($ _____) available upon presentation of:

1. your sight draft, bearing references to this letter of credit No. _____ ; and~~,~~

2. your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Environmental Protection Act ~~(Ill. Reg. State. 1991, ch. 111½, par. 1001 et seq.~~ [415 ILCS 5~~/1 et. seq.~~]~~)~~ and 35 Ill. Adm. Code 811.713(e)."

This letter of credit is effective as of _____ [date] and shall expire on _____ [date] at least one year later]; but that expiration date shall be automatically extended for a period of _____ [at least one year] on _____ [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and _____

[owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. The 120 days will begin on the date when both the owner or operator and the IEPA have received the notice, as evidenced by the return receipts. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and _____ [owner's or operator's name], as shown on the signed return receipts.

at

~~and shall expire on~~ _____ ~~; but such expiration date shall be automatically extended for one periods of twelve months starting with the expiration date if the operator fails to substitute alternative financial assurance prior to the expiration of this letter of credit and you notify us of such failure within 30 days after the above expiration date.~~

Whenever this letter of credit is drawn on, under and in compliance with the terms of this credit, we shall duly honor that~~such~~ draft upon presentation to us, and we shall deposit the amount of the draft directly into the State of Illinois Landfill Closure and Post-Closure~~Postclosure~~ or Corrective Action Fund in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in 35 Ill. Adm. Code 811.Appendix A, Illustration E as that regulation was constituted on the date shown below.~~This letter of credit is governed by the Uniform Commercial Code (Ill. Rev. State. 1991, ch. 26, pars. 1-101 et. seq. [810 ILCS 5/1-101 et. seq.]).~~

Signature _____

Typed Name _____

Title _____

Date _____

Name and address of issuing institution _____

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of

Commerce," or "the Uniform Commercial Code"].

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

Section 811.APPENDIX A Financial Assurance Forms

Section 811.ILLUSTRATION F Certificate of Insurance for Closure and/or Postclosure Care or Corrective Action

CERTIFICATE OF INSURANCE FOR CLOSURE AND/OR
POSTCLOSURE CARE OR CORRECTIVE ACTION

Name and Address of Insurer ("Insurer"):_____

Name and Address of Insured ("Insured"):_____

Sites Covered:

Name_____

Address_____

City_____

Amount insured for this site: $_____

Name_____

Address_____

City_____

Amount insured for this site: $_____

Please attach a separate page if more space is needed for all sites.

Face Amount_____

Policy Number_____

Effective Date_____

NOTICE OF PROPOSED AMENDMENTS

The Insurer hereby certifies that it is licensed to transact the business of insurance by the Illinois Department of Insurance or that it is licensed to transact the business of insurance, or approved to provide insurance as an excess or surplus lines insurer, by the insurance department in one or more states.

The insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for closure and postclosure care for the sites identified above. The Insurer further warrants that such policy conforms in all respects with the requirements of 35 Ill. Adm. Code 811.714, as applicable and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the Illinois Environmental Protection Agency ("IEPA"), the Insurer agrees to furnish to the IEPA a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the wording of this certificate is identical to the wording specified in 35 Ill. Adm. Code 811.Appendix A, Illustration F as that regulation was constituted on the date shown below.

Name (Authorized Signature~~signature~~ for Insurer) _____

Typed Name _____

Title _____

Date _____

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

Section 811. APPENDIX A Financial Assurance Forms

Section 811.ILLUSTRATION G Owner's or Operator's Bond Without Surety

OWNER'S OR OPERATOR'S BOND WITHOUT SURETY

Date bond executed: _____

Effective date: _____

Owner or Operator: _____

Owner's or Operator's address: _____

Site: _____

Site address: _____

Penal Sum $ _____

The owner or operator promises to pay the penal sum to the Illinois Environmental Protection Agency unless the owner or operator~~Operator~~ provides closure and postclosure care or corrective action for ~~of~~ the site in accordance with the closure and postclosure care or corrective action plans for the site.

Owner or Operator _____

Signature _____

Typed Name _____

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Title _____

Date: _____

Corporate seal

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

Section 811. APPENDIX A Financial Assurance Forms

Section 811.ILLUSTRATION H Owner's or Operator's Bond With Parent Surety

OWNER'S OR OPERATOR'S BOND WITH PARENT SURETY

Date bond executed: _____

Effective Date: _____

Surety: _____

Surety's address: _____

Owner or Operator: _____

Owner's or Operator's address: _____

Site: _____

Site address: _____

Penal sum: $_____

The Owner or Operator and Surety promise to pay the above penal sum to the Illinois Environmental Protection Agency ("IEPA") unless the Owner or Operator provides closure and postclosure care of the site in accordance with the closure and postclosure care plans for the site. To the payment of this obligation the Owner or Operator and Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns.

Whereas the Owner or Operator is required under Section 21(d) of the Environmental Protection Act [415 ILCS 5/21(d)]~~, Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1021(d)~~ to have a permit to conduct a waste disposal operation.~~; and~~

Whereas the Owner or Operator is required under Section 21.1 of the Environmental Protection Act [415 ILCS 5/21.1] to provide financial assurance for closure and postclosure care.~~; and~~

Whereas the Owner or Operator and Surety agree that this bond shall be governed by the laws of the State of Illinois.~~; and~~

Whereas the Surety is a corporation that~~which~~ owns an interest in the Owner or Operator.~~;~~

The Surety shall pay the penal sum to the IEPA if, during the term of the bond, the Owner or Operator fails to provide closure or~~and~~ postclosure care for any site in accordance with the closure and postclosure care plans for that site as guaranteed by this bond. The Owner or Operator fails to so provide when the Owner or~~Operator~~:

a) Abandons the site;

b) Is adjudicated bankrupt;

c) Fails to initiate closure of the site or postclosure care when ordered to do so by the Illinois Pollution Control Board or a court of competent jurisdiction; ~~or~~

d) Notifies the IEPA~~Agency~~ that it has initiated closure, or initiates closure, but fails to close the site or provide postclosure care in accordance with the closure and postclosure care plans;~~.~~

e) For corrective action, fails to implement corrective action at a municipal solid waste landfill unit in accordance with 35 Ill. Adm. Code 811.326; or

f) Fails to provide alternative financial assurance and obtain the IEPA written approval of the assurance provided within 90 days after receipt by the Owner or Operator and the IEPA of a notice from the Surety that the bond will not be renewed for another term.

The Surety shall pay the penal sum of the bond to the IEPA within 30 days after the IEPA mails notice to the Surety that the Owner or Operator has failed to fulfill one or more of the conditions described in this document~~failed to so provide closure and postclosure care~~. Payment shall be made by check or draft payable to the State of Illinois, Landfill Closure and Post-Closure ~~Post-closure~~ Fund.

In Witness Whereof, the Operator and Surety have executed this bond and have affixed their seals on the date this bond was executed~~set forth above~~.

The liability of the Surety shall not be discharged by any payment or succession of payments unless and until the payment or payments shall amount in the aggregate to the penal sum of the bond. In no event shall the obligation of the Surety exceed the amount of the penal sum.

This bond shall expire on the _____ [date] day of _____ [month], _____[year], but that expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, the Surety notifies both the IEPA and the Owner or Operator by certified mail that the Surety has decided not to extend the term of this surety bond beyond the current expiration date. The 120 days will begin on the date when both the owner or operator and the IEPA have received the notice, as evidenced by the return receipts.

The Owner or Operator may terminate this bond by sending written notice to the Surety; provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond from the IEPA in accordance with 35 Ill. Adm. Code 811.702.

The persons whose signatures appear below certify that they are authorized to execute this surety bond on behalf of the Owner or Operator and Surety and that the wording of this surety bond is identical to the wording specified in 35 Ill. Adm. Code 811.Appendix A, Illustration H as that regulation was constituted on the date this bond was executed.

OWNER OR OPERATOR	SURETY
Signature	Name
Typed Name	Address
Title	State of Incorporation
Date	Signature
	Typed Name
Corporate Seal	Title

Corporate Seal

~~Operator~~ _____

~~Surety~~ _____

~~Signature~~ _____

~~Name~~ _____

~~Typed Name~~ _____
~~Address~~ _____

~~Title~~ _____

~~State of Incorporation~~ _____

~~Date~~ _____

~~Signature~~ _____

~~Typed Name~~ _____

~~Title~~ _____

~~Corporate seal Corporate seal~~

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 811. APPENDIX A Financial Assurance Forms

Section 811.ILLUSTRATION I Letter from Chief Financial Officer

LETTER FROM CHIEF FINANCIAL OFFICER

Director
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

Dear Sir or Madam:

I am the chief financial officer of _____

This letter is in support of this firm's use of the gross revenue test and financial test to demonstrate financial assurance pursuant to 35 Ill. Adm. Code 811.715.

Operator: _____

Name: _____

Address: _____

City: _____

Current cost estimate: $_____

Operator: _____

Name: _____

Address: _____

City: _____

Current cost estimate: $_____

Please attach a separate page if more space is needed for all facilities.

Attached is an Operator's Bond without Surety or an Operator's Bond with Parent Surety for the current cost estimate for each site. (Strike inapplicable language.)

Gross Revenue Test

1. Gross revenue of the firm $_____

2. Gross revenue from waste disposal operation $_____

3. Line 2 divided by line 3_____

Financial Test Alternative I

1. Sum of current cost estimates (total of all cost estimates shown in paragraphs above) $_____

2. Total liabilities (if any portion of the cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4) $_____

3. Tangible net worth $_____

4. Net worth $_____

5. Current assets $_____

6. Current liabilities $_____

7. Net working capital (line 5 minus line 6) $_____

8. The sum of net income plus depreciation, depletion, and amortization $_____

9. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.) $_____

Yes/No

10. Is line 3 at least $10 million?_____

11. Is line 3 at least 6 times line 1?_____

12. Is line 7 at least 6 times line 1?_____

13. Are at least 90 percent of firm's assets located in the U.S.? If not, complete line 14._____

14. Is line 9 at least 6 times line 1? _____

15. Is line 2 divided by line 4 less than 2.0?_____

16. Is line 8 divided by line 2 greater than 0.1?_____

17. Is line 5 divided by line 6 greater than 1.5?_____

Signature_____

Typed Name_____

Title_____

Date_____

Financial Test Alternative II

1. Sum of current cost estimates (total of all cost estimates shown in paragraphs above) $_____

2. Current bond rating of most recent issuance of this firm and name of rating service_____

3. Date of issuance of bond_____

4. Date of maturity of bond_____

5. Tangible net worth (if any portion of the closure and postclosure cost estimates is included in "total liabilities" on your firm's financial statements, you may add the amount of that portion to this line) $_____

6. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.) $_____

Yes/No

7. Is line 5 at least $10 million?_____

8. Is line 5 at least 6 times line 1?_____

9. Are at least 90 percent of firm's assets located in the U.S.? If not complete line 10. _____

10. Is line 6 at least 6 times line 1?_____

Signature_____

Typed name_____

Title_____

Date_____

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Control of Outdoor Advertising Adjacent to Primary and Interstate Highways

2) Code Citation: 92 Ill. Adm. Code 522

3)

Section Numbers:	Proposed Action:
522.20	Amend
522.30	Amend
522.40	Amend
522.50	Amend
522.60	Amend
522.70	Amend
522.80	Amend
522.90	Amend
522.100	Amend
522.110	Amend
522.120	Amend
522.130	Amend
522.150	Amend
522.220	Amend
522.ILLUSTRATION M	Amend

4) Statutory Authority: Implementing Section 9-112.1 and 9-112.2 of the Illinois Highway Code [605 ILCS 5/9-112.1 and 9-112.2 and Sections 1 through 8 and 10 of the Highway Advertising Control Act of 1971 [225 ILCS 440/1-8 and 10, as amended by P.A. 96-919, effective June 9, 2010] and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1] and Section 14.01 of the Highway Advertising Control Act of 1971 [225 ILCS 440/14.01, as amended by P.A. 96-919, effective June 9, 2010]; implementing Section 1 and authorized by Section 17 of the Airport Zoning Act [620 ILCS 25/1 and 17]

5) A Complete Description of the Subjects and Issues Involved: Among the significant changes being made to this Part:

Throughout the rule, the Department is replacing references to "the District" with "the Department" because the Department has centralized the control of the outdoor advertising program in Illinois in the central offices of the Department, located in Springfield, and specifically managed through the Department's Central Bureau of Land Acquisition.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

At Section 522.20, the Department is adding a definition of "Affiliate", and revising the definitions of "Damaged Signs", "Erect" and "Maintain" consistent with P.A. 96-919, effective June 9, 2010. Additionally, the definition of "Non-conforming sign and/or sign structure" is being clarified by adding the word "maintained" and deleting the word "repaired".

At Section 522.30, the Department is adding "improved (any change that adds value to the sign)" and deleting "altered (outside of normal maintenance activity)" to better clarify the provision. Additionally, subsection (e) is being deleted because the reference to "any non-conforming sign listed in subsection (a) – (d)" is incorrect. Section 522.30 pertains to permitted and registered signs not non-conforming signs.

At Section 522.50(c), the Department is adding language which prescribes that an affiliation with an owner of an illegal sign is grounds for denial of a permit application.

The Department is revising Section 522.60(k) to clarify that damaged registered non-conforming signs are not allowed to be re-erected.

Section 522.80(a) is being revised to prescribe that an affiliation with an owner of an illegal sign is grounds for denial of a permit application.

At Section 522.150(n), the Department is clarifying that damaged registered non-conforming signs are not allowed to be re-erected or maintained.

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) Do these proposed 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 affect units of local government.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

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 these proposed amendments. Written submissions shall be filed with:

Ms. Cheryl Cathey, Acting Chief, Bureau of Land Acquisition
Illinois Department of Transportation
Division of Highways
2300 South Dirksen Parkway, Room 210
Springfield, Illinois 62764

217/782-6243

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: Small businesses and not for profit corporations that qualify will be impacted to the extent that such businesses and corporations wish to participate in the program.

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 2011

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYS

PART 522
CONTROL OF OUTDOOR ADVERTISING ADJACENT TO
PRIMARY AND INTERSTATE HIGHWAYS

SUBPART A: GENERAL PROVISIONS

Section
522.10 Purpose
522.20 Definitions

SUBPART B: PERMIT APPLICATION AND REGISTRATION
PROCEDURES AND REQUIREMENTS

Section
522.30 Signs Requiring Permits and Registrations
522.40 Place of Filing
522.50 Permit Application Contents
522.60 Receipt of Application
522.70 Approval of Application
522.80 Denial of Application
522.90 Renewal of Permits
522.100 Registration of Existing Signs

SUBPART C: REVOCATION OF PERMITS

Section
522.110 Notice of Intent to Revoke
522.120 Reply of Permittee
522.130 Review Procedures
522.140 Issuance of the "30 Day Letter"

SUBPART D: STANDARDS FOR SIGNS

Section
522.150 Signs that may not be Erected or Maintained

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

522.160 Standards for Official Notices
522.170 Standards for Directional Signs
522.175 Standards for Official Signs
522.180 Standards for Signs Advertising the Sale or Lease of Property on which they are Located
522.190 Standards for On Premise Signs
522.200 Standards for Signs in Business Areas
522.210 Standards for Signs Providing Information Relative to Lodging, Food, Outdoor Recreational Facilities or Automotive Service Facilities

SUBPART E: SIGNS WHICH MAY BE ERECTED WITHOUT A PERMIT

Section
522.220 Department Notification

SUBPART F: MISCELLANEOUS PROVISIONS

Section
522.230 Multiple Signs
522.240 Signs Facing Two or More Highways

522.ILLUSTRATION A Expressway
522.ILLUSTRATION B Unzoned Commercial or Industrial Area
522.ILLUSTRATION C Interchange Spacing
522.ILLUSTRATION D Spacing Measurement Along Pavement
522.ILLUSTRATION E Spacing Measurement At Right Angle
522.ILLUSTRATION F Spacing Measurement On Same Line
522.ILLUSTRATION G Spacing Measurement Along Curves
522.ILLUSTRATION H Map of Highway Districts (Repealed)
522.ILLUSTRATION I Control Along Intersecting Highways
522.ILLUSTRATION J Public Airports
522.ILLUSTRATION K Spacing Measurement Monopole Back-to-Back V-Type
522.ILLUSTRATION L Spacing Measurement Standard Back-to-Back V-Type
522.ILLUSTRATION M Department~~District~~ Offices and Counties

AUTHORITY: Implementing Sections 9-112.1 and 9-112.2 of the Illinois Highway Code [605 ILCS 5/9-112.1 and 112.2] and Sections 1 through 8 and 10 of the Highway Advertising Control Act of 1971 [225 ILCS 440/1-8 and 10] and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1] and Section 14.01 of the Highway Advertising Control Act

of 1971 [225 ILCS 440/14.01]; implementing Section 1 and authorized by Section 17 of the Airport Zoning Act [620 ILCS 25/1 and 17].

SOURCE: Amended August 23, 1976; codified at 7 Ill. Reg. 12887; Part repealed, new Part adopted at 12 Ill. Reg. 16163, effective September 27, 1988; amended at 17 Ill. Reg. 7258, effective May 7, 1993; amended at 22 Ill. Reg. 7262, effective April 9, 1998; amended at 30 Ill. Reg. 15792, effective October 1, 2006; amended at 32 Ill. Reg. 17810, effective October 30, 2008; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 522.20 Definitions

"Act" means the Highway Advertising Control Act of 1971 [225 ILCS 440].

"Affiliate" means a company that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, another company.

"Air mile" means a distance of one mile as measured horizontally along a straight line between the sign and activity advertised.

"Business Area" means any part of an area adjacent to and within 660 feet of the right-of-way which is at any time zoned for business, commercial or industrial activities under the authority of any law of this State; or not so zoned, but which constitutes an unzoned commercial or industrial area. However, as to signs along Interstate highways, the term "business area" includes only areas which are within incorporated limits of any city, village, or incorporated town, as such limits existed on September 21, 1959, and which are zoned for business, *industrial or commercial use, or to portions of Interstate highways which traverse other areas where the land use, as of September 21, 1959, was* clearly *established by State law as* business, *industrial or commercial*. (Section 3.12 of the Act [225 ILCS 440/3.12]) Areas which were zoned as of September 21, 1959 and were not specifically zoned for business, commercial or industrial use as of September 21, 1959 and were outside corporate limits on that date will not be considered business areas along Interstate highways. However, *an area zoned for business, commercial or industrial activities that is adjacent to and within 660 feet of an Interstate highway and that is in Township 41 North, Range 10 East of the Third Principal Meridian shall be deemed a business area* along Interstate highways.

[225 ILCS 440/3.12] (See PA 95-0340, effective January 1, 2008.) Areas which were unzoned on September 21, 1959 may qualify as business areas along Interstate highways if the applicant can show, based on contemporaneous historical records of State actions (e.g., State sales tax records, required State license fees, etc.) that the land on September 21, 1959 was and has continuously been used as business, commercial or industrial. Land unzoned on September 21, 1959, used for agricultural and/or farming activities, including but not limited to forestry, ranging, mining and mineral extraction activities, grazing, wayside produce stands and grain storage bins, will not be considered as business, commercial or industrial land uses for purposes of this Part. Additionally, unzoned land used for railroad tracks and minor sidings; transient or temporary activities not involving permanent buildings or structures; outdoor advertising structures; activities not visible from the main-traveled way; activities conducted in a building principally used as a residence (if the ground floor of the building is more than 50% residence); and activities located in buildings that are not integral to the business operation or that are used to store trade equipment and where business transactions do not take place will not be considered as business, commercial or industrial land uses.

"Code" means the Illinois Highway Code [605 ILCS 5].

"*Commercial or industrial activities,*" as used in the definition of "business area" and "unzoned commercial or industrial area," *means those activities located within 660 feet of the nearest edge of the* highway *right-of-way generally recognized as commercial or industrial by zoning authorities in this State*, such as land use devoted to commerce, industry, trade, manufacturing, highway service, highway business, warehouses, offices or similar uses, *but* for the purpose of determining unzoned commercial and industrial areas *does not include the following:*

> *Agricultural, forestry, ranging,* mining and mineral extraction activities, *grazing and farming activities, including wayside fresh produce stands and grain storage bins;*
>
> *Railroad tracks and minor sidings;*
>
> *Transient or temporary activities not involving permanent buildings or structures;*

Activities that are conducted in a building that is used to store trade equipment or that is not integral to the business operation where actual business transactions take place;

Outdoor advertising structures;

Activities not visible from a main-traveled way; and

Activities conducted in a building principally used as a residence (if the ground floor of the building is more than 50% residence). (Section 3.10 of the Act)

"Damaged signs" means signs that~~which~~ require repair beyond normal maintenance~~more than fifty percent replacement of the uprights, in whole or in part~~.

"Department" means the Illinois Department of Transportation.

"Directional signs" means signs containing directional information about public places owned or operated by Federal, State or local governments or their agencies; publicly or privately owned natural phenomena; historic, educational, cultural, scientific and religious sites; areas of natural or scenic beauty; or areas naturally suited for outdoor recreation which are deemed to be in the interest of the traveling public.

"Director" means the Director of the Division of Highways or the Director's designee.

"District" means any one of the District offices of the Department's Division of Highways. (See Illustration M.)

"Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish; but does not include any of the foregoing activities when performed as an incident to the change of advertising message or normal maintenance or repair of a sign or sign structure. For the purposes of this definition, the following shall not constitute normal maintenance or repair of a sign or sign structure: replacing more than 60% of the uprights, in whole or in part, of a wooden sign structure; replacing more than 30% of the length above ground of each broken, bent, or twisted support of a

metal sign structure; raising the height above ground of a sign or sign structure; making a sign bigger; adding lighting; or similar activities that substantially change a sign or make a sign more valuable. (Section 3.08 of the Act) ~~Replacing more than fifty percent of the uprights, in whole or in part, or extending the height above ground, or similar activities which substantially change a sign such as anything which makes a sign more valuable; adding lighting, or making the sign bigger are examples, are not normal maintenance or repair.~~

"Expressway" means a primary highway constructed either *as a freeway* or tollway *which has complete control of access*. (See Illustration A.) (Section 3.04 of the Act)

"Federal, State or local law" means a Federal or State constitutional provision or statute, or an ordinance, rule or regulation enacted or adopted by a State or Federal agency or a political subdivision of a State pursuant to Federal or State constitution or statute.

"Illegal Signs" means signs not in compliance with this Part.

"Interchange" means a system of interconnecting roadways in conjunction with one or more grade separations, providing for the movement of traffic between two or more roadways on different levels.

"Interstate highway" means any highway, including a tollway, *designated by the Department and approved by the United States Department of Transportation as a part of the National System of Interstate and Defense Highways. A highway* becomes *a part of the National System of Interstate and Defense highways upon the date of approval of the Route Location Decision and the approval of the addition of the highway to the National System of Interstate and Defense Highways by the Governor and the United States Department of Transportation*. (Section 3.02 of the Act)

"Main-traveled way" means the traveled way (i.e., pavement) *of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas*. (Section 3.05 of the Act)

"Maintain" means to allow to exist ~~(Section 3.06 of the Act)~~ and includes the

periodic changing of advertising messages *as well as the normal*~~, customary~~ maintenance or~~and~~ repair of signs and sign structures. (Section 3.06 of the Act)

"Multiple Message Sign" means an outdoor advertising sign that displays a series of message changes, regardless of the technology used. A multiple message sign provides for a fixed message of at least ten seconds in length with a transition time between message changes of three seconds or less. Multiple message signs contain a default design that will freeze the message in one position if a malfunction occurs.

"Municipality" means a city, village, or incorporated town in the State of Illinois, but, "municipal" or "municipality" does not include a township, town when used as the equivalent of a township, incorporated town which has superseded a civil township, county, school district, park district, sanitary district or any other similar governmental district. (Section 3.09 of the Act)

"National Highway System" means the *designation provided to certain highways by the Department, which designation must be approved by the United States Department of Transportation and the United States Congress for the purpose of providing an interconnected system of principal arterial routes that serve major population centers, international border crossings, ports, airports, public transportation facilities, other major travel destinations, and interstate and inter-regional travel and meet national defense requirements.* (Section 3.15 of the Act)

"Non-conforming sign and/or sign structure" means a registered sign and/or sign structure lawfully in existence as of the effective date of the Highway Advertising Control Act (July 1, 1972), but which thereafter does not conform with the provisions of the Act. The term also includes a lawful sign and/or sign structure rendered non-conforming by its subsequently becoming subject to the terms of the Act, including but not limited to its being adjacent to a highway, and not in a business area, that subsequently comes under control of the Act or a sign and/or sign structure that is rendered non-conforming by subsequent amendment to the Act (except that sign and/or sign structures subject to the amendments of Section 6.01 (Size) and 6.03 (Spacing) of the Act by Public Act 87-1205 shall not be rendered non-conforming, the text of this definition~~paragraph~~ notwithstanding). A non-conforming sign and/or sign structure may be maintained~~repaired~~, but neither a lawfully erected conforming sign and/or sign structure nor a lawfully erected non-conforming sign and/or sign structure may be compelled to be altered or removed under this Act until just compensation is paid to the sign and/or sign

structure owner and the owner or owners of the property on which the sign and/or sign structure is erected.

"Official notices" means service club and religious notices and public service signs.

"Official signs" means signs erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in Federal, State or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by State law and erected by State or local government agencies or non-profit historical societies are considered official signs.

"On premise signs" means those signs which advertise activities conducted on the property on which they are located. Variety seed signs, fertilizer signs, and other agricultural product signs are not on premise signs unless at least 50~~fifty~~ percent of the sign face is devoted to identification of the farm owner or operator. A sale or lease sign which also advertises any product or service not located upon and unrelated to the business of selling or leasing the land on which the sign is located is not an on premise sign.

"Parkland" means any publicly owned land which is designed or used as a public park, recreation area, conservation area, wildlife or waterfowl refuge or historic site.

"Primary highway" means any highway, other than an Interstate highway, designated by the Department and approved by the United States Department of Transportation as a part of the Federal-Aid Primary System in existence on June 1, 1991 or any highway other than an Interstate highway that is not on such system that is on the National Highway System. (Section 3.03 of the Act)

"Public utility signs" means warning signs, informational signs, notices or markers which are erected and maintained by publicly or privately owned public utilities as essential to their operations.

"Responsible Local Officials" means in urbanized areas, principal elected officials of general purpose local governments acting through the Metropolitan Planning Organization designated by the Governor; or in urban areas not within any urbanized area, principal elected officials of general purpose local governments.

"Rest area" means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control for the convenience of the traveling public.

"Right-of-way" includes all property, whether it is presently being used for highway purposes or not, either under the jurisdiction of the Department or owned in fee by the State of Illinois or dedicated to the People of the State of Illinois for highway purposes, for which the jurisdiction, maintenance, administration, engineering or improvement of any highway situated thereon has been contracted by the Department to any other highway authority pursuant to Section 4-409 of the Highway Code.

"Scenic area" means any area of particular scenic beauty or historical significance as determined by Federal, State or local officials having jurisdiction over said areas, and includes interests in land which have been acquired for the restoration, preservation and enhancement of scenic beauty.

"Scenic byway" means that portion of a highway that has been nominated by the Department to the United States Department of Transportation for designation as a National Scenic Byway or All-American Road, and that has received national designation. "Scenic byway" does not include a section of primary or Interstate highway that traverses a business area at the time of nomination, except in accordance with Section 14.02(a)(5) of the Act. (Section 3.16 of the Act)

"Secretary" means the Secretary of the Department.

"Service club and religious notices" means signs and notices relating to meetings of not for profit service clubs and charitable associations, or religious services.

"Sign" means any outdoor sign, display, device, notice, figure painting, drawing, message, placard, poster, billboard, or other thing, which is designated, intended or used to advertise or inform, and of which any part of the existing or intended advertising or informative contents is or will be visible from any place on the main-traveled way of any portion of an Interstate or primary highway and which is within 660 feet of the nearest edge of the right-of-way of such highway. (Section 3.07 of the Act)

"Sign" also means any sign described above *which is more than 660 feet from*

the nearest edge of such highway right-of-way, *outside of an urban area, visible from any place on the main-traveled way of any portion of such highway and erected with purpose of its message being read from such main-traveled way*. (Section 3.07 of the Act)

"Sign Structure" means the assembled components which make up an outdoor advertising display, including but not limited to uprights, supports, display area and trim.

"Unzoned commercial or industrial area" means any area adjacent to the right-of-way of a primary highway or an Interstate highway for purposes of Section 522.210, *not zoned by any county or municipality and which lies within 600 feet of any commercial or industrial activity. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel to the edge or pavement of the highway. On primary highways other than expressways,* but not along Interstate highways for purposes of Section 522.210, *where there is an unzoned commercial or industrial area on one side of the road in accordance with the preceding, the unzoned commercial or industrial area shall also include those lands directly opposite on the other side of the highway to the extent of the same dimensions except where such lands are publicly owned or controlled for scenic or recreational purposes*. (See Illustration B.) (Section 3.11 of the Act)

"Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one state, that part of the urbanized area in each such state, or an urban place as designated by the Bureau of the Census of the United States having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the Secretary of the United States Department of Transportation. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census. (Section 3.14 of the Act)

"Visible" means capable of being seen (whether or not legible) without visual aid by persons of normal visual acuity. (Section 3.13 of the Act)

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART B: PERMIT APPLICATION AND REGISTRATION PROCEDURES AND REQUIREMENTS

Section 522.30 Signs Requiring Permits and Registrations

The following types of signs may be erected and maintained only after a permit or registration has been issued by the Department. Further, existing signs erected pursuant to the Act can only be re-erected or improved (any change that adds value to the sign)~~altered (outside of normal maintenance activity)~~ subsequent to the receipt of a permit (see Section 522.50, Permit Application Contents).

a) Signs along Interstate highways that advertise the sale or lease of property on which they are located;

b) On premise signs located along Interstate highways;

c) Signs located along Interstate highways that provide information relative to lodging, food, outdoor recreational facilities or automotive service facilities;

d) Signs in business areas other than directional signs, official signs, official notices, public utility signs, or those non-business area signs described in subsections (a), (b), and (c);

~~e) Any nonconforming sign listed in subsections (a) (d) that, after receiving a permit or registration, becomes a damaged sign and the owner intends to repair the sign. These signs shall require new permits but shall not require payment of a fee;~~

e~~f~~) Any sign listed in subsections (a) though~~-~~ (d) that, after receiving a permit or a registration, is erected again, is enlarged or extended by the sign owner. These signs shall require new permits and payment of the application fee.

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

Section 522.40 Place of Filing

The permit application or registration shall be filed with the Department office~~District~~ having jurisdiction over the area in which the sign is to be erected or is located. (See Illustration M.~~H~~)

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

Section 522.50 Permit Application Contents

a) The permit application shall be a form prescribed by the Department. The application shall require the applicant to provide specific information necessary for the Department~~District~~ to determine whether a permit should be issued.

b) The following additional documentation shall be attached to the permit application:

1) Verification as to the zoning classification for the proposed sign location. For proposed signs along Interstate highways, the documentation shall show whether the site lies within incorporated limits as they existed on September 21, 1959, and, if not, the land use as it was zoned on September 21, 1959. If the site was not zoned on September 21, 1959, or is not zoned now, this shall be stated.

A) Verification of zoning classification will consist of an ordinance, certification by the current zoning official and any other documentation that shows the zoning classification. The zoning certification must be submitted on the local governing agency's letterhead and must certify to the site's zoning classification as well as to the site's adherence to the September 21, 1959 criteria prescribed in subsection (b)(1) of this Section.

B) Zoning must be comprehensive. Signs will not be permitted on spot zoned land or land on which the only plausible commercial or industrial use is outdoor advertising.

C) When the application is for a site in a newly zoned commercial or industrial area and no commercial or industrial site development is evident, the zoning certification must certify to the site's pending commercial or industrial use. For purposes of this subsection (b)(1)(C), "newly zoned" means zoning that occurs from time-to-time when market conditions warrant a change of land use. As evidence of pending commercial or industrial use, the application shall include a site plan that has been approved by the local zoning authority. If an approved site plan does not exist, the application shall include a statement by the local zoning authority certifying to

the existence of utilities, roads and streets necessary to support commercial or industrial development.

2) Illinois State Plane Coordinates or reference to latitude/longitude coordinates for the proposed location, as well as a site drawing of the proposed location. The site drawing for business area signs other than on premise signs and signs that advertise the sale or lease of property on which they are located shall contain at least the following information:

A) The exact location of the proposed sign.

B) The distance as measured along the edge of the highway pavement between the proposed sign and the nearest existing signs other than on premise signs and signs that advertise the sale or lease of property on which they are located, whether illegal or legal as long as the sign is visible from any place on the main traveled way of the highway regardless of which highway the sign's message is primarily intended to face and, in urban areas, is within 660 feet of the nearest edge of the highway right-of-way. Measured distances between the proposed sign and the nearest existing sign shall be as prescribed in the table in subsection (b)(3).

C) The distance between the proposed sign and the nearest edge of the highway right-of-way.

D) For signs located along interstate highways or expressways outside incorporated municipalities, the distance between the proposed sign and the beginning or ending of pavement widening for any interchange within 600 feet.

3) For signs with display area in excess of 150 square feet, the site drawing shall contain all of the information required in subsection (b)(2) of this Section, and, in addition, shall be prepared or approved by a land surveyor licensed by the State of Illinois and shall show measured distances between the proposed sign and the nearest existing sign according to the following table:

Type of Highway	Distance (feet)
Interstate	600

Expressway	600
Primary (Unincorporated Area)	600
Primary (Incorporated Area)	400

4) For signs with display area in excess of 150 square feet, a current title commitment or other evidence of title showing ownership of the proposed site.

5) Whenever the applicant does not own the proposed site, a certificate of good corporate standing from the Illinois Secretary of State's Office will be required, as well as a fully executed site lease, contract to purchase or other proof of consent to erect and maintain a sign on the site. Leases shall contain all riders. Rents need not be shown. All changes made to the lease, contract to purchase, or consent which are related to the requirements of this Part shall also be submitted to the Department~~District~~. Whenever the lease, contract to purchase or consent is not signed by the property owner, proof of authority shall also be provided. A lease, contract to purchase, or other form of consent to erect and maintain a sign that is subject to a permit being issued by the Department to erect a sign will be considered a valid and binding document. If the lease, contract to purchase or other consent to erect and maintain a sign is terminated prior to the erection of the sign, the permit is void.

6) For on-premise signs, a plat or survey shall be provided showing the location of the sign, the location of the activity being advertised, and the distance to the nearest edge of the highway right of way.

7) For signs that advertise the sale or lease of property on which they are located, a site drawing shall be provided showing the location of the sign and the distance to the nearest edge of the highway right-of-way.

8) For signs described by Section 522.210, the distance in air miles between the proposed sign and the activity advertised.

9) A copy of written notice by the applicant to the municipality where the sign is to be located, or to the county where the sign is to be located in an unincorporated area, of the fact that an application has been filed with the Department. A copy of the completed application form shall be forwarded to the municipality or county.

10) Remittance of the non-refundable application fee by check or money order payable to the Treasurer of the State of Illinois. *As of July 1, 1993, the application fee shall be as follows:*

A) *For signs of less than 150 square feet*, the fee shall be *$50*.

B) *For signs of at least 150 but less than 300 square feet,* the fee shall be *$100*.

C) *For signs of 300 or more square feet,* the fee shall be *$200*. (Section 8 of the Highway Advertising Control Act of 1971) [225 ILCS 440/8]

D) The square feet shall be measured by the smallest square, rectangle, triangle, circle, or combination that will encompass the entire display area. If one side of the sign provides for more display area than another, the measurements will be made on the larger side.

11) For signs to be located along Interstate highways in business areas on parcels of land located in areas which were unzoned on September 21, 1959, proof based on contemporaneous historical records of State actions that the land use on September 21, 1959 was business, commercial or industrial, must be submitted with the permit application.

12) When a permit has previously been issued for a specific sign at a specific site and the holder of that permit wishes to change that permitted sign in a manner that would require the issuance of a new permit, the applicant must provide a copy of the original permit application identifying the permit number and application approval. This type of application will also require the following:

A) A statement that the application is being submitted in order to improve an existing permitted sign and that this action will not cause any violations pursuant to the requirements of the Act and this Part.

B) The removal of the existing permitted sign will occur prior to the

erection of any other sign approved as a result of this permit application.

C) All other requirements of the Act and this Part are satisfied without conditions.

c) The applicant shall certify that all of the information provided is true and accurate and that the applicant is not the owner of, or affiliated with an owner of, an abandoned or illegal sign as defined by this Part. This certification shall be supported by an oath or affirmation acknowledged by a notary public.

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

Section 522.60 Receipt of Application

a) All permit applications shall be stamped or otherwise marked with the date and time upon receipt at the designated Department~~District~~ office.

b) Priority of processing permit applications shall be in the order they are received.

c) If a receipt is requested showing the date and time the application was received, the applicant shall submit a self-addressed, stamped envelope.

d) Applications must be delivered to the designated Department~~District~~ office with jurisdiction and not to any other District or to personnel other than the personnel designated to accept applications.

e) Mailed applications will be considered to be received on the date postmarked by the U.S. Postal Service (USPS) on the envelope (at 11:59 PM). Private postmark stamps, bulk rate, or business stamping machines will not establish the proper postmark. The postmark will be established by the canceled stamp or USPS insignia on the envelope. If a postmark fails to exist, then the date shall be the date and time actually received and marked by the designated personnel at the Department~~District~~ office.

f) Attempting to "notarize" or acknowledge a time other than 11:59 PM will not be recognized when applications are mailed.

g) Faxed or electronically submitted applications, letters, protests or messages will

not be accepted unless agreed to in writing by the Department~~District~~ office.

h) Applications submitted by delivery or expedited mail service (e.g., overnight mail, Federal Express, UPS) will be considered to be applications delivered in person and not applications submitted by the private postmark date.

i) If two or more applications are mailed or received at the same time that could contradict the interests of the others, and the Department~~District~~ cannot determine which application was there first with any degree of certainty, priority will be determined by the Department~~District~~ by lottery, drawing straws, coin toss, or any other fair and impartial method determined by the Department~~District~~.

j) To ease administration of permit applications, the Department, at its discretion, may group applications for a particular site or geographic area.

k) Priority will not defeat the erection of a validly permitted or registered conforming but damaged sign re-erected at the same location.

l) Examples of Priority Applications:

1) Example One: Application "A" postmarked on the third of the month and received on the fifth; Application "B" hand delivered on the fifth. Application "A" has priority since it was postmarked on the third at 11:59 PM.

2) Example Two: Application "A" postmarked on the third of the month and received on the fifth; Application "B" received at 5:00 PM on the third. Application "B" has priority since it was received at 5:00 PM and Application "A" could have been mailed and postmarked up to 11:59 PM.

3) Example Three: Group A consists of five applications received at different times for a particular location with the first application having priority over the others. The administrator inspects the site during his/her regular duties or schedules a special trip. If conditions will not allow the issuance of a permit, the applications are denied. During the period for processing the denial, conditions change which may allow the issuance of a permit. The application with priority will be considered first, the application with second priority will be considered second, and so forth.

4) Example Four: Same facts as Example three but all five applications receive final denial notice from the Department~~District~~. Department ~~District~~ then moves on to Group B applications, inspects the sites~~site(s)~~ and determines if any permits could be issued. If not, a 30-day notice is sent. If, after reinspection, conditions change, the application with first priority in Group B is considered to determine whether a permit can be issued. If not, the second priority application is reviewed and so forth until the formal denial process ends. The Department~~District~~ then moves on to Group C if one exists.

5) Example Five: Two applications arrive at different dates but are postmarked on the same date or two or more people claim they are first in line at the designated Department~~District~~ office to have their applications processed. The Department~~District~~ is unable to determine with any degree of certainty who has priority. The Department~~District~~ will inform the parties that the Department~~District~~ will determine priority by lottery as described in subsection (i) of this Part.

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

Section 522.70 Approval of Application

a) The Department~~District~~ shall approve the permit application upon its determination, after a site investigation that it is complete, correct and in compliance with the requirements of the Act and this Part. The application shall be marked "approved" on its face.

b) The Department~~District~~ shall notify the permittee that the application has been approved by sending a copy of the approved application to the permittee.

c) Permittees *shall be issued an identifying tag* by the Department~~District~~ *which* shall *be securely affixed to the front face of the sign or sign structure in a conspicuous* place *by the owner* or the Department *upon erection* of the sign *or within ten days after receipt of the tag, whichever is later* (Section 8 of the Act). Permittees shall provide evidence such as "as-built" plans or affidavit, but, preferably by photograph, of erection of signs.

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

Section 522.80 Denial of Application

a) If a review of the application or a site investigation reveals that the permit application is incomplete, contains incorrect information or is not in compliance with the requirements of the Act or this Part, or that the applicant is the owner of, or affiliated with an owner of, an abandoned or illegal sign, then the Department~~District~~ shall notify the applicant in writing by certified mail of its intent to deny the permit application and state the reasons for that action. The notification shall inform the applicant that he/she has 30~~thirty~~ calendar days from the date of receipt of the notification to challenge the intent to deny or to correct the deficiencies noted. No time extensions will be permitted. The challenge shall be made in writing, state the position of the applicant, the facts in support of that position and shall contain any relevant documentation. The challenge must be received in the Department~~District~~ office within the 30~~thirty~~ day period. The Department~~District~~ will review the challenge and shall either approve or deny the application based on the requirements of this Part. No appeal may be taken from the Department 's~~District's~~ decision on the challenged application. The applicant's priority will be retained pending the Department's~~District's~~ final decision. Only one application per applicant will be processed for the same site or any site within 500 feet of the site along an Interstate, expressway or a primary highway outside a municipality, or within 300 feet along a primary highway within a municipality, for which a permit application is submitted prior to the final decision by the Department~~District~~.

b) If, after consideration of the challenge, the Department~~District~~ approves the application, the procedures in Section 522.70 shall apply. If, after consideration of the challenge, the Department~~District~~ denies the application, it shall be marked "denied" on its face and the reason for denial stated on the application. The Department~~District~~ shall notify the permittee of the denial by sending a copy of the denied application.

c) The permittee shall be deemed to have waived the right to challenge if the challenge is not filed in the time specified in subsection (a) of this Section. In such case, the application will be denied and be processed in the same manner as an application denied with a challenge.

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

Section 522.90 Renewal of Permits

a) Signs must be erected within three years after the date the permit is issued. If a sign is not erected within three years, the permit will become void and the applicant will be required to wait 60 calendar days before a new application for that site can be submitted and considered.

b) *Upon* a *change* in permittee or *sign ownership, the new* permittee or *owner of the sign shall notify the* Department, in writing,~~District~~ of the sign permit or registration number and the old and new permittee or sign owners' names *within 60 days after the change* in permittee or sign *ownership.* No application fee is required under these circumstances. *Any permit* or registration *not so renewed shall become* revocable in accordance with the provisions of Subpart C. (Section 8 of the Act)

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

Section 522.100 Registration of Existing Signs

a) When a highway or a section of a highway is added to the primary system, the Department~~District~~ shall so notify owners of signs along such a highway that they have 90~~ninety~~ days to register their signs.

b) When a primary highway is added to the Interstate system, the Department shall so notify owners of on premise signs and signs which advertise the sale or lease of property on which they are located that they have 90~~ninety~~ days to register their signs.

c) Registration shall be on a form prescribed by the Department and shall be accompanied by a check or money order in the amount of $5.00 payable to the Treasurer of the State of Illinois.

d) Signs not registered in accordance with this Section shall receive notice as provided in Subpart C of this Part.

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

SUBPART C: REVOCATION OF PERMITS

Section 522.110 Notice of Intent to Revoke

Whenever the Department~~a District~~ determines that grounds exist for the revocation of a permit or registration (including but not limited to false information in the application, errors in permit processing, failure to erect what was permitted, classification as an owner of an illegal or abandoned sign, use of aliases, affiliates or subsidiary companies to obtain permits, or any other violation of the Act or this Part), the Department~~District~~ shall notify the permittee by certified mail of its intent to revoke the permit. This notice shall be called the "Notice of Intent to Revoke Permit" ("Notice") and shall inform the permittee that he or she has 30~~thirty~~ calendar days from receipt of the notice to reply. The procedures in this Subpart shall not apply when a permit has expired without any sign being erected within three years after issuance.

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

Section 522.120 Reply of Permittee

a) The Reply shall be made to the Department~~appropriate District~~ in writing and received at that office within the 30~~thirty~~ day period. No time extensions will be permitted. The Reply shall specifically state one of the following:

1) That the sign has been removed. In such case, evidence of the removal (an affidavit or photograph) shall be submitted with the Reply.

2) That the problem cited in the Notice of Intent to Revoke has been corrected or that measures to correct the problem will be undertaken in the manner and within the times set forth in the Reply. Evidence of the correction (an affidavit or photograph) shall be submitted with the Reply.

3) That a dispute exists and a review is requested.

b) If the permittee fails to reply or to reply within the 30~~thirty~~ day period, the Notice shall constitute the "30 day letter" as provided for in Section 522.140 and shall have the same force and effect as same.

c) If the evidence submitted with the Reply shows that the sign has been removed, then the Department~~District~~ will notify the permittee that the permit is revoked.

d) If the evidence shows that the permittee has corrected the problem, the Department~~District~~ will so notify the permittee and the Notice shall be considered null and void.

e) If the Department~~District~~ finds that the evidence submitted with the Reply fails to show that the sign has been removed or that no measures have been taken or proposed to correct the problem, and no review is requested; then the Department~~District~~ will issue a "30 day letter" in accordance with Section 522.140.

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

Section 522.130 Review Procedures

a) Proceedings

1) In response to the timely receipt of the permittee's reply requesting a review, the Department~~District~~ will notify the Director within 14 calendar days that a request for review has been received. The Department~~District~~ will also send a copy of the written notice to the permittee by certified mail.

2) Within 28 calendar days after the permittee's receipt of the Department's~~District's~~ notice to the Director, the permittee shall submit to the Director in duplicate its written argument supporting its positions. The permittee shall also send a copy of its argument to the Department~~District~~ by certified mail.

3) Within 28 calendar days after the Department's~~District's~~ receipt of the permittee's argument, the Department~~District~~ will submit to the Director in duplicate its written argument and response to the permittee's argument supporting its positions. The Department~~District~~ is responsible for assembling the record for review and will include the record for review with its argument to the Director. The Department~~District~~ will also send a copy of its argument and response and the record for review to the permittee by certified mail.

4) Within 14 calendar days after receipt of the Department's~~District's~~ argument and response and the record for review, the permittee shall submit to the Director in duplicate its written rebuttal argument to the Department's~~District's~~ argument and response. The permittee's rebuttal argument shall only address the Department's~~District's~~ argument and

response and shall not introduce new theories on the disputed matter. The permittee shall also send a copy of its rebuttal argument to the Department~~District~~ by certified mail.

5) The Director may hold a conference if it is necessary to adjudicate conflicting facts or to simplify relevant issues. Conferences may be held in person or by telephone.

6) Within 28 calendar days after receipt of arguments, rebuttal argument, exhibits and a conference, if one is held, the Director shall render the decision and promptly notify the Department~~District~~ and the permittee in writing by certified mail of the decision.

A) The decision will be based on the written arguments, rebuttal argument, the fact finding conference, and relevant exhibits.

B) All ex parte communications with the Director pertaining to the review will be promptly summarized and communicated in writing to the opposing parties.

7) Written arguments and written rebuttal arguments must contain proposed findings of fact and conclusions of law.

8) If the permittee fails to submit a written argument or does not submit it within the 28 calendar day period, the resultant decision will be that the allegation or allegations as set forth in the Notice of Intent to Revoke Permit are true, correct, and proven.

9) If the Department~~District~~ fails to submit a written argument or does not submit it within the 28 calendar day period, the resultant decision will be that the allegation or allegations as set forth in the Notice of Intent to Revoke Permit are unproven.

10) If the permittee fails to submit a written rebuttal argument within the 14 calendar day period, the rebuttal argument will not be considered.

11) The Director may extend deadlines prescribed in this Section upon a written request by either the permittee or the Department~~District~~.

b) Departmental Action Following Review

1) If a sign has been found to be unlawful, the Department shall issue a "30 day letter" as provided in Section 522.140.

2) If a sign has been found to be in compliance with this Part, the permit will be considered lawful.

3) If the Director finds that insufficient information has been provided, he/she shall direct the parties to supply the needed information so that a decision can be rendered.

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

SUBPART D: STANDARDS FOR SIGNS

Section 522.150 Signs that may not be Erected or Maintained

The following signs shall not be erected or maintained:

a) Signs located within the right-of-way of an Interstate or primary highway or on any *structure, wire, cable, or other device over or above* an Interstate or primary highway right-of-way *except* the following:

1) *Signs designating the name of the railroad* which owns the bridge.

2) *Signs designating the clearance provided* (Section 9-112.1 and 9-112.2 of the Code) by the bridge.

3) Public utility signs.

4) Signs required by the Code.

5) Signs required by the Illinois Vehicle Code [625 ILCS 5].

6) Signs, displays and devices giving specific information in the interest of the traveling public erected and maintained by the Department or by the Illinois State Toll Highway Authority.

b) Signs that *attempt or appear to attempt to direct the movement of traffic* or which contain *wording, color or shape which is similar to official traffic control signs or other traffic control devices*. (Section 9-112.2 of the Code)

c) Signs that *contain oscillating, rotating, flashing, intermittent or moving light or lights* (Section 9-112.2 of the Code), except the following:

1) Signs *giving public service information* including but not limited to *time, weather, date and temperature* (Section 6.02(a) of the Act) and multiple message signs with displays that change not more frequently than once every 10 seconds.

2) *Pole supported business or brand identification signs* inside business areas *with constant illumination and color and in which the only movement is a slow rotation of the entire body of the sign so as to be visible from all directions*. (Section 9-112.2 of the Code)

3) On premise signs which comply with Section 522.190(g).

d) Signs that are *erected, painted or drawn upon trees, rocks or other natural features*. (Section 5 of the Act)

e) Signs that are obsolete (i.e., advertises something that is no longer there), abandoned (i.e., where no message or display appears for one year, unless such display advertises the availability of the sign), or *structurally unsafe or in disrepair* (Section 5 of the Act), unless such structural conditions may be repaired in accordance with the provisions of the Act, and the sign owner agrees in writing to make the repairs within 30 days after receipt of the notice to remove.

f) Signs that project *beams or rays of light at the* travelled *way* of a State highway or cause such beams or rays to create *glare or* to *impair the vision of a driver of any motor vehicle*. (Section 6.02(b) of the Act)

g) *Signs* that *are located within 1,000 feet of official traffic signs, signals, or devices and obscure or interfere with a driver's view of such sign, signal or device*. (Section 6.03(a) of the Act)

h) *Signs* that *are located within 1,000 feet of approaching, merging or intersecting traffic and obscure or interfere with a driver's view of such traffic*. (Section

6.03(a) of the Act)

i) Signs that require a permit for erection or registration under this Part and for which no permit or registration has been issued.

j) Signs that advertise activities that are illegal under Federal, State or local law in effect at the location of those signs or activities.

k) Signs (other than multiple message signs) that contain any *animated or moving parts*. (Section 4.02(g) of the Act)

l) Signs that violate airport hazard zoning regulations adopted by the Department pursuant to the Airport Zoning Act [620 ILCS 25]. (See Illustration J.)

m) *Signs erected adjacent to a scenic byway that is a primary or Interstate highway after August 2, 1996, except those signs described in Sections 4.01, 4.02, 4.03, 4.06 and 4.08 of the Act*. (Section 5(d) of the Act)

n) Registered non-conforming signs that are damaged, as defined in Section 522.20 (definition of Damaged Signs), unless maintained or repaired, as defined in Section 522.20 (definition of Erect).

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

SUBPART E: SIGNS WHICH MAY BE ERECTED WITHOUT A PERMIT

Section 522.220 Department Notification

The following types of signs do not require a permit for erection or a registration. However, the sign owner shall notify the appropriate Department~~District~~ Office in writing of the exact sign location, type of sign and size prior to erection.

a) Directional signs which comply with the standards set forth in Section 522.170.

b) Official notices which comply with the standards set forth in Section 522.160.

c) Public Utility signs.

d) Official signs.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

Section 522.ILLUSTRATION M DepartmentDistrict Offices and Counties

Central Bureau of Land Acquisition	2300 South Dirksen Parkway Springfield IL 62764 217/785-0808	Statewide
District 1	201 West Center Court Schaumburg IL 60196-1096 847/705-43134411	Cook, DuPage, Kane, Lake, McHenry and Will
District 2	819 Depot Avenue DixonDixion IL 61021-3500 815/284-22175395	Boone, Carroll, Henry, JoDaviess, Lee, Ogle, Rock Island, Stephenson, Winnebago and Whiteside
District 3	700 East Norris Drive Ottawa IL 61350 815/434-8417	Bureau, DeKalb, Ford, Grundy, Iroquois, Kankakee, Kendall, LaSalle and Livingston
District 4	401 Main Peoria IL 61602 309/671-4460	Fulton, Henderson, Knox, Marshall, McDonough, Mercer, Peoria, Putman, Stark, Tazewell, Warren and Woodford
District 5	13473 IL Hwy. 133 P.O. Box 610 Paris IL 61944 217/465-4181466-7234	Champaign, DeWitt, Douglas, Edgar, McLean, Piatt and Vermilion
District 6	126 East Ash Springfield IL 62704-4792 217/782-7314	Adams, Brown, Cass, Christian, Hancock, Logan, Macoupin, Mason, Menard, Montgomery, Morgan, Pike, Sangamon, Schuyler and Scott
District 7	400 West Wabash Effingham IL 62401 217/342-3951342-8261	Clark, Clay, Coles, Crawford, Cumberland, Edwards, Effingham, Fayette, Jasper, Lawrence, Macon, Moultrie, Richland, Shelby, Wabash and

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

		Wayne
District 8	1102 EastPort Plaza Collinsville IL 62234 618/346-3280~~3250~~	Bond, Calhoun, Clinton, Greene, Jersey, Madison, Marion, Monroe, Randolph, St. Clair and Washington
District 9	State Transportation Building 2801 West Murphysboro P.O. Box 100 Carbondale IL 62903 618/351-5240	Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Massac, Perry, Pope, Pulaski, Saline, Union, White and Williamson

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code

2) Code Citation: 77 Ill. Adm. Code 300

3)

Section Numbers:	Adopted Action:
300.340	Amend
300.2920	Amend
300.3120	Amend
300.3220	Amend

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective Date of Rulemaking: February 14, 2011

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 amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: May 21, 2010; 34 Ill. Reg. 7035

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

1. In Section 300.2920(g)(1)(A), "at all times" was deleted and ", pursuant to the requirements of Section 300.670(j)" was inserted after "Fahrenheit".

2. In Section 300.2920(g)(1)(B), "81" was changed to "80" and ", pursuant to the requirements of Section 300.670(j)" was inserted after "Fahrenheit".

3. In Section 300.3120(h)(1)(A), "at all times" was deleted and ", pursuant to the requirements of Section 300.670(j)" was inserted after "Fahrenheit".

4. In Section 300.3120(h)(1)(B), "81" was changed to "80" and ", pursuant to the requirements of Section 300.670(j)" was inserted after "Fahrenheit".

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

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

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? Yes

Section Numbers:	Proposed Action:	Illinois Register Citation:
300.120	Amend	34 Ill. Reg. 18104; November 29, 2010
300.165	Amend	34 Ill. Reg. 18104; November 29, 2010
300.170	Amend	34 Ill. Reg. 18104; November 29, 2010
300.175	Amend	34 Ill. Reg. 18104; November 29, 2010
300.180	Amend	34 Ill. Reg. 18104; November 29, 2010
300.220	Amend	34 Ill. Reg. 18104; November 29, 2010
300.274	Amend	34 Ill. Reg. 18104; November 29, 2010
300.277	Amend	34 Ill. Reg. 18104; November 29, 2010
300.278	Amend	34 Ill. Reg. 18104; November 29, 2010
300.282	Amend	34 Ill. Reg. 18104; November 29, 2010
300.284	Repeal	34 Ill. Reg. 18104; November 29, 2010
300.286	Amend	34 Ill. Reg. 18104; November 29, 2010
300.330	Amend	34 Ill. Reg. 18104; November 29, 2010
300.615	Amend	34 Ill. Reg. 18104; November 29, 2010
300.624	Repeal	34 Ill. Reg. 18104; November 29, 2010
300.625	Amend	34 Ill. Reg. 18104; November 29, 2010
300.626	Amend	34 Ill. Reg. 18104; November 29, 2010
300.627	Amend	34 Ill. Reg. 18104; November 29, 2010
300.651	New	34 Ill. Reg. 18104; November 29, 2010
300.840	Amend	34 Ill. Reg. 18104; November 29, 2010
300.1040	New	34 Ill. Reg. 18104; November 29, 2010
300.1210	Amend	34 Ill. Reg. 18104; November 29, 2010
300.3300	Amend	34 Ill. Reg. 18104; November 29, 2010
300.4020	Amend	34 Ill. Reg. 18104; November 29, 2010
300.6020	Amend	34 Ill. Reg. 18104; November 29, 2010

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of the Rulemaking: Part 300 regulates skilled nursing and intermediate care facilities, including climate control for residents' comfort and regular medical care that residents receive.

Section 300.340 (Incorporated and Referenced Materials) was amended to incorporate professional standards necessary to this rulemaking. The Department is preparing more comprehensive amendments to this Section that will be proposed in a future rulemaking.

Sections 300.2920 (Mechanical Systems) and 300.3120 (Mechanical Systems) were amended to incorporate minimum standards for air conditioning and heating in all facilities mandated by Public Act 95-0031, enacted by the General Assembly in 2007.

In Section 300.3220 (Medical and Personal Care Program) requirements for cancer screening for women were updated to conform to the standards of the Guidelines for Women's Health Care, published by the American College of Obstetricians and Gynecologists.

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

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

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 300
SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section
300.110 General Requirements
300.120 Application for License
300.130 Licensee
300.140 Issuance of an Initial License for a New Facility
300.150 Issuance of an Initial License Due to a Change of Ownership
300.160 Issuance of a Renewal License
300.163 Alzheimer's Special Care Disclosure
300.165 Criteria for Adverse Licensure Actions
300.170 Denial of Initial License
300.175 Denial of Renewal of License
300.180 Revocation of License
300.190 Experimental Program Conflicting With Requirements
300.200 Inspections, Surveys, Evaluations and Consultation
300.210 Filing an Annual Attested Financial Statement
300.220 Information to Be Made Available to the Public By the Department
300.230 Information to Be Made Available to the Public By the Licensee
300.240 Municipal Licensing
300.250 Ownership Disclosure
300.260 Issuance of Conditional Licenses
300.270 Monitor and Receivership
300.271 Presentation of Findings
300.272 Determination to Issue a Notice of Violation or Administrative Warning
300.274 Determination of the Level of a Violation
300.276 Notice of Violation
300.277 Administrative Warning
300.278 Plans of Correction
300.280 Reports of Correction
300.282 Conditions for Assessment of Penalties
300.284 Calculation of Penalties
300.286 Determination to Assess Penalties

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

300.288 Reduction or Waiver of Penalties
300.290 Quarterly List of Violators (Repealed)
300.300 Alcoholism Treatment Programs In Long-Term Care Facilities
300.310 Department May Survey Facilities Formerly Licensed
300.315 Supported Congregate Living Arrangement Demonstration
300.320 Waivers
300.330 Definitions
300.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
300.510 Administrator

SUBPART C: POLICIES

Section
300.610 Resident Care Policies
300.615 Determination of Need Screening and Request for Resident Criminal History Record Information
300.620 Admission, Retention and Discharge Policies
300.624 Criminal History Background Checks for Persons Who Were Residents on May 10, 2006
300.625 Identified Offenders
300.626 Discharge Planning for Identified Offenders
300.627 Transfer of an Identified Offender
300.630 Contract Between Resident and Facility
300.640 Residents' Advisory Council
300.650 Personnel Policies
300.655 Initial Health Evaluation for Employees
300.660 Nursing Assistants
300.661 Health Care Worker Background Check
300.662 Resident Attendants
300.663 Registry of Certified Nursing Assistants
300.665 Student Interns
300.670 Disaster Preparedness
300.680 Restraints
300.682 Nonemergency Use of Physical Restraints
300.684 Emergency Use of Physical Restraints

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

300.686 Unnecessary, Psychotropic, and Antipsychotic Drugs
300.690 Incidents and Accidents
300.695 Contacting Local Law Enforcement
300.696 Infection Control

SUBPART D: PERSONNEL

Section
300.810 General
300.820 Categories of Personnel
300.830 Consultation Services
300.840 Personnel Policies

SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

Section
300.1010 Medical Care Policies
300.1020 Communicable Disease Policies
300.1025 Tuberculin Skin Test Procedures
300.1030 Medical Emergencies
300.1035 Life-Sustaining Treatments
300.1040 Behavior Emergencies (Repealed)
300.1050 Dental Standards
300.1060 Vaccinations

SUBPART F: NURSING AND PERSONAL CARE

Section
300.1210 General Requirements for Nursing and Personal Care
300.1220 Supervision of Nursing Services
300.1230 Staffing
300.1240 Additional Requirements

SUBPART G: RESIDENT CARE SERVICES

Section
300.1410 Activity Program
300.1420 Specialized Rehabilitation Services
300.1430 Work Programs

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

300.1440 Volunteer Program
300.1450 Language Assistance Services

SUBPART H: MEDICATIONS

Section
300.1610 Medication Policies and Procedures
300.1620 Compliance with Licensed Prescriber's Orders
300.1630 Administration of Medication
300.1640 Labeling and Storage of Medications
300.1650 Control of Medications

SUBPART I: RESIDENT AND FACILITY RECORDS

Section
300.1810 Resident Record Requirements
300.1820 Content of Medical Records
300.1830 Records Pertaining to Residents' Property
300.1840 Retention and Transfer of Resident Records
300.1850 Other Resident Record Requirements
300.1860 Staff Responsibility for Medical Records
300.1870 Retention of Facility Records
300.1880 Other Facility Record Requirements

SUBPART J: FOOD SERVICE

Section
300.2010 Director of Food Services
300.2020 Dietary Staff in Addition to Director of Food Services
300.2030 Hygiene of Dietary Staff
300.2040 Diet Orders
300.2050 Meal Planning
300.2060 Therapeutic Diets (Repealed)
300.2070 Scheduling Meals
300.2080 Menus and Food Records
300.2090 Food Preparation and Service
300.2100 Food Handling Sanitation
300.2110 Kitchen Equipment, Utensils, and Supplies

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART K: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

Section
300.2210 Maintenance
300.2220 Housekeeping
300.2230 Laundry Services

SUBPART L: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
300.2410 Furnishings
300.2420 Equipment and Supplies
300.2430 Sterilization of Equipment and Supplies

SUBPART M: WATER SUPPLY AND SEWAGE DISPOSAL

Section
300.2610 Codes
300.2620 Water Supply
300.2630 Sewage Disposal
300.2640 Plumbing

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS
FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section
300.2810 Applicability of these Standards
300.2820 Codes and Standards
300.2830 Preparation of Drawings and Specifications
300.2840 Site
300.2850 Administration and Public Areas
300.2860 Nursing Unit
300.2870 Dining, Living, Activities Rooms
300.2880 Therapy and Personal Care
300.2890 Service Departments
300.2900 General Building Requirements
300.2910 Structural
300.2920 Mechanical Systems
300.2930 Plumbing Systems

300.2940 Electrical Systems

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS
FOR EXISTING INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section
300.3010 Applicability
300.3020 Codes and Standards
300.3030 Preparation of Drawings and Specifications
300.3040 Site
300.3050 Administration and Public Areas
300.3060 Nursing Unit
300.3070 Living, Dining, Activities Rooms
300.3080 Treatment and Personal Care
300.3090 Service Departments
300.3100 General Building Requirements
300.3110 Structural
300.3120 Mechanical Systems
300.3130 Plumbing Systems
300.3140 Electrical Requirements

SUBPART P: RESIDENT'S RIGHTS

Section
300.3210 General
300.3220 Medical ~~and Personal~~ Care ~~Program~~
300.3230 Restraints (Repealed)
300.3240 Abuse and Neglect
300.3250 Communication and Visitation
300.3260 Resident's Funds
300.3270 Residents' Advisory Council
300.3280 Contract With Facility
300.3290 Private Right of Action
300.3300 Transfer or Discharge
300.3310 Complaint Procedures
300.3320 Confidentiality
300.3330 Facility Implementation

SUBPART Q: SPECIALIZED LIVING FACILITIES FOR THE MENTALLY ILL

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section
300.3410 Application of Other Sections of These Minimum Standards (Repealed)
300.3420 Administrator (Repealed)
300.3430 Policies (Repealed)
300.3440 Personnel (Repealed)
300.3450 Resident Living Services Medical and Dental Care (Repealed)
300.3460 Resident Services Program (Repealed)
300.3470 Psychological Services (Repealed)
300.3480 Social Services (Repealed)
300.3490 Recreational and Activities Services (Repealed)
300.3500 Individual Treatment Plan (Repealed)
300.3510 Health Services (Repealed)
300.3520 Medical Services (Repealed)
300.3530 Dental Services (Repealed)
300.3540 Optometric Services (Repealed)
300.3550 Audiometric Services (Repealed)
300.3560 Podiatric Services (Repealed)
300.3570 Occupational Therapy Services (Repealed)
300.3580 Nursing and Personal Care (Repealed)
300.3590 Resident Care Services (Repealed)
300.3600 Record Keeping (Repealed)
300.3610 Food Service (Repealed)
300.3620 Furnishings, Equipment and Supplies (New and Existing Facilities) (Repealed)
300.3630 Design and Construction Standards (New and Existing Facilities) (Repealed)

SUBPART R: DAYCARE PROGRAMS

Section
300.3710 Day Care in Long-Term Care Facilities

SUBPART S: PROVIDING SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

Section
300.4000 Applicability of Subpart S
300.4010 Comprehensive Assessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4020 Reassessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S

300.4030 Individualized Treatment Plan for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4040 General Requirements for Facilities Subject to Subpart S
300.4050 Psychiatric Rehabilitation Services for Facilities Subject to Subpart S
300.4060 Discharge Plans for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4070 Work Programs for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4080 Community-Based Rehabilitation Programs for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4090 Personnel for Providing Services to Persons with Serious Mental Illness for Facilities Subject to Subpart S

SUBPART T: FACILITIES PARTICIPATING IN ILLINOIS DEPARTMENT OF PUBLIC AID'S DEMONSTRATION PROGRAM FOR PROVIDING SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

Section

300.6000 Applicability of Subpart T
300.6005 Quality Assessment and Improvement for Facilities Subject to Subpart T
300.6010 Comprehensive Assessments for Residents of Facilities Subject to Subpart T
300.6020 Reassessments for Residents of Facilities Subject to Subpart T
300.6030 Individualized Treatment Plan for Residents of Facilities Subject to Subpart T
300.6040 General Requirements for Facilities Subject to Subpart T
300.6045 Serious Incidents and Accidents in Facilities Subject to Subpart T
300.6047 Medical Care Policies for Facilities Subject to Subpart T
300.6049 Emergency Use of Restraints for Facilities Subject to Subpart T
300.6050 Psychiatric Rehabilitation Services for Facilities Subject to Subpart T
300.6060 Discharge Plans for Residents of Facilities Subject to Subpart T
300.6070 Work Programs for Residents of Facilities Subject to Subpart T
300.6080 Community-Based Rehabilitation Programs for Residents of Facilities Subject to Subpart T
300.6090 Personnel for Providing Services to Residents of Facilities Subject to Subpart T
300.6095 Training and Continuing Education for Facilities Subject to Subpart T

SUBPART U: ALZHEIMER'S SPECIAL CARE UNIT OR CENTER PROVIDING CARE TO PERSONS WITH ALZHEIMER'S DISEASE OR OTHER DEMENTIA

Section

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

300.7000 Applicability
300.7010 Admission Criteria
300.7020 Assessment and Care Planning
300.7030 Ability-Centered Care
300.7040 Activities
300.7050 Staffing
300.7060 Environment
300.7070 Quality Assessment and Improvement
300.7080 Variances to Enhance Residents' Quality of Life

300.APPENDIX A Interpretation, Components, and Illustrative Services for Intermediate Care Facilities and Skilled Nursing Facilities (Repealed)
300.APPENDIX B Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
300.APPENDIX C Federal Requirements Regarding Patients'/Residents' Rights (Repealed)
300.APPENDIX D Forms for Day Care in Long-Term Care Facilities
300.APPENDIX E Criteria for Activity Directors Who Need Only Minimal Consultation (Repealed)
300.APPENDIX F Guidelines for the Use of Various Drugs
300.APPENDIX G Facility Report
300.TABLE A Sound Transmission Limitations in New Skilled Nursing and Intermediate Care Facilities
300.TABLE B Pressure Relationships and Ventilation Rates of Certain Areas for New Intermediate Care Facilities and Skilled Nursing Facilities
300.TABLE C Construction Types and Sprinkler Requirements for Existing Skilled Nursing Facilities/Intermediate Care Facilities
300.TABLE D Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 1066, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 311, effective July 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective December 22, 1982; amended at 7 Ill. Reg. 1972, effective January 28, 1983; amended at 7 Ill. Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983;

amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992, effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186, effective November 29, 1984; amended at 8 Ill. Reg. 24668, effective December 7, 1984; amended at 8 Ill. Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 554, effective January 1, 1991; amended at 16 Ill. Reg. 681, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended at 16 Ill. Reg. 17089, effective November 3, 1992; emergency amendment at 17 Ill. Reg. 2420, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1491, effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 567, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10142, effective July 15, 1996; amended at 20 Ill. Reg. 12208, effective September 10, 1996; amended at 21 Ill. Reg. 15000, effective November 15, 1997; amended at 22 Ill. Reg. 4094, effective February 13, 1998; amended at 22 Ill. Reg. 7218, effective April 15, 1998; amended at 22 Ill. Reg. 16609, effective September 18, 1998; amended at 23 Ill. Reg. 1103, effective January 15, 1999; amended at 23 Ill. Reg. 8106, effective July 15, 1999; amended at 24 Ill. Reg. 17330, effective November 1, 2000; amended at 25 Ill. Reg. 4911, effective April 1, 2001; amended at 26 Ill. Reg. 3113, effective February 15, 2002; amended at 26 Ill. Reg. 4846, effective April 1, 2002; amended at 26 Ill. Reg. 10523, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2181, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5452, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5862, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14204, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15855, effective September 25, 2003; amended at 27 Ill. Reg. 18105, effective

November 15, 2003; expedited correction at 28 Ill. Reg. 3528, effective November 15, 2003; amended at 28 Ill. Reg. 11180, effective July 22, 2004; amended at 28 Ill. Reg. 14623, effective October 20, 2004; amended at 29 Ill. Reg. 876, effective December 22, 2004; emergency amendment at 29 Ill. Reg. 11824, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15101, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12852, effective August 2, 2005; amended at 30 Ill. Reg. 1425, effective January 23, 2006; amended at 30 Ill. Reg. 5213, effective March 2, 2006; amended at 31 Ill. Reg. 6044, effective April 3, 2007; amended at 31 Ill. Reg. 8813, effective June 6, 2007; amended at 33 Ill. Reg. 9356, effective June 17, 2009; amended at 34 Ill. Reg. 19182, effective November 23, 2010; amended at 35 Ill. Reg. 3378, effective February 14, 2011.

SUBPART A: GENERAL PROVISIONS

Section 300.340 Incorporated and Referenced Materials

a) The following regulations and standards are incorporated in this Part:

1) Private and professional association standards:

A) ANSI/ASME Standard No. A17.1-2000, Safety Code for Elevators and Escalators, which may be obtained from the American Society of Mechanical Engineers (ASME) International, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900.

B) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals (2001), and Handbook of Applications (1999), which may be obtained from the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329.

C) American Society for Testing and Materials (ASTM) International Standard No. E90-02 (1996): Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements, and Standard No. E84-08a, Standard Test Method for Surface Burning Characteristics of Building Materials (2006), which may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West

Conshohocken, Pennsylvania 19428-2959.

D) International Building Code (IBC) (2000), which may be obtained from the International Code Council (ICC), 4051 W. Flossmoor Road, Country Club Hills, Illinois 60478-5795.

E) For existing facilities (see Subpart O), National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Appendix B (1981) and the following additional standards, which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169:

i) No. 10 (1978): Standards for Portable Extinguishers

ii) No. 13 (1980): Standards for the Installation of Sprinkler Systems

iii) No. 54 (1999): National Fuel Gas Code

iv)~~iii)~~ No. 56F (1977): Standards for Non-Flammable Medical Gas Systems

v)~~iv)~~ No. 70 (1981): National Electric Code

vi)~~v)~~ No. 90A (1999~~1978~~): Standard for the Installation of Air Conditioning and Ventilating Systems

vii)~~vi)~~ No. 96 (1998~~1980~~): Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations~~the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment~~

viii)~~vii)~~No. 220 (1979): Standard Types of Building Construction

ix)~~viii)~~ No. 253 (1978): Flooring Radiant Heat Energy Test

x)~~ix)~~ No. 255 (1972): Test of Surface Burning Characteristics of Building Materials

xi)~~x)~~ Appendix C (1981): Fire Safety Evaluation System for Health Occupancies

F) For new facilities (see Subpart N), the following standards of the National Fire Protection Association (NFPA), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169:

i) NFPA 17A, Standard for Wet Chemical Extinguishing Systems – 2002 Edition

ii) NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection – 1999 Edition

iii) NFPA 22, Standard for Water Tanks for Private Fire Protection – 1998 Edition

iv) NFPA 24, Standard for the Installation of Private Fire Service Mains and Their Appurtenances – 2002 Edition

v) NFPA 50, Standard for Bulk Oxygen Systems at Consumer Sites – 2001 Edition

vi) NFPA 54, National Fuel Gas Code − 1999 Edition

vii)~~vi)~~ NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition

viii)~~vii)~~NFPA 70E, Standard for Electrical Safety Requirements for Employee Workplaces – 2000 Edition

ix)~~viii)~~ NFPA 80A, Recommended Practice for Protection of Buildings from Exterior Fire Exposures – 2001 Edition

x) NFPA 90A, Standard for the Installation of Air Conditioning and Ventilating Systems − 1999 Edition

xi) NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations − 1998 Edition

xii)~~ix)~~ NFPA 101, Life Safety Code – 2000 Edition

xiii)~~x)~~ NFPA 105, Recommended Practice for the Installation of Smoke-Control Door Assemblies – 1999 Edition

G) For new and existing facilities (see Section 300.1610), NFPA 99: Standard for Health Care Facilities – 2003 Edition.

H) The following standards, which may be obtained from Underwriters Laboratories (UL), Inc., 333 Pfingsten Rd., Northbrook, Illinois 60062:

i) Fire Resistance Directory (2003 Edition)

ii) Building Material Directory (2003 Edition)

I) American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV) (1994), which may be obtained from the American Psychiatric Association, 1000 Wilson Blvd., Suite 1825, Arlington, Virginia, 22209-3901.

J) American College of Obstetricians and Gynecologists, Guidelines for Women's Health Care, Third Edition (2007), which may be obtained from the American College of Obstetricians and Gynecologists Distribution Center, P.O. Box 933104, Atlanta, Georgia 31193-3104 (800-762-2264). (See Section 300.3220.)

2) Federal guidelines:
The following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, which may be obtained from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

A) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (October 1981)

B) Guideline for Hand Hygiene in Health-Care Settings (October 2002)

C) Guidelines for Prevention of Intravascular Catheter-Related Infections (2002)

D) Guideline for Prevention of Surgical Site Infection (1999)

E) Guideline for Prevention of Nosocomial Pneumonia (February 1994)

F) Guideline for Isolation Precautions in Hospitals (February 18, 1997)

G) Guidelines for Infection Control in Health Care Personnel (1998)

3) Federal regulations:

A) 21 CFR 1306, Prescriptions (April 1, 2002)

B) 42 CFR 483.151-156, Requirements for States and Long-Term Care Facilities (October 1, 2002)

b) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any amendments or editions subsequent to the date specified.

c) The following statutes and State regulations are referenced in this Part:

1) Federal statutes:

A) Civil Rights Act of 1964 (42 USC 2000e et seq.)

B) Social Security Act (42 USC 301 et seq., 1395 et seq. and 1396 et seq.)

C) Controlled Substances Act (21 USC 802)

2) State of Illinois statutes:

A) Illinois Alcoholism and Other Drug Dependency Act [20 ILCS 305]

B) Boiler and Pressure Vessel Safety Act [430 ILCS 75]

C) Child Care Act of 1969 [225 ILCS 10]

D) Court of Claims Act [705 ILCS 505]

E) Illinois Dental Practice Act [225 ILCS 25]

F) Election Code [10 ILCS 5]

G) Freedom of Information Act [5 ILCS 140]

H) General Not For Profit Corporation Act of 1986 [805 ILCS 105]

I) Hospital Licensing Act [210 ILCS 85]

J) Illinois Controlled Substances Act [720 ILCS 570]

K) Illinois Health Facilities Planning Act [20 ILCS 3960~~3906~~]

L) Illinois Municipal Code [65 ILCS 5]

M) Nurse~~Nursing and Advanced~~ Practice ~~Nursing~~ Act [225 ILCS 65]

N) Illinois Occupational Therapy Practice Act [225 ILCS 75]

O) Illinois Physical Therapy Act [225 ILCS 90]

P) Life Care Facilities Act [210 ILCS 40]

Q) Local Governmental and Governmental Employees Tort Immunity

Act [745 ILCS 10]

R) Medical Practice Act of 1987 [225 ILCS 60]

S) Mental Health and Developmental Disabilities Code [405 ILCS 5]

T) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70]

U) Nursing Home Care Act [210 ILCS 45]

V) Pharmacy Practice Act ~~of 1987~~ [225 ILCS 85]

W) Private Sewage Disposal Licensing Act [225 ILCS 225]

X) Probate Act of 1975 [775 ILCS 5]

Y) Illinois Public Aid Code [305 ILCS 5]

Z) Safety Glazing Materials Act [430 ILCS 60]

AA) Illinois Administrative Procedure Act [5 ILCS 100]

BB) Clinical Psychologist Licensing Act [225 ILCS 15]

CC) Dietetic and Nutrition Services Practice Act [225 ILCS 30]

DD) Health Care Worker Background Check Act [225 ILCS 46]

EE) Clinical Social Work and Social Work Practice Act [225 ILCS 20]

FF) Living Will Act [755 ILCS 35]

GG) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV]

HH) Health Care Surrogate Act [755 ILCS 45]

II) Right of Conscience Act [745 ILCS 70]

JJ) Abused and Neglected Long-Term Care Facility Residents Reporting Act [210 ILCS 30]

KK) Supportive Residences Licensing Act [210 ILCS 65]

LL) Community Residential Alternatives Licensing Act [210 ILCS 40]

MM) Community Living Facilities Licensing Act [210 ILCS 35]

NN) Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]

OO) Counties Code [55 ILCS 5]

PP) Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107]

QQ) Podiatric Medical Practice Act of 1987 [225 ILCS 100]

RR) Illinois Optometric Practice Act of 1987 [225 ILCS 80]

SS) Physician Assistant Practice Act of 1987 [225 ILCS 95]

TT) Alzheimer's Special Care Disclosure Act [210 ILCS 4]

UU) Illinois Act on the Aging [20 ILCS 105]

VV) Alternative Health Care Delivery Act [210 ILCS 3]

WW) Assisted Living and Shared Housing Act [210 ILCS 9]

XX) Language Assistance Services Act [210 ILCS 87]

3) State of Illinois rules:

A) Office of the State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120)

B) Capital Development Board, Illinois Accessibility Code (71 Ill.

Adm. Code 400)

C) Department of Public Health:

i) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

ii) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)

iii) Food Service Sanitation Code (77 Ill. Adm. Code 750)

iv) Illinois Plumbing Code (77 Ill. Adm. Code 890)

v) Private Sewage Disposal Code (77 Ill. Adm. Code 905)

vi) Drinking Water Systems Code (77 Ill. Adm. Code 900)

vii) Illinois Water Well Construction Code (77 Ill. Adm. Code 920)

viii) Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)

ix) Access to Public Records of the Department of Public Health ~~Freedom of Information Code~~ (2 Ill. Adm. Code 1127~~1126~~)

x) ~~Rules of~~ Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

xi) Sheltered Care Facilities Code (77 Ill. Adm. Code 330)

xii) Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)

xiii) Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)

xiv) Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)

xv) Control of Tuberculosis Code (77 Ill. Adm. Code 696)

xvi) Health Care Worker Background Check Code (77 Ill. Adm. Code 955)

xvii) Language Assistance Services Code (77 Ill. Adm. Code 940)

D) Department of Financial and Professional Regulation:

i) Controlled Substances Act (68 Ill. Adm. Code 3100)

ii) Pharmacy Practice Act ~~of 1987~~ (68 Ill. Adm. Code 1330)

E) Department of Human Services, Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060)

F) Department of Natural Resources, Regulation of Construction within Flood Plains (17 Ill. Adm. Code 2706)

G) Department of Healthcare and Family Services~~Public Aid~~, Medical Payment (89 Ill. Adm. Code 140)

(Source: Amended at 35 Ill. Reg. 3378, effective February 14, 2011)

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS
FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section 300.2920 Mechanical Systems

a) General Requirements

1) Mechanical systems shall be tested, balanced, and operated to demonstrate that the installation and performance of these systems conform to the requirements of this Section~~these standards~~.

2) Upon the completion of the contract, the owner shall be furnished with a complete set of manufacturer's operating and preventative maintenance instructions, a parts list with numbers and descriptions for each piece of equipment, and a copy of the air-balance report. A complete set of these documents shall be kept on the premises.

3) The owner shall be provided with instructions in the operational use of the systems and equipment~~ as required~~.

b) Thermal and accoustical insulation~~Acoustical Insulation~~ shall be provided as set forth in the ASHRAE Handbook of Fundamentals and the Handbook of Applications and NFPA 90A. Commercial kitchen grease hoods shall be insulated according to NFPA 96 and in accordance with the insulation manufacturer's installation instructions. Domestic water piping that is accessible to residents shall be insulated as required by the Illinois Accessibility Code. Insulation shall be provided for the following:

~~1) Insulation shall be provided for the following:~~

1)~~2)~~ Boilers, smoke breeching, and stacks;~~.~~

2)~~3)~~ Steam supply and condensate return piping;~~. (B)~~

3)~~4)~~ Hot water piping above 180 degrees Fahrenheit and all ~~hot~~ water heaters, generators, and convertors;~~.~~

4)~~5)~~ Hot water piping above 125 degrees Fahrenheit that~~which~~ is exposed to contact by residents;~~. (B)~~

5)~~6)~~ Chilled water, refrigerant, and other process piping and equipment operating with fluid temperatures below the ambient dew point;~~.~~

6)~~7)~~ Water supply and drainage piping on which condensate may occur;~~.~~

7)~~8)~~ Air ducts and casings with outside surface temperatures below the ambient dew point; and~~.~~

8)~~9)~~ Other piping, ducts, and equipment as necessary to maintain the efficiency of the system.

c)~~10)~~ Insulation may be omitted from hot water and steam condensate piping that is not subject to contact by residents when the~~such~~ insulation is not necessary for preventing excessive system heat loss or excessive heat gain.

d)~~11)~~ Insulation, including finishes and adhesives on exterior surfaces of ducts, pipes, and equipment, shall have a flame spread rating of 25 or less and a smoke-developed rating of 50~~150~~ or less as determined by an independent testing laboratory in accordance with the American Society for Testing and Materials Standard E84. Exception: Duct, pipe, and equipment coverings shall not be required to meet these requirements if they are located entirely outside of a building, do not penetrate a wall or roof, or do not create an exposure hazard.~~(B)~~

~~Exception: Duct, pipe and equipment coverings shall not be required to meet these requirements where they are located entirely outside of a building, or do not penetrate a wall or roof or do not create an exposure hazard.~~

~~12)~~ ~~Access for filter changing shall be provided within equipment rooms.~~

e)~~e)~~ Steam and Hot Water Systems. Supply and return mains and risers for cooling, heating, and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends.

f)~~d)~~ Thermal Hazards. Any surface that is accessible to residents and exceeds~~exceeding~~ a temperature of 140 degrees Fahrenheit (such as radiators, hot water or steam pipes, baseboard heaters, or therapy equipment) ~~that is accessible to residents~~ shall be provided with partitions, screens, shields, or other means to protect residents from injury. Any protective device shall be designed and installed so that it does not present a fire or safety hazard or adversely affect the safe operation of the equipment.

g)~~e)~~ Heating, ~~Cooling, and~~ Ventilating, and Air Conditioning Systems

1) *Areas of a nursing home used by residents of the nursing home* shall *be air conditioned and heated by means of operable air-conditioning and heating equipment. The areas subject to this air-conditioning and heating requirement include, without limitation, bedrooms or common areas such*

as sitting rooms, activity rooms, living rooms, community rooms, and dining rooms. (Section 3-202(8) of the Act)~~A design temperature of 75 degrees Fahrenheit for both summer and winter design conditions shall be provided for all resident use areas including corridors.~~

A) The mechanical system shall be capable of maintaining a temperature of at least 75 degrees Fahrenheit, pursuant to the requirements of Section 300.670(j).

B) The air-conditioning system shall be capable of maintaining an ambient air temperature of between 75 degrees Fahrenheit and 80 degrees Fahrenheit, pursuant to the requirements of Section 300.670(j).

2) All ventilation supply, return, and exhaust systems shall be mechanically operated.

3) Outdoor air intakes shall be located as far as practical, but not less than 15 feet, from the exhaust outlets of ventilation systems, combustion equipment stacks, plumbing vent stacks, or ~~from~~ areas that~~which~~ may collect vehicular exhaust and other noxious fumes, including the exhaust stream from fuel-fired heating, ventilating and air conditioning (HVAC) sections. The bottom of outdoor air intakes serving central systems shall be located as high as practical, but not less than six feet above ground level, or, if installed above the roof, three feet above roof level. For fuel-fired heating sections of rooftop HVAC units, the exhaust vent may discharge not less than 36 inches above the highest point of the fresh air intake hood in lieu of the 15-foot separation.

4) The ventilation systems shall be designed and balanced to provide the pressure relationships and ventilation rates as shown in Table B. ~~(B)~~

5) A differential pressure measuring device shall be installed across each filter bed serving a central air system. The device may be a remote readout instrument if the remote readout is readily visible in a location accessible to the maintenance staff, or if the readout is displayed on an interactive screen.~~A manometer shall be installed across each filter bed serving central air systems.~~

6) Air conditioning and ventilating~~ventilation~~ systems shall be designed, installed, and maintained as required by NFPA~~National Fire Protection Association Standard~~ 90A. For areas within the footprint of the facility that are heated by fuel-fired appliances using an air-to-air heat exchanger, no fewer than two carbon monoxide (CO) detectors shall be installed in the area served by each heat exchanger. One CO detector shall be installed within five feet of a supply duct and one within five feet of a return or exhaust duct. CO detectors shall be line or system powered and shall signal the building fire alarm system when activated. If detectors are line powered, a battery back-up or connection to the emergency power system is required.~~(A, B)~~

7) The hood and duct system for cooking equipment used in processes that produce~~producing~~ smoke or grease-laden vapors shall comply~~be in conformance~~ with NFPA~~National Fire Protection Association Standard~~ 96. The hood's extinguishment system shall be connected to the building fire alarm system and shall initiate a general alarm when activated. Duct insulation that is used in lieu of spacing from combustible construction members shall terminate at the top of the hood on the lower end, covering the duct collar, and shall pass through any combustible nailer opening in the roof/ceiling assembly and into the roof jack assembly. The material used shall be installed exactly as the manufacturer's installations require. ~~That portion of the fire extinguishment system required for protection of the duct system may be omitted when all cooking equipment is served by a grease extractor listed by Underwriter's Laboratory or other independent testing laboratories. (A, B)~~

8) The ventilation of the medical gas storage and manifold rooms~~room~~ shall comply with~~conform to~~ the requirements of NFPA 99, Standard for Health Care Facilities, Chapters 4 and 8, as applicable,~~National Fire Protection Association Standard 56A "Inhalation Anesthetics"~~ including the gravity option system. If a concentrator is used to simultaneously fill a portable container and as a patient breathing device, the standards in NFPA 99 governing the use of medical gases in resident rooms shall be observed. ~~(B)~~

9) Boiler rooms and other rooms having combustion equipment shall be provided with sufficient outdoor air to maintain combustion rates of equipment and limit temperatures to 20~~97~~ degrees Fahrenheit over

ambient inside air in adjacent interior spaces. If sealed combustion units are in use, the discharge line shall remain clear of any adjacent walk paths and shall be not less than 15 feet from any operable fenestration or air intakes. NFPA 54 shall apply, including the calculations for combustion air openings. Effective temperature~~Temperature~~ shall be as defined by the American Society of Heating, Refrigerating, and Air Conditioning~~Refrigeration~~ Engineers Handbook of Fundamentals. ~~(A, B)~~

10) Rooms containing heat-producing equipment, such as boiler rooms, heater rooms, food preparation centers, laundries, and sterilizer rooms, shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of 10 degrees Fahrenheit above the ambient room temperature. The ventilation rates shown in Table B shall be considered as minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates.

11) Access for filter changing shall be provided within equipment rooms.

(Source: Amended at 35 Ill. Reg. 3378, effective February 14, 2011)

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS
FOR EXISTING INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section 300.3120 Mechanical Systems

a) Mechanical systems shall be maintained to assure proper working order and safe operation. Instructions in the operational use of the systems and equipment shall~~must~~ be available at the facility. ~~(B)~~

b) Thermal and Acoustical Insulation. Insulation shall~~It is recommended that insulation~~ be provided for the following:

1) Boilers, smoke breeching, and stacks;~~.~~

2) Steam supply and condensate return piping;~~.~~

3) Hot water piping above 180 degrees Fahrenheit and all ~~hot~~ water heaters, generators, and converters;~~.~~

4) Hot water piping above 125 degrees Fahrenheit that~~which~~ is exposed to contact by residents;~~.~~

5) Chilled water, refrigerant, and other process piping and equipment operating with fluid temperatures below the ambient dew point;~~.~~

6) Water supply and drainage piping on which condensation may occur;~~.~~

7) Air ducts and casings with outside surface temperature below the ambient dew point; and~~.~~

8) Other piping, ducts, and equipment as necessary to maintain the efficiency of the system.

c)~~9)~~ Insulation may be omitted from hot water and steam condensate piping that is not subject to contact by residents when the~~such~~ insulation is not necessary for preventing excessive system~~systems~~ heat loss or excessive heat gain.

d)~~10)~~ Insulation on cold surfaces shall include an exterior vapor barrier.

e)~~11)~~ Insulation, including finishes and adhesives on exterior surfaces of ducts, pipes, and equipment, shall have a flame spread rating of 25 or less and a smoke developed rating of 50~~150~~ or less as determined by an independent testing laboratory in accordance with ASTM Standard E 84. Exception: Duct, pipe and equipment coverings shall not be required to meet these requirements if~~where~~ they are located entirely outside of a building, ~~or~~ do not penetrate a wall or roof, or do not create an exposure hazard.

f)~~e)~~ Steam and Hot Water Systems. Supply~~It is recommended that supply~~ and return mains and risers for cooling, heating, and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends.

g)~~d)~~ Thermal Hazards. Any surface that is accessible to residents and exceeds~~exceeding~~ a temperature of 140 degrees Fahrenheit (such as radiators, hot water or steam pipes, baseboard heaters, or therapy equipment) ~~that is accessible to residents~~ shall be provided with partitions, screens, shields, or other means to protect residents from injury. Any protective device shall be designed and installed so that it does not present a fire or safety hazard or adversely affect the

safe operation of the equipment.

h)~~e)~~ Heating, ~~Cooling, and~~ Ventilating, and Air Conditioning Systems

1) *Areas of a nursing home used by residents of the nursing home* shall *be air conditioned and heated by means of operable air-conditioning and heating equipment. The areas subject to this air-conditioning and heating requirement include, without limitation, bedrooms or common areas such as sitting rooms, activity rooms, living rooms, community rooms, and dining rooms.* (Section 3-202(8) of the Act)

A)~~1)~~ The mechanical system shall be capable of maintaining a temperature of at least 75 degrees Fahrenheit, pursuant to the requirements of Section 300.670(j).~~The heating system shall be capable of maintaining a temperature of 75 degrees Fahrenheit in all resident use spaces.~~

B) The air-conditioning system shall be capable of maintaining an ambient air temperature of between 75 degrees Fahrenheit and 80 degrees Fahrenheit, pursuant to the requirements of Section 300.670(j).

2) ~~Auxiliary gas or electric space heaters of an approved closed type may be installed in areas requiring more heat than is produced by the central heating system.~~ Heaters or furnaces of a type to be installed under, in, or on the floor are not permitted. ~~(B)~~

3) All ventilation supply, return, and exhaust systems shall be mechanically operated.

4) The kitchen shall be provided with ventilation for reasonable comfort, and with sufficient make-up air for the rangehood exhaust. ~~(B)~~

5) The laundry shall be provided with ventilation for reasonable comfort, with air flowing from clean areas to soiled areas and with exhaust to the outdoors. ~~(B)~~

6) Outdoor~~It is recommended that outdoor~~ air intakes shall be located as far as practical, but not less than 15 feet, from the exhaust outlets of

ventilation systems, combustion equipment stacks, plumbing vent stacks, or ~~from~~ areas that~~which~~ may collect vehicular exhaust and other noxious fumes. The bottom of outdoor air intakes serving central systems shall~~should~~ be located as high as practical, but not less than six feet above ground level, or, if installed above the roof, three feet above roof level.

7) Air conditioning and ventilating systems shall be maintained to comply with~~conform to~~ the requirements of NFPA 90A. ~~(A, B)~~

8) The hood and duct system for cooking equipment used in processes that produce smoke or grease-laden vapors, such as griddle frying or deep frying, shall comply~~be in conformance~~ with NFPA 96. The hood's extinguishment system shall be connected to the building fire alarm system and shall initiate a general alarm when activated. Duct insulation that is used in lieu of spacing from combustible construction members shall terminate at the top of the hood on the lower end, covering the duct collar, and shall pass through any combustible nailer opening in the roof/ceiling assembly and into the roof jack assembly. The material used shall be installed exactly as the manufacturer's instructions require.~~That portion of the fire extinguishment system required for protection of the duct system maybe omitted when all cooking equipment is served by a grease extractor listed by Underwriter's Laboratory or other independent testing laboratory. (A, B)~~

9) Boiler rooms and other rooms housing combustion equipment shall be provided with sufficient outdoor air to maintain proper combustion rates of equipment and to limit room temperatures to 20 degrees Fahrenheit over ambient inside air in adjacent interior spaces. If sealed combustion units are in use, the discharge line is to remain clear of any adjacent walk paths and shall be not less than 15 feet from any operable fenestration or air intakes. NFPA 54 shall apply, including the calculations for combustion air openings. ~~(A, B)~~

10) For areas within the footprint of the facility that are heated by fuel-fired appliances using an air-to-air heat exchanger, no fewer than two carbon monoxide (CO) detectors shall be installed in the area served by each heat exchanger. One CO detector shall be installed within five feet of a supply duct and one within five feet of a return or exhaust duct. CO detectors shall be line or system powered and shall signal the building fire alarm

system when activated. If detectors are line powered, a battery back-up or connection to the emergency power system is required.~~A capability shall be provided to maintain a temperature of at least 55 degrees Fahrenheit for at least 12 hours when the normal source of electrical power is interrupted. (A, B)~~

(Source: Amended at 35 Ill. Reg. 3378, effective February 14, 2011)

SUBPART P: RESIDENT'S RIGHTS

Section 300.3220 Medical ~~and Personal~~ Care ~~Program~~

a) *A resident shall be permitted to retain the services of his* or her *own personal physician at his* or her *own expense under an individual or group plan of health insurance, or under any public or private assistance program providing such coverage.* ~~(B)~~ (Section 2-104(a) of the Act)

b) *The Department shall not prescribe the course of medical treatment provided to an individual resident by the resident's physician in a facility.* (Section 3-201~~2-104(a)~~ of the Act)

c) *Every resident~~All resident~~ shall be permitted to obtain from his* or her*~~their~~ own physician or the physician attached to the facility complete and current information concerning his* or her *medical diagnosis, treatment and prognosis in terms and language the resident can reasonably be expected to understand.* (Section 2-104(a) of the Act)

d) *Every resident~~All residents~~ shall be permitted to participate in the planning of his* or her*~~their~~ total care and medical treatment to the extent that his* or her*~~their~~ condition permits.* (Section 2-104(a) of the Act)

e) *No resident shall be subjected to experimental research or treatment without first obtaining his* or her *informed, written consent. The conduct of any experimental research or treatment shall be authorized and monitored by an institutional review committee appointed by the administrator of the facility where such research and treatment is conducted.* ~~(A, B)~~ (Section 2-104(a) of the Act)

f) *All medical treatment and procedures shall be administered as ordered by a physician. All new physician orders shall be reviewed by the facility's*

director~~Director~~ of nursing or charge nurse designee within 24 hours after such orders have been issued to assure facility compliance with such orders. (Section 2-104(b) of the Act)

g) *Every woman resident of child-bearing age shall receive routine obstetrical and gynecological evaluations as well as necessary prenatal care.* (Section 2-104(b) of the Act) In addition, women residents shall~~should~~ be referred immediately for diagnosis whenever pregnancy is suspected.

1) "Routine obstetrical evaluations" and "necessary prenatal care" shall include, at~~as~~ a minimum, the following:

A) Early diagnosis of pregnancy;~~.~~

B) A comprehensive health history, including menstrual history, methods of family planning that the patient has used, a detailed record of past pregnancies, and data on the current pregnancy that allow the physician to estimate the date of delivery;~~.~~

C) Identification of factors in the current pregnancy that help to identify the patient at high risk, such as maternal age, vaginal bleeding, edema, urinary infection, exposure to radiation and chemicals, ingestion of drugs and alcohol, and use of tobacco;~~.~~

D) A comprehensive physical examination, including an evaluation of nutritional status; determination of height, weight and blood pressure; examination of the head, breasts, heart, lungs, abdomen, pelvis, rectum, and extremities;~~.~~

E) The following laboratory tests, as early in pregnancy as possible. Findings obtained from the history and physical examination may determine the need for additional laboratory evaluations:~~.~~

i) Hemoglobin or hematocrit measurement;

ii) Urinalysis, including microscopic examination or culture;

iii) Blood group and Rh type determination;

iv) Antibody screen;

v) Rubella antibody titer measurement;

vi) Syphilis screen;

vii) Cervical cytology; and

viii) Viral hepatitis (HBsAg) testing;

F) A risk assessment that, which, based on the findings of the history and physical examination, should indicate any risk factors that may require special management, such as cardiovascular disease, maternal age less than 15 years or more than 35 years, neurologic disorder, or congenital abnormalities;.

G) Return visits, the frequency of which will be determined by the patient's needs and risk factors. AGenerally a woman with an uncomplicated pregnancy shallshould be seen every four4 weeks for the first 28 weeks of pregnancy, every two to three2-3 weeks until 36 weeks of gestation, and weekly thereafter;.

H) DeterminationsThe physical examination at each visit should include determinations of blood pressure, measured fundal height, fetal heart rate, and, in later months, fetal presentation, and urinalysis for albumin and glucose. Hemoglobin or hematocrit level shallshould be measured again early in the third trimester. Glucose screening is recommended for women who are 30 years of age or older;.

I) Evaluation and monitoring of nutritional status and habits;.

J) Education for health promotion and maintenance;.

K) Counseling concerning exercise and child birth education programs;.

L) Postpartum review and evaluation four to eight4-8 weeks after delivery, including determination of weight and blood pressure and

assessment of status of breasts, abdomen, and external and internal genitalia.

2) "Routine gynecological evaluations" shall include, at~~as~~ a minimum, the following:

A) An initial examination, the basic components of which are:

i) History; any present illnesses; menstrual, reproductive, medical, surgical, emotional, social, family, and sexual history; medications; allergies; family planning; and systems review;~~.~~

ii) Physical examination, including height, weight, nutritional status, and blood pressure; head and neck, including thyroid gland; heart; lungs; breasts; abdomen; pelvis, including external and internal genitalia; rectum; extremities, including signs of abuse; lymph nodes; and~~.~~

iii) Laboratory tests, including urine screen; hemoglobin or hematocrit determination and, if indicated, complete blood cell count; cervical cytology; rubella titer.

B) Annual updates, including but not limited to:

i) History, including the purpose of the visit; menstrual history; interval history, including systems review; emotional history;~~.~~

ii) Physical examination, including weight, nutritional status and blood pressure; thyroid gland; breasts; abdomen; pelvis, including external and internal genitalia; rectum; other areas as indicated by the interval history;~~.~~

iii) Laboratory, including urine screen; cervical cytology, unless not indicated; hemoglobin or hematocrit determinations; and~~.~~

iv) Additional laboratory tests, such as screening for sexually

transmitted disease, ~~should be performed~~ as warranted by the history, physical findings, and risk factors.

~~C) Cancer screening.~~

~~i) An annual Pap test for all women who are or have been sexually active or have reached age 18.~~

~~ii) Mammography if indicated.~~

3) When a resident is referred for a diagnosis of pregnancy and/or for prenatal care, the facility shall send the health care provider a copy of the resident's medical record, including a list of prescription medications taken by the resident; the resident's use of alcohol, tobacco and illicit drugs; and any~~or~~ exposure of the resident to radiation or chemicals during the preceding three months.

h) Cancer screening. Cancer screening for women shall include the following:

1) A periodic Pap test. The frequency and administration of Pap tests shall be according to the guidelines set forth in the Guidelines for Women's Health Care, published by the American College of Obstetricians and Gynecologists; and

2) Mammography. The frequency and administration of mammograms shall be according to the guidelines set forth in the Guidelines for Women's Health Care.

i)~~h)~~ *Every resident shall be permitted to refuse medical treatment and to know the consequences of such action, unless such refusal would be harmful to the health and safety of others and such harm is documented by a physician in the resident's clinical record.* ~~(B)~~ (Section 2-104(c) of the Act)

j)~~i)~~ ~~Inspection and Copying of Records1)~~*Every resident, resident's guardian, or parent ~~(~~if the resident is a minor~~)~~ shall be permitted to inspect and copy all of* the resident's~~*the resident's*~~ *clinical and other records concerning* the resident's~~*the resident's*~~ *care and maintenance kept by the facility or by* the resident's~~*the resident's*~~ *physician.* (Section 2-104(d) of the Act)

~~2)~~ ~~*Every resident's representative shall be permitted to inspect and copy the resident's records. A "resident's representative" is a person, other than the owner or agent or employee of a facility who is not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed.* (Sections 1-123 and 2-202(h) of the Act)~~ ~~(B)~~

k)~~j)~~ *A resident~~All residents~~ shall be permitted respect and privacy in his* or her~~their~~ *medical and personal care program. Every resident's case discussion, consultation, examination and treatment shall be confidential and shall be conducted discreetly, and those persons not directly involved in the resident's care must have his* or her~~*the resident's*~~ *permission to be present.* ~~(B)~~ (Section 2-105 of the Act)

(Source: Amended at 35 Ill. Reg. 3378, effective February 14, 2011)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Sheltered Care Facilities Code

2) Code Citation: 77 Ill. Adm. Code 330

3)

Section Numbers:	Adopted Action:
330.340	Amend
330.3170	Amend
330.3720	Amend
330.4220	Amend

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective Date of Rulemaking: February 14, 2011

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 amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: May 21, 2010; 34 Ill. Reg. 7071

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

1. In Section 330.3170(a), "at all times" was deleted and ", pursuant to the requirements of Section 330.770(j)" was inserted after "Fahrenheit".

2. In Section 330.3170(b), "81" was changed to "80" and ", pursuant to the requirements of Section 300.670(j)" was inserted after "Fahrenheit".

3. In Section 330.3720(c)(1), "81" was changed to "80" and ", pursuant to the requirements of Section 300.670(j)" was inserted after "Fahrenheit".

4. In Section 330.3770(c)(3), "at all times" was deleted and ", pursuant to the requirements of Section 330.770(j)" was inserted after "Fahrenheit".

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

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

In Section 330.3170(b) and in Section 330.3720(c)(1), "300.670" was changed to "330.770".

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

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? Yes

Section Numbers:	Proposed Action:	Illinois Register Citation:
330.120	Amend	34 Ill. Reg. 18201; November 29, 2010
330.165	Amend	34 Ill. Reg. 18201; November 29, 2010
330.170	Amend	34 Ill. Reg. 18201; November 29, 2010
330.175	Amend	34 Ill. Reg. 18201; November 29, 2010
330.180	Amend	34 Ill. Reg. 18201; November 29, 2010
330.220	Amend	34 Ill. Reg. 18201; November 29, 2010
330.274	Amend	34 Ill. Reg. 18201; November 29, 2010
330.277	Amend	34 Ill. Reg. 18201; November 29, 2010
330.278	Amend	34 Ill. Reg. 18201; November 29, 2010
330.282	Amend	34 Ill. Reg. 18201; November 29, 2010
330.284	Repeal	34 Ill. Reg. 18201; November 29, 2010
330.286	Amend	34 Ill. Reg. 18201; November 29, 2010
330.330	Amend	34 Ill. Reg. 18201; November 29, 2010
330.340	Amend	34 Ill. Reg. 18201;November 29, 2010
330.715	Amend	34 Ill. Reg. 18201; November 29, 2010
330.724	Repeal	34 Ill. Reg. 18201; November 29, 2010
330.725	Amend	34 Ill. Reg. 18201; November 29, 2010
330.726	Amend	34 Ill. Reg. 18201; November 29, 2010
330.727	Amend	34 Ill. Reg. 18201; November 29, 2010
330.761	New	34 Ill. Reg. 18201; November 29, 2010
330.930	Amend	34 Ill. Reg. 18201; November 29, 2010
330.1140	New	34 Ill. Reg. 18201; November 29, 2010

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

330.4300	Amend	34 Ill. Reg. 18201; November 29, 2010

15) Summary and Purpose of the Rulemaking: Part 330 regulates sheltered care facilities, including climate control for the residents' comfort and regular medical care that residents receive.

Section 330.340 (Incorporated and Referenced Materials) was amended to incorporate professional standards that are necessary for this rulemaking. The Department is preparing a more comprehensive set of amendments to this Section that will be proposed in a future rulemaking.

Sections 330.3170 (Heating) and 330.3720 (Plumbing and Heating) was amended to incorporate minimum standards for air conditioning in facilities mandated by Public Act 95-0031, enacted by the General Assembly in 2007.

In Section 330.4220 (Medical and Personal Care Program) requirements for cancer screening for women were updated to conform to the standards of the Guidelines for Women's Health Care, published by the American College of Obstetricians and Gynecologists.

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

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

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 330
SHELTERED CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section
330.110 General Requirements
330.120 Application for License
330.130 Licensee
330.140 Issuance of an Initial License For a New Facility
330.150 Issuance of an Initial License Due to a Change of Ownership
330.160 Issuance of a Renewal License
330.163 Alzheimer's Special Care Disclosure
330.165 Criteria for Adverse Licensure Actions
330.170 Denial of Initial License
330.175 Denial of Renewal of License
330.180 Revocation of License
330.190 Experimental Program Conflicting With Requirements
330.200 Inspections, Surveys, Evaluations and Consultation
330.210 Filing an Annual Attested Financial Statement
330.220 Information to be Made Available to the Public By the Department
330.230 Information to be Made Available to the Public By the Licensee
330.240 Municipal Licensing
330.250 Ownership Disclosure
330.260 Issuance of Conditional Licenses
330.270 Monitoring and Receivership
330.271 Presentation of Findings
330.272 Determination to Issue a Notice of Violation or Administrative Warning
330.274 Determination of the Level of a Violation
330.276 Notice of Violation
330.277 Administrative Warning
330.278 Plans of Correction
330.280 Reports of Correction
330.282 Conditions for Assessment of Penalties
330.284 Calculation of Penalties

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

330.286 Determination to Assess Penalties
330.288 Reduction or Waiver of Penalties
330.290 Quarterly List of Violators (Repealed)
330.300 Alcoholism Treatment Programs In Long-Term Care Facilities
330.310 Department May Survey Facilities Formerly Licensed
330.315 Supported Congregate Living Arrangement Demonstration
330.320 Waivers
330.330 Definitions
330.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
330.510 Administrator

SUBPART C: POLICIES

Section
330.710 Resident Care Policies
330.715 Request for Resident Criminal History Record Information
330.720 Admission and Discharge Policies
330.724 Criminal History Background Checks for Persons Who Were Residents on May 10, 2006
330.725 Identified Offenders
330.726 Discharge Planning for Identified Offenders
330.727 Transfer of an Identified Offender
330.730 Contract Between Resident and Facility
330.740 Residents' Advisory Council
330.750 General Policies
330.760 Personnel Policies
330.765 Initial Health Evaluation for Employees
330.770 Disaster Preparedness
330.780 Incidents and Accidents
330.785 Contacting Local Law Enforcement
330.790 Infection Control
330.795 Language Assistance Services

SUBPART D: PERSONNEL

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section
330.910 Personnel
330.911 Health Care Worker Background Check
330.913 Nursing and Personal Care Assistants (Repealed)
330.916 Student Interns (Repealed)
330.920 Consultation Services
330.930 Personnel Policies

SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

Section
330.1110 Medical Care Policies
330.1120 Personal Care
330.1125 Life Sustaining Treatments
330.1130 Communicable Disease Policies
330.1135 Tuberculin Skin Test Procedures
330.1140 Behavior Emergencies (Repealed)
330.1145 Restraints
330.1150 Emergency Use of Physical Restraints
330.1155 Unnecessary, Psychotropic, and Antipsychotic Drugs
330.1160 Vaccinations

SUBPART F: RESTORATIVE SERVICES

Section
330.1310 Activity Program
330.1320 Work Programs
330.1330 Written Policies for Restorative Services
330.1340 Volunteer Program

SUBPART G: MEDICATIONS

Section
330.1510 Medication Policies
330.1520 Administration of Medication
330.1530 Labeling and Storage of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section
330.1710 Resident Record Requirements
330.1720 Content of Medical Records
330.1730 Records Pertaining to Residents' Property
330.1740 Retention and Transfer of Resident Records
330.1750 Other Resident Record Requirements
330.1760 Retention of Facility Records
330.1770 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section
330.1910 Director of Food Services
330.1920 Dietary Staff in Addition to Director of Food Services
330.1930 Hygiene of Dietary Staff
330.1940 Diet Orders
330.1950 Meal Planning
330.1960 Therapeutic Diets (Repealed)
330.1970 Scheduling of Meals
330.1980 Menus and Food Records
330.1990 Food Preparation and Service
330.2000 Food Handling Sanitation
330.2010 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section
330.2210 Maintenance
330.2220 Housekeeping
330.2230 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
330.2410 Furnishings
330.2420 Equipment and Supplies

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section
330.2610 Codes
330.2620 Water Supply
330.2630 Sewage Disposal
330.2640 Plumbing

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW SHELTERED CARE FACILITIES

Section
330.2810 Applicable Requirements (Repealed)
330.2820 Applicability of These Standards
330.2830 Submission of a Program Narrative
330.2840 New Constructions, Additions, Conversions, and Alterations
330.2850 Preparation and Submission of Drawings and Specifications
330.2860 First Stage Drawings
330.2870 Second Stage Drawings
330.2880 Architectural Drawings
330.2890 Structural Drawings
330.3000 Mechanical Drawings
330.3010 Electrical Drawings
330.3020 Additions to Existing Structures
330.3030 Specifications
330.3040 Building Codes
330.3050 Site
330.3060 General Building Requirements
330.3070 Administration
330.3080 Corridors
330.3090 Bath and Toilet Rooms
330.3100 Living, Dining, Activity Rooms
330.3110 Bedrooms
330.3120 Special Care Room
330.3130 Kitchen
330.3140 Laundry
330.3150 Housekeeping, Service, and Storage
330.3160 Plumbing
330.3170 Heating
330.3180 Electrical

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART N: FIRE PROTECTION STANDARDS FOR NEW SHELTERED CARE FACILITIES

Section
330.3310 Applicable Requirements (Repealed)
330.3320 Applicability of These Standards
330.3330 Fire Protection
330.3340 Fire Department Service and Water Supply
330.3350 General Building Requirements
330.3360 Exit Facilities and Subdivision of Floor Areas
330.3370 Stairways, Vertical Openings, and Doorways
330.3380 Corridors
330.3390 Exit Lights and Directional Signs
330.3400 Hazardous Areas and Combustible Storage
330.3410 Fire Alarm and Detection System
330.3420 Fire Extinguishers, Electric Wiring, and Miscellaneous
330.3430 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING SHELTERED CARE FACILITIES

Section
330.3610 Site
330.3620 General Building Requirements
330.3630 Administration
330.3640 Corridors
330.3650 Bath and Toilet Rooms
330.3660 Living, Dining, and Activity Rooms
330.3670 Bedrooms
330.3680 Special Care Room
330.3690 Kitchen
330.3700 Laundry Room
330.3710 Housekeeping and Service Rooms and Storage Space
330.3720 Plumbing and Heating
330.3730 Electrical

SUBPART P: FIRE PROTECTION STANDARDS FOR EXISTING SHELTERED CARE FACILITIES

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section
330.3910 Fire Protection
330.3920 Fire Department Service and Water Supply
330.3930 Occupancy and Fire Areas
330.3940 Exit Facilities and Subdivision of Floor Areas
330.3950 Stairways, Vertical Openings, and Doorways
330.3960 Exit and Fire Escape Lights and Directional Signs
330.3970 Hazardous Areas and Combustible Storage
330.3980 Fire Alarm and Detection System
330.3990 Fire Extinguishers, Electric Wiring, and Miscellaneous
330.4000 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART Q: RESIDENT'S RIGHTS

Section
330.4210 General
330.4220 Medical and Personal Care Program
330.4230 Restraints (Repealed)
330.4240 Abuse and Neglect
330.4250 Communication and Visitation
330.4260 Resident's Funds
330.4270 Residents' Advisory Council
330.4280 Contract With Facility
330.4290 Private Right of Action
330.4300 Transfer or Discharge
330.4310 Complaint Procedures
330.4320 Confidentiality
330.4330 Facility Implementation

SUBPART R: DAY CARE PROGRAMS

Section
330.4510 Day Care in Long-Term Care Facilities

330.APPENDIX A Interpretation, Components, and Illustrative Services for Sheltered Care Facilities (Repealed)
330.APPENDIX B Classification of Distinct Part of a Facility For Different Levels of Service (Repealed)
330.APPENDIX C Forms for Day Care in Long-Term Care Facilities

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

330.APPENDIX D	Criteria for Activity Directors Who Need Only Minimal Consultation (Repealed)
330.APPENDIX E	Guidelines for the Use of Various Drugs
330.TABLE A	Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 807, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 933, effective July 28, 1980; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14547, effective November 8, 1982; amended at 6 Ill. Reg. 14681, effective November 15, 1982; amended at 7 Ill. Reg. 1963, effective January 28, 1983; amended at 7 Ill. Reg. 6973, effective May 17, 1983; amended at 7 Ill. Reg. 15825, effective November 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15, 1984; amended at 8 Ill. Reg. 15941, effective August 17, 1984; codified at 8 Ill. Reg. 19790; amended at 8 Ill. Reg. 24241, effective November 28, 1984; amended at 8 Ill. Reg. 24696, effective December 7, 1984; amended at 9 Ill. Reg. 2952, effective February 25, 1985; amended at 9 Ill. Reg. 10974, effective July 1, 1985; amended at 11 Ill. Reg. 16879, effective October 1, 1987; amended at 12 Ill. Reg. 1017, effective December 24, 1987; amended at 12 Ill. Reg. 16870, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18939, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6562, effective April 17, 1989; amended at 13 Ill. Reg. 19580, effective December 1, 1989; amended at 14 Ill. Reg. 14928, effective October 1, 1990; amended at 15 Ill. Reg. 516, effective January 1, 1991; amended at 16 Ill. Reg. 651, effective January 1, 1992; amended at 16 Ill. Reg. 14370, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2405, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8000, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15089, effective September 3, 1993; amended at 17 Ill. Reg. 16180, effective January 1, 1994; amended at 17 Ill. Reg. 19258, effective October 26, 1993; amended at 17 Ill. Reg. 19576, effective November 4, 1993; amended at 17 Ill. Reg. 21044, effective November 20, 1993; amended at 18 Ill. Reg. 1475, effective January 14, 1994; amended at 18 Ill. Reg. 15851, effective October 15, 1994; amended at 19 Ill. Reg. 11567, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 552, effective January 1, 1996, for a maximum of 150 days; emergency expired on May 29, 1996; amended at 20 Ill. Reg. 10125, effective July 15, 1996; amended at 20 Ill. Reg. 12160, effective September 10, 1996; amended at 22 Ill. Reg. 4078, effective February 13, 1998; amended at 22 Ill. Reg. 7203, effective April 15, 1998; amended at 22 Ill. Reg. 16594, effective September 18, 1998; amended at 23 Ill. Reg. 1085, effective January 15, 1999; amended at 23 Ill. Reg. 8064, effective July 15, 1999; amended at 24 Ill. Reg. 17304, effective November 1, 2000; amended at 25 Ill. Reg. 4901, effective April 1,

2001; amended at 26 Ill. Reg. 4859, effective April 1, 2002; amended at 26 Ill. Reg. 10559, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2202, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5473, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5886, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14218, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15880, effective September 25, 2003; amended at 27 Ill. Reg. 18130, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3541, effective November 15, 2003; amended at 28 Ill. Reg. 11195, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11879, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15156, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12891, effective August 2, 2005; amended at 30 Ill. Reg. 1439, effective January 23, 2006; amended at 30 Ill. Reg. 5260, effective March 2, 2006; amended at 31 Ill. Reg. 6072, effective April 3, 2007; amended at 31 Ill. Reg. 8828, effective June 6, 2007; amended at 33 Ill. Reg. 9371, effective June 17, 2009; amended at 34 Ill. Reg. 19199, effective November 23, 2010; amended at 35 Ill. Reg. 3415, effective February 14, 2011.

SUBPART A: GENERAL PROVISIONS

Section 330.340 Incorporated and Referenced Materials

a) The following standards and guidelines are incorporated in this Part:

1) For existing facilities (see Subpart O), National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Appendix B (1981) and Standard No. 70: National Electric Code (1981), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 01269.

2) For new facilities (see Subpart M), the following standards of the National Fire Protection Association (NFPA), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 01269:

A) NFPA 17A, Standard for Wet Chemical Extinguishing Systems – 2002 Edition

B) NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection – 1999 Edition

C) NFPA 22, Standard for Water Tanks for Private Fire Protection – 1998 Edition

D) NFPA 24, Standard for the Installation of Private Fire Service Mains and Their Appurtenances – 2002 Edition

E) NFPA 50, Standard for Bulk Oxygen Systems at Consumer Sites – 2001 Edition

F) NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition

G) NFPA 70E, Standard for Electrical Safety Requirements for Employee Workplaces – 2000 Edition

H) NFPA 80A, Recommended Practice for Protection of Buildings from Exterior Fire Exposures – 2001 Edition

I) NFPA 101, Life Safety Code − 2000 Edition

J) NFPA 105, Recommended Practice for the Installation of Smoke-Control Door Assemblies – 1999 Edition

3) For new and existing facilities (see Section 330.1510) NFPA 99: Standard for Health Care Facilities – 2002 Edition

4) The following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services may be obtained from the National Technical Information Services (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161:

A) Guideline for Hand Hygiene in Health-Care Settings (October 2002)

B) Guideline for Prevention of Nosocomial Pneumonia (February 1994)

C) Guideline for Isolation Precautions in Hospitals (February 18, 1997)

D) Guidelines for Infection Control in Health Care Personnel (1998)

5) American College of Obstetricians and Gynecologists, Guidelines for Women's Health Care, Third Edition (2007), which may be obtained from the American College of Obstetricians and Gynecologists Distribution Center, P.O. Box 933104, Atlanta, Georgia 31193-3104 (800-762-2264). (See Section 330.4220.)

b) All incorporations by reference of federal guidelines and the standards of nationally recognized organizations refer to the standards on the date specified and do not include any amendments or editions subsequent to the date specified.

c) The following statutes and State regulations are referenced in this Part:

1) Federal statutes:

A) Civil Rights Act of 1964 (42 USC2000e et seq.)

B) Social Security Act (42 USC 301 et seq., 1395 et seq. and 1396 et seq.)

C) Controlled Substances Act (2 USC 802)

2) State of Illinois statutes:

A) Illinois Alcoholism and Other Drug Dependency Act [20 ILCS 305]

B) Child Care Act of 1969 [225 ILCS 10]

C) Court of Claims Act [705 ILCS 505]

D) Illinois Dental Practice Act [225 ILCS 25]

E) Election Code [10 ILCS 5]

F) Freedom of Information Act [5 ILCS 140]

G) General Not For Profit Corporation Act of 1986 [805 ILCS 105]

H) Hospital Licensing Act [210 ILCS 85]

I) Illinois Health Facilities Planning Act [20 ILCS 3960]

J) Illinois Municipal Code [65 ILCS 5]

K) Life Care Facilities Act [210 ILCS 40]

L) Local Governmental and Governmental Employees Tort Immunity Act [745 ILCS 10]

M) Medical Practice Act of 1987 [225 ILCS 60]

N) Mental Health and Developmental Disabilities Code [405 ILCS 5]

O) Nurse~~Nursing and Advanced~~ Practice ~~Nursing~~ Act [225 ILCS 65]

P) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70]

Q) Nursing Home Care Act [210 ILCS 45]

R) Illinois Occupational Therapy Practice Act [225 ILCS 75]

S) Pharmacy Practice Act ~~of 1987~~ [225 ILCS 85]

T) Illinois Physical Therapy Act [225 ILCS 90]

U) Private Sewage Disposal Licensing Act [225 ILCS 225]

V) Probate Act of 1975 [755 ILCS 5]

W) Illinois Public Aid Code [305 ILCS 5]

X) Illinois Administrative Procedure Act [5 ILCS 100]

Y) Clinical Psychologist Licensing Act [225 ILCS 15]

Z) Dietetic and Nutrition Services Practice Act [225 ILCS 30]

AA) Health Care Worker Background Check Act [225 ILCS 46]

BB) Clinical Social Work and Social Work Practice Act [225 ILCS 20]

CC) Living Will Act [755 ILCS 35]

DD) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV]

EE) Health Care Surrogate Act [755 ILCS 40]

FF) Right of Conscience Act [745 ILCS 70]

GG) Abused and Neglected Long-Term Care Facility Residents Reporting Act [210 ILCS 30]

HH) Supportive Residences Licensing Act [210 ILCS 65]

II) Community Residential Alternatives Licensing Act [210 ILCS 140]

JJ) Community Living Facilities Licensing Act [210 ILCS 35]

KK) Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]

LL) Counties Code [55 ILCS 5]

MM) Alzheimer's Special Care Disclosure Act [220 ILCS 4]

NN) Tort Immunity Act [745 ILCS 10]

OO) Illinois Act on the Aging [20 ILCS 105]

PP) Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]

QQ) Assisted Living and Shared Housing Act [210 ILCS 9]

RR) Alternative Health Care Delivery Act [210 ILCS 3]

SS) Podiatric Medical Practice Act of 1987 [225 ILCS 100]

TT) Illinois Optometric Practice Act of 1987 [225 ILCS 80]

UU) Physician Assistant Practice Act of 1987 [225 ILCS 95]

VV) Language Assistance Services Act [210 ILCS 87]

3) State of Illinois rules:

A) Capital Development Board, Illinois Accessibility Code (71 Ill. Adm. Code 400)

B) Department of Public Health

i) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

ii) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)

iii) Food Service Sanitation Code (77 Ill. Adm. Code 750)

iv) Illinois Plumbing Code (77 Ill. Adm. Code 890)

v) Private Sewage Disposal Code (77 Ill. Adm. Code 905)

vi) Drinking Water Systems Code (77 Ill. Adm. Code 900)

vii) Illinois Water Well Construction Code (77 Ill. Adm. Code

920)

viii) Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)

ix) Access to Public Records of the Department of Public Health~~Freedom of Information Code~~ (2 Ill. Adm. Code 1127~~1126~~)

x) ~~Rules of~~ Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

xi) Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

xii) Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)

xiii) Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)

xiv) Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)

xv) Control of Tuberculosis Code (77 Ill. Adm. Code 696)

xvi) Health Care Worker Background Check Code (77 Ill. Adm. Code 955)

xvii) Language Assistance Services Code (77 Ill. Adm. Code 940)

C) Department of Human Services, Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060)

D) Office of the State Fire Marshal, Fire Prevention and Safety (41 Ill. Adm. Code 100)

(Source: Amended at 35 Ill. Reg. 3415, effective February 14, 2011)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS
FOR NEW SHELTERED CARE FACILITIES

Section 330.3170 Heating and Cooling

Areas of a nursing home used by residents of the nursing home shall *be air conditioned and heated by means of operable air-conditioning and heating equipment. The areas subject to this air-conditioning and heating requirement include, without limitation, bedrooms or common areas such as sitting rooms, activity rooms, living rooms, community rooms, and dining rooms.* (Section 3-202(8) of the Act)~~Every building shall meet the following heating requirements:~~

a) The mechanical system shall be capable of maintaining a temperature of at least 75 degrees Fahrenheit, pursuant to the requirements of Section 330.770(j).~~Be equipped with a central heating plant, or equivalent system, approved by the Department.~~

b) The air-conditioning system shall be capable of maintaining an ambient air temperature of between 75 degrees Fahrenheit and 80 degrees Fahrenheit, pursuant to the requirements of Section 330.770(j).~~The heating system must be capable of maintaining a temperature of 80 degrees Fahrenheit throughout the residents' section of the building during weather conditions when the temperature falls to 20 degrees Fahrenheit.~~

(Source: Amended at 35 Ill. Reg. 3415, effective February 14, 2011)

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR
EXISTING SHELTERED CARE FACILITIES

Section 330.3720 Plumbing and Heating

a) Every existing facility shall comply with the Department's rules titled Illinois Plumbing Code.~~meet the following plumbing and heating requirements:~~

~~1) All plumbing shall comply with the Department's rules entitled "Illinois Plumbing Code" (77 Ill. Adm. Code 890) effective at the time of approval by the Department of either the architectural plans or the building. (A, B)~~

~~2) All plumbing within the building shall be of an adequate size and so~~

~~installed that fixtures receive water under good pressure and are satisfactorily drained. (A, B)~~

~~3) No physical connection shall be permitted between a safe and an unsafe water supply. (A, B)~~

b) All plumbing installations and fixtures on the premises shall be of such a type and design that danger of contaminated water entering the drinking water piping by backflow or backsiphonage is eliminated. The following standards shall be used as a guide to determine satisfactory compliance of individual fixtures: ~~(A, B)~~

1) Lavatory faucets shall discharge at least one inch above the top rim of the lavatory bowl;~~. (B)~~

2) Faucets for bathtubs, sinks, and laundry tubs shall discharge at least two inches above the top rim of the fixture;~~. (B)~~

3) Flush tank type toilets shall be equipped with approved antisiphon ball cocks, ~~so~~ installed so that the effective air opening of the vacuum breaker is at least one inch above the top of the overflow tube in the toilet flush tank;~~. (B)~~

4) Flushometer type toilets shall be equipped with approved vacuum breakers installed on the discharge side of the flush valve and at least four inches above the top of the toilet bowl;~~. (B)~~

5) Dishwashing machines, laundry machines, urinals, and drinking fountains shall be ~~so~~ installed so as to provide backflow protection;~~. (B)~~

~~6) Protection against other backflow possibilities may be required by the Department. (B)~~

6)~~7)~~ All fixtures having, or capable of receiving, a hose shall have a vacuum breaker located at least six inches above the highest head that normally may be placed on the unit. The height of the antisiphon unit should be sufficient to prevent any pressure on the unit, other than atmospheric pressure, when the control valve is closed;~~. (B)~~

7)~~8)~~ Hot water distribution systems shall be arranged to provide hot water of at

least 100 degrees Fahrenheit at each hot water outlet at all times;~~.~~

8)~~9)~~ Hot water available to residents at shower, bathing and hand-washing~~handwashing~~ facilities shall not exceed 110 degrees Fahrenheit; and~~. (A, B)~~

9)~~10)~~ Protective measures, including, ~~such as~~ but not limited to, installation of a mixing valve, limited access to controls, and checking water temperatures daily at various points, shall be implemented to ensure~~insure~~ that the temperature of hot water available to residents at shower, bathing and hand-washing~~handwashing~~ facilities shall not exceed 110 degrees Fahrenheit.~~ (A, B)~~

c) *Areas of a nursing home used by residents of the nursing home* shall *be air conditioned and heated by means of operable air-conditioning and heating equipment. The areas subject to this air-conditioning and heating requirement include, without limitation, bedrooms or common areas such as sitting rooms, activity rooms, living rooms, community rooms, and dining rooms.* (Section 3-202(8) of the Act)

1) The air-conditioning system shall be capable of maintaining an ambient air temperature of between 75 degrees Fahrenheit and 80 degrees Fahrenheit, pursuant to the requirements of Section 330.770(j).

2)~~c)~~ The facility shall be equipped with a central heating plant~~,~~ and have a radiator, convector, or register in each room used by residents or staff.

3)~~d)~~ The mechanical system shall be capable of maintaining a temperature of at least 75 degrees Fahrenheit, pursuant to the requirements of Section 330.770(j) at all times.~~The heating system shall be capable of maintaining a temperature of 80 degrees Fahrenheit throughout the residents' section of the building during weather conditions when the temperature falls to 20 degrees below zero Fahrenheit.~~

4)~~e)~~ Alternative ~~modern~~ types of heating systems, such as ground water source heat pumps, may be accepted, provided that they meet or exceed the minimum requirements of this subsection (c).~~if it is adequate to meet the needs of the residents as determined by professional standards.~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 35 Ill. Reg. 3415, effective February 14, 2011)

SUBPART Q: RESIDENT'S RIGHTS

Section 330.4220 Medical ~~and Personal~~ Care ~~Program~~

a) *A resident shall be permitted to retain the services of his* or her *own personal physician at his* or her *own expense under an individual or group plan of health insurance, or under any public or private assistance program providing such coverage.* (Section 2-104(a) of the Act) ~~(B)~~

b) *The Department shall not prescribe the course of medical treatment provided to an individual resident by the resident's physician in a facility.* (Section 3-201~~2-104(a)~~ of the Act)

c) *Every resident shall be permitted to obtain from his* or her *own physician or the physician attached to the facility complete and current information concerning his* or her *medical diagnosis, treatment and prognosis in terms and language the resident can reasonably be expected to understand.* (Section 2-104(a) of the Act)

d) *Every resident~~All residents~~ shall be permitted to participate in the planning of his* or her*~~their~~ total care and medical treatment to the extent that his* or her*~~their~~ condition permits.* (Section 2-104(a) of the Act)

e) *No resident shall be subjected to experimental research or treatment without first obtaining his* or her *informed, written consent. The conduct of any experimental research or treatment shall be authorized and monitored by an institutional review committee appointed by the administrator of the facility where such research and treatment is conducted.* (Section 2-104(a) of the Act) ~~(A, B)~~

f) *All medical treatment and procedures shall be administered as ordered by a physician. All new physician orders shall be reviewed by the facility's director~~Director~~ of nursing or charge nurse designee within 24 hours after such orders have been issued to assure facility compliance with such orders.* (Section 2-104(b) of the Act)

g) *Every woman resident of child-bearing age shall receive routine obstetrical and gynecological evaluations as well as necessary prenatal care.* (Section 2-104(b) of the Act) In addition, women residents shall~~should~~ be referred immediately for

diagnosis whenever pregnancy is suspected.

1) "Routine obstetrical evaluations" and "necessary prenatal care" shall include, at~~as~~ a minimum, the following:

A) Early diagnosis of pregnancy;~~.~~

B) A comprehensive health history, including menstrual history, methods of family planning that the patient has used, a detailed record of past pregnancies, and data on the current pregnancy that allow the physician to estimate the date of delivery;~~.~~

C) Identification of factors in the current pregnancy that help to identify the patient at high risk, such as maternal age, vaginal bleeding, edema, urinary infection, exposure to radiation and chemicals, ingestion of drugs and alcohol, and use of tobacco;~~.~~

D) A comprehensive physical examination, including an evaluation of nutritional status; determination of height, weight and blood pressure; examination of the head, breasts, heart, lungs, abdomen, pelvis, rectum, and extremities;~~.~~

E) The following laboratory tests, as early in pregnancy as possible. Findings obtained from the history and physical examination may determine the need for additional laboratory evaluations;~~.~~

i) Hemoglobin or hematocrit measurement;

ii) Urinalysis, including microscopic examination or culture;

iii) Blood group and Rh type determination;

iv) Antibody screen;

v) Rubella antibody titer measurement;

vi) Syphilis screen;

vii) Cervical cytology; and

viii) Viral hepatitis (HBsAg) testing.

F) A risk assessment that,~~which,~~ based on the findings of the history and physical examination, should indicate any risk factors that may require special management, such as cardiovascular disease, maternal age ~~less than 15 years or~~ more than 35 years, neurologic disorder, or congenital abnormalities;~~.~~

G) Return visits, the frequency of which will be determined by the patient's needs and risk factors. A~~Generally a~~ woman with an uncomplicated pregnancy shall~~should~~ be seen every 4 weeks for the first 28 weeks of pregnancy, every 2-3 weeks until 36 weeks of gestation, and weekly thereafter;~~.~~

H) Determinations~~The physical examination at each visit should include determinations~~ of blood pressure, measured fundal height, fetal heart rate, and, in later months, fetal presentation, urinalysis for albumin and glucose. Hemoglobin or hematocrit level shall~~should~~ be measured again early in the third trimester. Glucose screening is recommended for women who are 30 years of age or older;~~.~~

I) Evaluation and monitoring of nutritional status and habits;~~.~~

J) Education for health promotion and maintenance;~~.~~

K) Counseling concerning exercise and childbirth education programs;~~.~~

L) Postpartum review and evaluation 4-8 weeks after delivery, including determination of weight, and blood pressure and assessment of status of breasts, abdomen, and external and internal genitalia.

2) "Routine gynecological evaluations" shall include, at~~as~~ a minimum, the following:

A) An initial examination, the basic components of which are:

i) History; any present illnesses; menstrual, reproductive, medical, surgical, emotional, social, family, and sexual history; medications; allergies; family planning; and systems review;~~.~~

ii) Physical examination, including height, weight, nutritional status, and blood pressure; head and neck, including thyroid gland; heart; lungs; breasts; abdomen; pelvis, including external and internal genitalia; rectum; extremities, including signs of abuse; lymph nodes; and~~.~~

iii) Laboratory tests, including urine screen; hemoglobin or hematocrit determination and, if indicated, complete blood cell count; cervical cytology; rubella titer.

B) Annual updates, including but not limited to:

i) History, including the purpose of the visit; menstrual history; interval history, including systems review; emotional history;~~.~~

ii) Physical examination, including weight, nutritional status and blood pressure; thyroid gland; breasts; abdomen; pelvis, including external and internal genitalia; rectum; other areas as indicated by the interval history;~~.~~

iii) Laboratory, including urine screen; cervical cytology, unless not indicated; hemoglobin or hematocrit determinations; and~~.~~

iv) Additional laboratory tests, such as screening for sexually transmitted disease, shall~~should~~ be performed as warranted by the history, physical findings, and risk factors.

~~C) Cancer screening.~~

~~i) An annual Pap test for all women who are or have been sexually active or have reached age 18.~~

~~ii) Mammography if indicated.~~

3) When a resident is referred for a diagnosis of pregnancy and/or for prenatal care, the facility shall send the health care provider a copy of the resident's medical record, including a list of prescription medications taken by the resident; the resident's use of alcohol, tobacco and illicit drugs; and any~~or~~ exposure of the resident to radiation or chemicals during the preceding three months.

h) Cancer screening. Cancer screening for women shall include the following:

1) A periodic Pap test. The frequency and administration of Pap tests shall be according to the guidelines set forth in the Guidelines for Women's Health Care, published by the American College of Obstetricians and Gynecologists; and

2) Mammography. The frequency and administration of mammograms shall be according to the guidelines set forth in the Guidelines for Women's Health Care.

i)~~h)~~ *Every resident shall be permitted to refuse medical treatment and to know the consequences of such action, unless such refusal would be harmful to the health and safety of others and such harm is documented by a physician in the resident's clinical record.* (Section 2-104(c) of the Act) ~~(B)~~

j)~~i)~~ ~~Inspection and Copying of Records1)~~*Every resident, resident's guardian, or parent if the resident is a minor shall be permitted to inspect and copy all* of the resident's~~*the resident's*~~ *clinical and other records concerning* the resident's~~*the resident's*~~ *care and maintenance kept by the facility or by* the resident's~~*the resident's*~~ *physician.* (Section 2-104(d) of the Act)

~~2)~~ ~~*Every resident's representative shall be permitted to inspect and copy the resident's records. A "resident's representative" is a person, other than the owner or agent or employee of a facility who is not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed.* (Sections 1-123 and 2-202(h) of the Act)~~

k)~~j)~~ *A resident shall be permitted respect and privacy in his* or her *medical and personal care program. Every resident's case discussion, consultation, examination and treatment shall be confidential and shall be conducted discreetly, and those persons not directly involved in the resident's care must have his* or her *permission to be present.* (Section 2-105 of the Act) ~~(B)~~

(Source: Amended at 35 Ill. Reg. 3415, effective February 14, 2011)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Veterans' Homes Code

2) Code Citation: 77 Ill. Adm. Code 340

3)

Section Numbers:	Adopted Action:
340.1010	Amend
340.1550	Amend
340.2000	Amend

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective Date of Rulemaking: February 14, 2011

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 amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: May 21, 2010; 34 Ill. Reg. 7097

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

1. In Section 340.2000(c)(1), "at all times" was removed and ", pursuant to the requirements of Section 340.1320(j)" was inserted after "Fahrenheit".

2. In Section 340.2000(c)(2), "81" was changed to "80" and ", pursuant to the requirements of Section 340.1320(j)" was inserted after "Fahrenheit".

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

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

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

14) Are there any amendments pending on this Part? Yes

Section Numbers:	Proposed Action:	Illinois Register Citation:
340.1000	Amend	34 Ill. Reg. 18286; November 29, 2010
340.1120	Amend	34 Ill. Reg. 18286; November 29, 2010
340.1130	Amend	34 Ill. Reg. 18286; November 29, 2010
340.1150	Amend	34 Ill. Reg. 18286; November 29, 2010
340.1220	Amend	34 Ill. Reg. 18286; November 29, 2010
340.1225	New	34 Ill. Reg. 18286; November 29, 2010
340.1230	Amend	34 Ill. Reg. 18286; November 29, 2010
340.1240	Repeal	34 Ill. Reg. 18286; November 29, 2010
340.1245	Amend	34 Ill. Reg. 18286; November 29, 2010
340.1305	Amend	34 Ill. Reg. 18286; November 29, 2010
340.1314	Repeal	34 Ill. Reg. 18286; November 29, 2010
340.1315	Amend	34 Ill. Reg. 18286; November 29, 2010
340.1316	Amend	34 Ill. Reg. 18286; November 29, 2010
340.1317	Amend	34 Ill. Reg. 18286; November 29, 2010
340.1351	New	34 Ill. Reg. 18286; November 29, 2010
340.1470	Amend	34 Ill. Reg. 18286; November 29, 2010
340.1505	Amend	34 Ill. Reg. 18286; November 29, 2010
340.1575	New	34 Ill. Reg. 18286; November 29, 2010

15) Summary and Purpose of the Rulemaking: Part 340 regulates veterans' homes, including climate control for the residents' comfort and regular medical care that residents receive.

Section 340.1010 (Incorporated and Referenced Materials) is amended to incorporate professional standards necessary to this rulemaking. The Department is preparing more comprehensive amendments to this Section that will proposed in a future rulemaking.

Section 340.2000 (Maintenance) is amended to update minimum standards for air conditioning and heating in all facilities mandated by Public Act 95-31, enacted by the General Assembly in 2007.

In Section 340.1550 (Obstetrical and Gynecological Care) requirements for cancer screening for women are updated to conform to the standards of the *Guidelines for Women's Health Care*, published by the American College of Obstetricians and Gynecologists.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

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

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

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 340
ILLINOIS VETERANS' HOMES CODE

SUBPART A: GENERAL PROVISIONS

Section
340.1000 Definitions
340.1010 Incorporated and Referenced Materials
340.1110 General Requirements
340.1115 Federal Veterans' Regulations
340.1120 Application for License
340.1125 Alzheimer's Special Care Disclosure
340.1130 Criteria for Adverse Licensure Actions
340.1140 Denial of Initial License
340.1150 Revocation or Denial of Renewal of License
340.1160 Inspections, Surveys, Evaluations, and Consultations
340.1170 Presentation of Findings by the Department
340.1190 Ownership Disclosure
340.1200 Monitor and Receivership
340.1210 Determination of a Violation
340.1220 Determination of the Level of a Violation
340.1230 Plans of Correction and Reports of Correction
340.1240 Calculation of Penalties
340.1245 Conditions for Assessment of Penalties
340.1250 Reduction or Waiver of Penalties
340.1255 Supported Congregate Living Arrangement Demonstration
340.1260 Waivers

SUBPART B: POLICIES AND FACILITY RECORDS

Section
340.1300 Facility Policies
340.1305 Request for Resident Criminal History Record Information
340.1310 Admission, Retention and Discharge Policies
340.1314 Criminal History Background Checks for Persons Who Were Residents on May

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10, 2006
340.1315 Identified Offenders
340.1316 Discharge Planning for Identified Offenders
340.1317 Transfer of an Identified Offender
340.1320 Disaster Preparedness
340.1330 Incidents and Accidents
340.1335 Infection Control
340.1340 Facility Record Requirements
340.1350 Personnel Policies
340.1360 Initial Health Evaluation for Employees
340.1370 Administrator
340.1375 Personnel Requirements
340.1376 Registry of Certified Nursing Assistants
340.1377 Health Care Worker Background Check
340.1378 Resident Attendants
340.1380 Contacting Local Law Enforcement

SUBPART C: RESIDENT RIGHTS

Section
340.1400 Implementation of Resident Rights and Facility Responsibilities
340.1410 General
340.1420 Contract Between Resident and Facility
340.1430 Residents' Advisory Council
340.1440 Abuse and Neglect
340.1450 Communication and Visitation
340.1460 Resident's Funds
340.1470 Transfer or Discharge
340.1480 Complaint Procedures
340.1490 Private Right of Action

SUBPART D: HEALTH SERVICES

Section
340.1500 Medical Care Policies
340.1505 Medical, Nursing and Restorative Services
340.1510 Communicable Disease Policies
340.1520 Tuberculin Skin Test Procedures
340.1530 Physician Services

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

340.1535 Dental Programs
340.1540 Life-Sustaining Treatments
340.1550 Obstetrical and Gynecological Care
340.1560 Nursing Personnel
340.1570 Personal Care
340.1580 Restraints
340.1590 Nonemergency Use of Physical Restraints
340.1600 Emergency Use of Physical Restraints
340.1610 Unnecessary, Psychotropic, and Antipsychotic Drugs
340.1620 Medication Administration (Repealed)
340.1630 Self-Administration of Medication (Renumbered)
340.1640 Vaccinations
340.1645 Language Assistance Services

SUBPART E: MEDICATIONS

Section
340.1650 Medication Policies and Procedures
340.1655 Compliance with Licensed Prescriber's Orders
340.1660 Administration of Medication
340.1665 Control of Medication
340.1670 Labeling and Storage of Medication
340.1675 Self-Administration of Medication

SUBPART F: RESIDENT LIVING SERVICES

Section
340.1700 Recreational and Activity Programs
340.1710 Social Services
340.1720 Work Programs
340.1730 Volunteer Program

SUBPART G: RESIDENT RECORDS

Section
340.1800 Resident Record Requirements
340.1810 Content of Medical Records
340.1820 Records Pertaining to Resident's Property
340.1830 Retention, Transfer, and Inspection of Records

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

340.1840 Confidentiality of Resident's Records

SUBPART H: FOOD SERVICE

Section
340.1900 Food Service Staff
340.1910 Diet Orders
340.1920 Meal Planning
340.1930 Therapeutic Diets (Repealed)
340.1940 Menus and Food Records
340.1950 Food Preparation and Service
340.1960 Kitchen Equipment, Utensils and Supplies

SUBPART I: PHYSICAL PLANT SERVICES,
FURNISHINGS, EQUIPMENT AND SUPPLIES

Section
340.2000 Maintenance
340.2010 Water Supply, Sewage Disposal and Plumbing
340.2020 Housekeeping
340.2030 Laundry Services
340.2040 Furnishings
340.2050 Equipment and Supplies

340.TABLE A Heat Index Table/Apparent Temperature
340.TABLE B Guidelines for the Use of Various Drugs

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rule adopted at 18 Ill. Reg. 10391, effective June 21, 1994, for a maximum of 150 days; emergency rule expired November 18, 1994; adopted at 19 Ill. Reg. 5679, effective April 3, 1995; emergency amendment at 20 Ill. Reg. 496, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10045, effective July 15, 1996; amended at 20 Ill. Reg. 12013, effective September 10, 1996; amended at 22 Ill. Reg. 3959, effective February 13, 1998; amended at 22 Ill. Reg. 7162, effective April 15, 1998; amended at 23 Ill. Reg. 1038, effective January 15, 1999; amended at 23 Ill. Reg. 7931, effective July 15, 1999; amended at 24 Ill. Reg. 17225, effective November 1, 2000; amended at 25 Ill. Reg. 4869, effective April 1, 2001; amended at 26 Ill. Reg. 4870, effective April 1, 2002; amended at 26 Ill. Reg. 10589, effective July 1, 2002; emergency

amendment at 27 Ill. Reg. 2222, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; amended at 27 Ill. Reg. 5903, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14230, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15904, effective September 25, 2003; amended at 27 Ill. Reg. 18148, effective November 15, 2003; amended at 28 Ill. Reg. 11209, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15208, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12924, effective August 2, 2005; amended at 30 Ill. Reg. 1452, effective January 23, 2006; amended at 30 Ill. Reg. 5303, effective March 2, 2006; amended at 31 Ill. Reg. 6098, effective April 3, 2007; amended at 31 Ill. Reg. 8841, effective June 6, 2007; amended at 33 Ill. Reg. 9384, effective June 17, 2009; amended at 34 Ill. Reg. 19214, effective November 23, 2010; amended at 35 Ill. Reg. 3442, effective February 14, 2011.

SUBPART A: GENERAL PROVISIONS

Section 340.1010 Incorporated and Referenced Materials

a) The following regulations and standards are incorporated in this Part:

1) Private and professional association standards:

A) NFPA No. 99: Standard for Health Care Facilities (2000 Edition), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169. (See Section 340.1650.)

B) American College of Obstetricians and Gynecologists, Guidelines for Women's Health Care, Third Edition (2007), which may be obtained from the American College of Obstetricians and Gynecologists Distribution Center, P.O. Box 933104, Atlanta, Georgia 31193-3104 (800-762-2264). (See Section 340.1550.)

2) Federal guidelines:

The following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, may be obtained from the

National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161:

A) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (October 1981);

B) Guideline for Hand Hygiene in Health-Care Settings (October 2002);

C) Guidelines for Prevention of Intravascular Catheter-Related Infections (2002);

D) Guideline for Prevention of Surgical Site Infection (1999);

E) Guideline for Prevention of Nosocomial Pneumonia (February 1994);

F) Guideline for Isolation Precautions in Hospitals (February 18, 1997);

G) Guidelines for Infection Control in Health Care Personnel (1998).

3) Federal regulations:

A) Definitions (38 CFR 51.2, effective February 7, 2000);

B) Resident rights (38 CFR 51.70, effective February 7, 2000);

C) Admission, transfer and discharge rights (38 CFR 51.80, effective February 7, 2000);

D) Resident behavior and facility practices (38 CFR 51.90, effective February 7, 2000);

E) Quality of life (38 CFR 51.100, effective February 7, 2000);

F) Resident assessment (38 CFR 51.110, effective February 7, 2000);

G) Quality of care (38 CFR 51.120, effective February 7, 2000);

H) Nursing services (38 CFR 51.130, effective February 7, 2000);

I) Dietary services (38 CFR 51.140, effective February 7, 2000);

J) Physician services (38 CFR 51.150, effective February 7, 2000);

K) Specialized rehabilitative services (38 CFR 51.160, effective February 7, 2000);

L) Dental services (38 CFR 51.170, effective February 7, 2000);

M) Pharmacy services (38 CFR 51.180, effective February 7, 2000);

N) Infection control (38 CFR 51.190, effective February 7, 2000);

O) Physical environment (38 CFR 51.200, effective February 7, 2000);

P) Administration (38 CFR 51.210, effective February 7, 2000);

Q) Prescriptions (21 CFR 1306, effective April 1, 2002).

b) The following federal and State statutes are referenced in this Part:

1) Civil Rights Act of 1964 (42 USC 2000e et seq.);

2) Social Security Act (42 USC 301 et seq., 1395 et seq., and 1396 et seq.);

3) Veterans' Benefits (38 USC 101; 38 USC 641 et seq.);

4) Controlled Substances Act (21 USC 802);

5) Illinois Dental Practice Act [225 ILCS 25];

6) Election Code [10 ILCS 5];

7) Freedom of Information Act [5 ILCS 140];

8) General Not For Profit Corporation Act of 1986 [805 ILCS 105];

9) Illinois Health Facilities Planning Act [20 ILCS 3960];

10) Nurse Practice Act~~Nursing and Advanced Practice Nursing Act~~ [225 ILCS 65];

11) Illinois Occupational Therapy Practice Act [225 ILCS 75];

12) Illinois Physical Therapy Act [225 ILCS 90];

13) Life Care Facilities Act [210 ILCS 40];

14) Medical Practice Act of 1987 [225 ILCS 60];

15) Mental Health and Developmental Disabilities Code [405 ILCS 5];

16) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70];

17) Nursing Home Care Act [210 ILCS 45];

18) Pharmacy Practice Act ~~of 1987~~ [225 ILCS 85];

19) Probate Act of 1975 [755 ILCS 5];

20) Illinois Public Aid Code [305 ILCS 5].

21) Counties Code [55 ILCS 5];

22) Hospital Licensing Act [210 ILCS 85];

23) Child Care Act of 1969 [225 ILCS 10];

24) Community Living Facilities Licensing Act [210 ILCS 35];

25) Community Residential Alternatives Licensing Act [210 ILCS 40];

26) Supportive Residences Licensing Act [210 ILCS 65];

27) Assisted Living and Shared Housing Act [210 ILCS 9];

28) Alternative Health Care Delivery Act [210 ILCS 3];

29) Clinical Psychologist Licensing Act [225 ILCS 15];

30) Clinical Social Work and Social Work Practice Act [225 ILCS 20];

31) Alzheimer's Special Care Disclosure Act [220 ILCS 4];

32) Illinois Administrative Procedure Act [5 ILCS 100];

33) Illinois Act on the Aging [20 ILCS 105];

34) Health Care Worker Background Check Act [225 ILCS 46];

35) Illinois Controlled Substances Act [720 ILCS 570];

36) Wrongs to Children Act [720 ILCS 150];

37) Criminal Jurisprudence Act [720 ILCS 115];

38) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV];

39) Probate Act of 1975 [775 ILCS 5];

40) Mental Health and Developmental Disabilities Code [405 ILCS 5];

41) Living Will Act [755 ILCS 35];

42) Health Care Surrogate Act [755 ILCS 45];

43) Right of Conscience Act [745 ILCS 70];

44) Illinois Optometric Practice Act of 1987 [225 ILCS 80];

45) Physician Assistant Practice Act of 1987 [220 ILCS 95];

46) Podiatric Medical Practice Act of 1987 [225 ILCS 100].

c) The following State of Illinois rules are referenced:

1) Department of Public Health, Control of Communicable Diseases Code (77 Ill. Adm. Code 690);

2) Department of Public Health, Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693);

3) Department of Public Health, Food Service Sanitation Code (77 Ill. Adm. Code 750);

4) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890);

5) Department of Public Health, Private Sewage Disposal Code (77 Ill. Adm. Code 905);

6) Department of Public Health, Drinking Water Systems Code (77 Ill. Adm. Code 900);

7) Department of Public Health, Illinois Water Well Construction Code (77 Ill. Adm. Code 920);

8) Department of Public Health, Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925);

9) Department of Public Health, Access to Public Records of the Department of Public Health~~Freedom of Information Code~~ (2 Ill. Adm. Code 1127~~1126~~);

10) Department of Public Health, Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395);

11) Department of Public Health, Control of Tuberculosis Code (77 Ill. Adm. Code 696);

12) Department of Public Health, Health Care Worker Background Check Code (77 Ill. Adm. Code 955);

13) Department of Public Health, Language Assistance Services Code (77 Ill. Adm. Code 940);

14) Department of Financial and Professional Regulation, Controlled Substances Act (77 Ill. Adm. Code 3100);

15) Department of Human Services, Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060);

16) Department of Healthcare and Family Services~~Public Aid~~, Medical Payment (89 Ill. Adm. Code 140.544).

d) All incorporations by reference of federal regulations and guidelines and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any amendments or editions subsequent to the date specified.

(Source: Amended at 35 Ill. Reg. 3442, effective February 14, 2011)

SUBPART D: HEALTH SERVICES

Section 340.1550 Obstetrical and Gynecological Care

Every woman resident of child-bearing age shall receive routine obstetrical and gynecological evaluations as well as necessary prenatal care. (Section 2-104(b) of the Act) In addition, women residents shall~~should~~ be referred immediately for diagnosis whenever pregnancy is suspected.

a) "Routine obstetrical evaluations" and "necessary prenatal care" shall include at~~, as~~ a minimum, the following:

1) Early diagnosis of pregnancy;~~.~~

2) A comprehensive health history, including menstrual history, methods of family planning that the patient has used, a detailed record of past pregnancies, and data on the current pregnancy that allow the physician to

estimate the date of delivery;~~.~~

3) Identification of factors in the current pregnancy that help to identify the patient at high risk, such as maternal age, vaginal bleeding, edema, urinary infection, exposure to radiation and chemicals, ingestion of drugs and alcohol, and use of tobacco;~~.~~

4) A comprehensive physical examination, including an evaluation of nutritional status; determination of height, weight and blood pressure; examination of the head, breasts, heart, lungs, abdomen, pelvis, rectum, and extremities;~~.~~

5) The following laboratory tests, as early in pregnancy as possible. Findings obtained from the history and physical examination may determine the need for additional laboratory evaluations:

A) Hemoglobin or hematocrit measurement;

B) Urinalysis, including microscopic examination or culture;

C) Blood group and Rh type determination;

D) Antibody screen;

E) Rubella antibody titer measurement;

F) Syphilis screen;

G) Cervical cytology; and

H) Viral hepatitis (HBsAg) testing;~~.~~

6) A risk assessment that~~, which~~, based on the findings of the history and physical examination, should indicate any risk factors that may require special management, such as cardiovascular disease, maternal age ~~less than 15 years or~~ more than 35 years, neurologic disorder, or congenital abnormalities;~~.~~

7) Return visits, the frequency of which will be determined by the resident's

needs and risk factors. A~~Generally a~~ woman with an uncomplicated pregnancy shall~~should~~ be seen every four~~4~~ weeks for the first 28 weeks of pregnancy, every two to three~~2-3~~ weeks until 36 weeks of gestation, and weekly thereafter;~~.~~

8) Determinations ~~The physical examination at each visit should include determinations~~ of blood pressure, measured fundal height, fetal heart rate, and, in later months, fetal presentation, and urinalysis for albumin and glucose. Hemoglobin or hematocrit level shall~~should~~ be measured again early in the third trimester. Glucose screening is recommended for women who are 30 years of age or older;~~.~~

9) Evaluation and monitoring of nutritional status and habits;~~.~~

10) Education for health promotion and maintenance;~~.~~

11) Counseling concerning exercise and childbirth education programs; and~~.~~

12) Postpartum review and evaluation four to eight~~4-8~~ weeks after delivery, including determination of weight and blood pressure and assessment of status of breasts, abdomen, and external and internal genitalia.

b) "Routine gynecological evaluations" shall include, at~~as~~ a minimum, the following:

1) An initial examination, the basic components of which are:

A) History; any present illnesses; menstrual, reproductive, medical, surgical, emotional, social, family, and sexual history; medications; allergies; family planning; and systems review;~~.~~

B) Physical examination, including height, weight, nutritional status, and blood pressure; head and neck, including thyroid gland; heart; lungs; breasts; abdomen; pelvis, including external and internal genitalia; rectum; extremities, including signs of abuse; lymph nodes; and~~.~~

C) Laboratory tests, including urine screen; hemoglobin or hematocrit determination and, if indicated, complete blood cell count; cervical

cytology; rubella titer.

2) Annual updates, including, but not limited to:

A) History, including the purpose of the visit; menstrual history; interval history, including systems review; emotional history;.

B) Physical examination, including weight, nutritional status and blood pressure; thyroid gland; breasts; abdomen; pelvis, including external and internal genitalia; rectum; other areas as indicated by the interval history;.

C) Laboratory, including urine screen; cervical cytology, unless not indicated; hemoglobin or hematocrit determinations; and.

D) Additional laboratory tests, such as screening for sexually transmitted disease, shallshould be performed as warranted by the history, physical findings, and risk factors.

3) Cancer screening:

A) An annual Pap test for all women who are or have been sexually active or have reached age 18.

B) Mammography if indicated.

c) When a resident is referred for a diagnosis of pregnancy and/or for prenatal care, the facility shall send the health care provider a copy of the resident's medical record, including a list of prescription medications taken by the resident; if known, the resident's use of alcohol, tobacco and illicit drugs; and anyor exposure of the resident to radiation or chemicals during the preceding three months.

d) Cancer screening shall include the following:

1) A periodic Pap test. The frequency and administration of Pap tests shall be according to the guidelines set forth in the "Guidelines for Women's Health Care", published by the American College of Obstetricians and Gynecologists; and

2) Mammography. The frequency and administration of mammograms shall be according to the guidelines set forth in the "Guidelines for Women's Health Care".

(Source: Amended at 35 Ill. Reg. 3442, effective February 14, 2011)

SUBPART I: PHYSICAL PLANT SERVICES, FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section 340.2000 Maintenance

a) Every facility shall have an effective written plan for maintenance, including sufficient staff, appropriate equipment, and adequate supplies.

b) Each facility shall:

1) Maintain the building in good repair, safe and free of the following: cracks in floors, walls, or ceilings; peeling wallpaper or paint; warped or loose boards; warped, broken, loose, or cracked floor covering, such as tile or linoleum; loose handrails or railings; loose or broken window panes; and any other similar hazards.

2) Maintain all electrical, signaling, mechanical, water supply, heating, fire protection, and sewage disposal systems in safe, clean and functioning condition. This shall include regular inspections of these systems.

3) Maintain all electrical cords and appliances in a safe and functioning condition.

4) Maintain the interior and exterior finishes of the building as needed to keep it attractive, clean and safe (painting, washing, and other types of maintenance).

5) Maintain all furniture and furnishings in a clean, attractive, and safely repaired condition.

6) Maintain the grounds and other buildings on the grounds in a safe, sanitary, presentable condition, free of refuse and litter.

7) Maintain the building and grounds free of any possible infestations of insects and rodents by: eliminating sites of breeding and harborage inside and outside the building; and eliminating sites of entry into the building with screens of not less than 16 mesh ~~screen~~ to the inch and repair of any breaks in construction.

8) Maintain all plumbing fixtures and piping in good repair and proper~~properly~~ functioning.

9) Protect the potable water supply from contamination by providing and properly installing adequate backflow protection devices, or providing adequate air gaps on all fixtures that may be subject to backflow or back siphonage.

c) *Areas of a nursing home used by residents of the nursing home* shall *be air conditioned and heated by means of operable air-conditioning and heating equipment. The areas subject to this air-conditioning and heating requirement include, without limitation, bedrooms or common areas such as sitting rooms, activity rooms, living rooms, community rooms, and dining rooms.* (Section 3-202(8) of the Act)

1) The mechanical system shall be capable of maintaining a temperature of at least 75 degrees Fahrenheit, pursuant to the requirements of Section 340.1320(j).

2) The air conditioning system shall be capable of maintaining an ambient air temperature of between 75 degrees Fahrenheit and 80 degrees Fahrenheit, pursuant to the requirements of Section 340.1320(j).

(Source: Amended at 35 Ill. Reg. 3442, effective February 14, 2011)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code

2) Code Citation: 77 Ill. Adm. Code 350

3)

Section Numbers:	Adopted Action:
350.340	Amend
350.2720	Amend
350.3020	Amend
350.3220	Amend

4) Statutory Authority: MR/DD Community Care Act [210 ILCS 47]

5) Effective Date of Rulemaking: February 14, 2011

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 amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: May 21, 2010; 34 Ill. Reg. 7115

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

1. In Section 350.2720(g)(1)(A), "at all times" was removed and ", pursuant to the requirements of Section 350.690(j)" was inserted after "Fahrenheit".

2. In Section 350.2720(g)(1)(B), "81" was changed to "80" and ", pursuant to the requirements of Section 350.690(j)" was inserted after "Fahrenheit".

3. In Section 350.3020(h)(1)(A), "at all times" was removed and ", pursuant to the requirements of Section 350.690(j)" was inserted after "Fahrenheit".

4. In Section 350.3020(h)(1)(B), "81" was changed to "80" and ", pursuant to the requirements of Section 350.690(j)" was inserted after "Fahrenheit".

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

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

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of the Rulemaking: Part 350 regulates intermediate care facilities for the developmentally disabled, including climate control for the residents' comfort and regular medical care that residents receive.

Section 350.340 (Incorporated and Referenced Materials) is amended to incorporate professional standards that are necessary for this rulemaking. The Department is preparing a more comprehensive set of amendments for this Section that will be proposed in a future rulemaking.

Sections 350.2720 (Mechanical Systems) and 350.3020 (Mechanical Systems) are amended to incorporate minimum standards for air conditioning and heating in all facilities mandated by Public Act 95-31, enacted by the General Assembly in 2007.

In Section 350.3220 (Medical and Personal Care Program), the requirements for cancer screening for women are updated to conform to the standards of the *Guidelines for Women's Health Care*, published by the American College of Obstetricians and Gynecologists.

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

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

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350
INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section

350.110 General Requirements
350.120 Application for License
350.130 Licensee
350.140 Issuance of an Initial License for a New Facility
350.150 Issuance of an Initial License Due to a Change of Ownership
350.160 Issuance of a Renewal License
350.165 Criteria for Adverse Licensure Actions
350.170 Denial of Initial License
350.175 Denial of Renewal of License
350.180 Revocation of License
350.190 Experimental Program Conflicting With Requirements
350.200 Inspections, Surveys, Evaluations and Consultation
350.210 Filing an Annual Attested Financial Statement
350.220 Information to Be Made Available to the Public By the Department
350.230 Information to Be Made Available to the Public By the Licensee
350.240 Municipal Licensing
350.250 Ownership Disclosure
350.260 Issuance of Conditional Licenses
350.270 Monitor and Receivership
350.271 Presentation of Findings
350.272 Determination to Issue a Notice of Violation or Administrative Warning
350.274 Determination of the Level of a Violation
350.276 Notice of Violation
350.277 Administrative Warning
350.278 Plans of Correction
350.280 Reports of Correction
350.282 Conditions for Assessment of Penalties
350.284 Calculation of Penalties
350.286 Determination to Assess Penalties

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

350.288 Reduction or Waiver of Penalties
350.290 Quarterly List of Violators (Repealed)
350.300 Alcoholism Treatment Programs In Long-Term Care Facilities
350.310 Department May Survey Facilities Formerly Licensed
350.315 Supported Congregate Living Arrangement Demonstration
350.320 Waivers
350.330 Definitions
350.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
350.510 Administrator

SUBPART C: POLICIES

Section
350.610 Management Policies
350.620 Resident Care Policies
350.625 Determination of Need Screening and Request for Resident Criminal History Record Information
350.630 Admission, Retention and Discharge Policies
350.634 Criminal History Background Checks for Persons Who Were Residents on May 10, 2006
350.635 Identified Offenders
350.636 Discharge Planning for Identified Offenders
350.637 Transfer of an Identified Offender
350.640 Contract Between Resident and Facility
350.650 Residents' Advisory Council
350.660 General Policies
350.670 Personnel Policies
350.675 Initial Health Evaluation for Employees
350.680 Developmental Disabilities Aides
350.681 Health Care Worker Background Check
350.682 Resident Attendants
350.683 Registry of Developmental Disabilities Aides
350.685 Student Interns
350.690 Disaster Preparedness
350.700 Incidents and Accidents

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

350.750 Contacting Local Law Enforcement
350.760 Infection Control

SUBPART D: PERSONNEL

Section
350.810 Personnel
350.820 Consultation Services
350.830 Personnel Policies (Repealed)

SUBPART E: RESIDENT LIVING SERVICES

Section
350.1010 Service Programs
350.1020 Psychological Services
350.1030 Social Services
350.1040 Speech Pathology and Audiology Services
350.1050 Recreational and Activities Services
350.1055 Volunteer Program
350.1060 Training and Habilitation Services
350.1070 Training and Habilitation Staff
350.1080 Restraints
350.1082 Nonemergency Use of Physical Restraints
350.1084 Emergency Use of Physical Restraints
350.1086 Unnecessary, Psychotropic, and Antipsychotic Drugs
350.1088 Language Assistance Services

SUBPART F: HEALTH SERVICES

Section
350.1210 Health Services
350.1220 Physician Services
350.1223 Communicable Disease Policies
350.1225 Tuberculin Skin Test Procedures
350.1230 Nursing Services
350.1235 Life-Sustaining Treatments
350.1240 Dental Services
350.1250 Physical and Occupational Therapy Services
350.1260 Vaccinations

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART G: MEDICATIONS

Section
350.1410 Medication Policies and Procedures
350.1420 Compliance with Licensed Prescriber's Orders
350.1430 Administration of Medication
350.1440 Labeling and Storage of Medications
350.1450 Control of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

Section
350.1610 Resident Record Requirements
350.1620 Content of Medical Records
350.1630 Confidentiality of Resident's Records
350.1640 Records Pertaining to Residents' Property
350.1650 Retention and Transfer of Resident Records
350.1660 Other Resident Record Requirements
350.1670 Staff Responsibility for Medical Records
350.1680 Retention of Facility Records
350.1690 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section
350.1810 Director of Food Services
350.1820 Dietary Staff in Addition to Director of Food Services
350.1830 Hygiene of Dietary Staff
350.1840 Diet Orders
350.1850 Meal Planning
350.1860 Therapeutic Diets (Repealed)
350.1870 Scheduling Meals
350.1880 Menus and Food Records
350.1890 Food Preparation and Service
350.1900 Food Handling Sanitation
350.1910 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section
350.2010 Maintenance
350.2020 Housekeeping
350.2030 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
350.2210 Furnishings
350.2220 Equipment and Supplies

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section
350.2410 Codes
350.2420 Water Supply
350.2430 Sewage Disposal
350.2440 Plumbing

SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section
350.2610 Applicability of These Standards
350.2620 Codes and Standards
350.2630 Preparation of Drawings and Specifications
350.2640 Site
350.2650 Administration and Public Areas
350.2660 Nursing Unit
350.2670 Dining, Living, Activities Rooms
350.2680 Therapy and Personal Care
350.2690 Service Departments
350.2700 General Building Requirements
350.2710 Structural
350.2720 Mechanical Systems
350.2730 Plumbing Systems
350.2740 Electrical Systems

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section
350.2910 Applicability
350.2920 Codes and Standards
350.2930 Preparation of Drawings and Specifications
350.2940 Site
350.2950 Administration and Public Areas
350.2960 Nursing Unit
350.2970 Living, Dining, Activities Rooms
350.2980 Treatment and Personal Care
350.2990 Service Department
350.3000 General Building Requirements
350.3010 Structural
350.3020 Mechanical Systems
350.3030 Plumbing Systems
350.3040 Electrical Requirements

SUBPART O: RESIDENT'S RIGHTS

Section
350.3210 General
350.3220 Medical and Personal Care Program
350.3230 Restraints (Repealed)
350.3240 Abuse and Neglect
350.3250 Communication and Visitation
350.3260 Resident's Funds
350.3270 Residents' Advisory Council
350.3280 Contract With Facility
350.3290 Private Right of Action
350.3300 Transfer or Discharge
350.3310 Complaint Procedures
350.3320 Confidentiality
350.3330 Facility Implementation

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section
350.3710 Applicability of Other Provisions of this Part
350.3720 Administration
350.3730 Admission and Discharge Policies
350.3740 Personnel
350.3750 Consultation Services and Nursing Services
350.3760 Medication Policies
350.3770 Food Services
350.3780 Codes and Standards
350.3790 Administration and Public Areas
350.3800 Bedrooms
350.3810 Nurses Station
350.3820 Bath and Toilet Rooms
350.3830 Utility Rooms
350.3840 Living, Dining, Activity Rooms
350.3850 Therapy and Personal Care
350.3860 Kitchen
350.3870 Laundry Room
350.3880 General Building Requirements
350.3890 Corridors
350.3900 Special Care Room
350.3910 Exit Facilities and Subdivision of Floor Areas
350.3920 Stairways, Vertical Openings and Doorways
350.3930 Hazardous Areas and Combustible Storage
350.3940 Mechanical Systems
350.3950 Heating, Cooling, and Ventilating Systems
350.3960 Plumbing Systems
350.3970 Electrical Systems
350.3980 Fire Alarm and Detection System
350.3990 Emergency Electrical System
350.4000 Fire Protection
350.4010 Construction Types
350.4020 Equivalencies
350.4030 New Construction Requirements

SUBPART Q: DAY CARE PROGRAMS

Section
350.4210 Day Care in Long-Term Care Facilities

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

350.APPENDIX A	Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
350.APPENDIX B	Federal Requirements Regarding Residents' Rights (Repealed)
350.APPENDIX C	Seismic Zone Map
350.APPENDIX D	Forms For Day Care in Long-Term Care Facilities
350.APPENDIX E	Guidelines for the Use of Various Drugs
350.TABLE A	Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled
350.TABLE B	Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled
350.TABLE C	Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled
350.TABLE D	Food Service Sanitation Rules, 77 Illinois Admin. Code 750, 1983 Applicable for New Intermediate Care Facilities for the Developmentally Disabled of 16 Beds or Less
350.TABLE E	Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less
350.TABLE F	Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the MR/DD Community Care Act [210 ILCS 47].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill.

Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17 Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16153, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19517, effective November 4, 1993; amended at 17 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 18 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 512, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10065, effective July 15, 1996; amended at 20 Ill. Reg. 12049, effective September 10, 1996; amended at 21 Ill. Reg. 14990, effective November 15, 1997; amended at 22 Ill. Reg. 4040, effective February 13, 1998; amended at 22 Ill. Reg. 7172, effective April 15, 1998; amended at 22 Ill. Reg. 16557, effective September 18, 1998; amended at 23 Ill. Reg. 1052, effective January 15, 1999; amended at 23 Ill. Reg. 7970, effective July 15, 1999; amended at 24 Ill. Reg. 17254, effective November 1, 2000; amended at 25 Ill. Reg. 4879, effective April 1, 2001; amended at 25 Ill. Reg. 6499, effective May 15, 2001; amended at 26 Ill. Reg. 4878, effective April 1, 2002; amended at 26 Ill. Reg. 10611, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2238, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5489, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5924, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14237, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15924, effective September 25, 2003; amended at 27 Ill. Reg. 18160, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3552, effective November 15, 2003; amended at 28 Ill. Reg. 7653, effective May 24, 2004; amended at 28 Ill. Reg. 11217, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11971, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15247, effective September 23, 2005, for the remainder of the maximum 150 days; emergency expired December 8, 2005; amended at 29 Ill. Reg. 12954,

effective August 2, 2005; amended at 30 Ill. Reg. 1460, effective January 23, 2006; amended at 30 Ill. Reg. 5338, effective March 2, 2006; amended at 30 Ill. Reg. 13876, effective August 7, 2006; amended at 31 Ill. Reg. 6119, effective April 3, 2007; amended at 31 Ill. Reg. 8850, effective June 6, 2007; amended at 33 Ill. Reg. 9393, effective June 17, 2009; amended at 34 Ill. Reg. 19224, effective November 23, 2010; amended at 35 Ill. Reg. 3461, effective February 14, 2011.

SUBPART A: GENERAL PROVISIONS

Section 350.340 Incorporated and Referenced Materials

a) The following regulations and standards are incorporated in this Part:

1) Private and professional association standards:

A) ANSI/ASME Standard No. A17.1 – 2000, Safety Code for Elevators and Escalators, which may be obtained from the American Society of Mechanical Engineers (ASME) International, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900.

B) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals (2001), and Handbook of Applications (1999), which may be obtained from the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329.

C) American Society for Testing and Materials (ASTM), Standard No. E90-02 (1996): Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements, and Standard No. E84-08a, Standard Test Method for Surface Burning Characteristics of Building Materials (2006), which may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959.

D) International Building Code (IBC) (2000), which may be obtained from the International Code Council (ICC), 4051 W. Flossmoor Road, Country Club Hills, Illinois 60478-5795.

E) For existing facilities (see Subpart N), National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Appendix B (1981), and the following standards, which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169:

i) No. 10 (1978): Standards for Portable Extinguishers

ii) No. 13 (1980): Standards for the Installation of Sprinkler Systems

iii) No. 54 (1999): National Fuel Gas Code

iv)~~iii)~~ No. 56F (1977): Standards for Non-Flammable Medical Gas Systems

v)~~iv)~~ No. 70 (1981): National Electric Code

vi)~~v)~~ No. 90A (1999~~1978~~): Standards for the Installation of Air Conditioning and Ventilating Systems

vii)~~vi)~~ No. 96 (1998~~1980~~): Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations~~the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment~~

viii)~~vii)~~No. 220 (1979): Standard Types of Building Construction

ix)~~viii)~~ No. 253 (1978): Flooring Radiant Heat Energy Test

x)~~ix)~~ No. 255 (1972): Test of Surface Burning Characteristics of Building Materials

xi)~~x)~~ Appendix C (1981): Fire Safety Evaluation System for Health Occupancies

F) For new facilities (see Subpart M), the following standards of the National Fire Protection Association (NFPA), which may be

obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169:

i) NFPA 17A, Standard for Wet Chemical Extinguishing Systems – 2002 Edition

ii) NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection – 1999 Edition

iii) NFPA 22, Standard for Water Tanks for Private Fire Protection – 1998 Edition

iv) NFPA 24, Standard for the Installation of Private Fire Service Mains and Their Appurtenances – 2002 Edition

v) NFPA 50, Standard for Bulk Oxygen Systems at Consumer Sites – 2001 Edition

vi) NFPA 54, National Fuel Gas Code − 1999 Edition

vii)~~vi)~~ NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition

viii)~~vii)~~NFPA 70E, Standard for Electrical Safety Requirements for Employee Workplaces – 2000 Edition

ix)~~viii)~~ NFPA 80A, Recommended Practice for Protection of Buildings from Exterior Fire Exposures – 2001 Edition

x) NFPA 90A, Standard for the Installation of Air Conditioning and Ventilating Systems − 1999 Edition

xi) NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations − 1998 Edition

xii)~~ix)~~ NFPA 101, Life Safety Code – 2000 Edition

xiii)~~x)~~ NFPA 105, Recommended Practice for the Installation of

Smoke-Control Door Assemblies – 1999 Edition

G) For new and existing facilities (see Section 350.1410), NFPA 99: Standard for Health Care Facilities – 2002 Edition.

H) Underwriters Laboratories, Inc. (UL), which may be obtained from Underwriters Laboratories, Inc., 333 Pfingsten Rd., Northbrook, Illinois 60062:

i) Fire Resistance Directory (2003 Edition)

ii) Building Material Directory (2003 Edition)

I) American College of Obstetricians and Gynecologists, Guidelines for Women's Health Care, Third Edition (2007), which may be obtained from the American College of Obstetricians and Gynecologists Distribution Center, P.O. Box 933104, Atlanta, Georgia 31193-3104 (800-762-2264). (See Section 350.3220.)

2) Federal regulations and guidelines:

A) 21 CFR 1306, Prescriptions (April 1, 2002)

B) The following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, which may be obtained from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161:

i) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (October 1981)

ii) Guideline for Hand Hygiene in Health-Care Settings (October 2002)

iii) Guidelines for Prevention of Intravascular Catheter-Related Infections (2002)

iv) Guideline for Prevention of Surgical Site Infection (1999)

v) Guideline for Prevention of Nosocomial Pneumonia (February 1994)

vi) Guideline for Isolation Precautions in Hospitals (February 18, 1997)

vii) Guidelines for Infection Control in Health Care Personnel (1998)

b) All incorporations by reference of federal regulations and guidelines and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any amendments or editions subsequent to the date specified.

c) The following statutes and State regulations are referenced in this Part:

1) Federal statutes:

A) Civil Rights Act of 1964 (42 USC 2000e et seq.)

B) Social Security Act (42 USC 301 et seq., 1395 et seq. and 1396 et seq.)

C) Controlled Substances Act (21 USC 802)

2) State of Illinois statutes:

A) Illinois Alcoholism and Other Drug Dependency Act [20 ILCS 305]

B) Boiler and Pressure Vessel Safety Act [430 ILCS 75]

C) Child Care Act of 1969 [225 ILCS 10]

D) Court of Claims Act [705 ILCS 505]

E) Illinois Dental Practice Act [225 ILCS 25]

F) Election Code [10 ILCS 5]

G) Freedom of Information Act [5 ILCS 140]

H) General Not For Profit Corporation Act of 1986 [805 ILCS 105]

I) Illinois Health Facilities Planning Act [20 ILCS 3960~~3906~~]

J) Hospital Licensing Act [210 ILCS 85]

K) Illinois Municipal Code [65 ILCS 5]

L) Illinois Controlled Substances Act [720 ILCS 570]

M) Life Care Facilities Act [210 ILCS 40]

N) Local Governmental and Governmental Employees Tort Immunity Act [745 ILCS 10]

O) Medical Practice Act of 1987 [225 ILCS 60]

P) Mental Health and Developmental Disabilities Code [405 ILCS 5]

Q) Nurse Practice~~Illinois Nursing~~ Act ~~of 1987~~ [225 ILCS 65]

R) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70]

S) Nursing Home Care Act [210 ILCS 45]

T) Illinois Occupational Therapy Practice Act [225 ILCS 75]

U) Pharmacy Practice Act ~~of 1987~~ [225 ILCS 85]

V) Illinois Physical Therapy Act ~~of 1985~~ [225 ILCS 90]

W) Private Sewage Disposal Licensing Act [225 ILCS 225]

X) Probate Act of 1975 [755 ILCS 5]

Y) Illinois Public Aid Code [305 ILCS 5]

Z) Safety Glazing Materials Act [430 ILCS 60]

AA) Illinois Administrative Procedure Act [5 ILCS 100]

BB) Clinical Psychologist Licensing Act [225 ILCS 15]

CC) Dietetic and Nutrition Services Practice Act [225 ILCS 30]

DD) Health Care Worker Background Check Act [225 ILCS 46]

EE) Clinical Social Work and Social Work Practice Act [225 ILCS 20]

FF) Living Will Act [755 ILCS 35]

GG) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV]

HH) Health Care Surrogate Act [755 ILCS 40]

II) Right of Conscience Act [745 ILCS 70]

JJ) Abused and Neglected Long-Term Care Facility Residents Reporting Act [210 ILCS 30]

KK) Supportive Residences Licensing Act [210 ILCS 65]

LL) Community Residential Alternatives Licensing Act [210 ILCS 40]

MM) Community Living Facilities Licensing Act [210 ILCS 35]

NN) Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]

OO) Counties Code [55 ILCS 5]

PP) Illinois Act on the Aging [20 ILCS 105]

QQ) Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]

RR) Assisted Living and Shared Housing Act [210 ILCS 9]

SS) Alternative Health Care Delivery Act [210 ILCS 3]

TT) Podiatric Medical Practice Act of 1987 [225 ILCS 100]

UU) Physician Assistant Practice Act of 1987 [225 ILCS 95]

VV) Language Assistance Services Act [210 ILCS 87]

3) State of Illinois rules:

A) Office of the State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120)

B) Capital Development Board, Illinois Accessibility Code (71 Ill. Adm. Code 400)

C) Department of Public Health:

i) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

ii) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)

iii) Food Service Sanitation Code (77 Ill. Adm. Code 750)

iv) Illinois Plumbing Code (77 Ill. Adm. Code 890)

v) Private Sewage Disposal Code (77 Ill. Adm. Code 905)

vi) Drinking Water Systems Code (77 Ill. Adm. Code 900)

vii) Illinois Water Well Construction Code (77 Ill. Adm. Code

920)

viii) Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)

ix) Access to Public Records of the Department of Public Health~~Freedom of Information Code~~ (2 Ill. Adm. Code 1127~~1126~~)

x) ~~Rules of~~ Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

xi) Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

xii) Sheltered Care Facilities Code (77 Ill. Adm. Code 330)

xiii) Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)

xiv) Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)

xv) Control of Tuberculosis Code (77 Ill. Adm. Code 696)

xvi) Health Care Worker Background Check Code (77 Ill. Adm. Code 955)

xvii) Language Assistance Services Code (77 Ill. Adm. Code 940)

D) Department of Financial and Professional Regulation:

i) Controlled Substances Act (68 Ill. Adm. Code 3100)

ii) Pharmacy Practice Act ~~of 1987~~ (68 Ill. Adm. Code 1330)

E) Department of Human Services, Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060)

F) Department of Natural Resources, Regulation of Construction within Flood Plains (17 Ill. Adm. Code 2706)

G) Department of Healthcare and Family Services~~Public Aid~~, Medical Payment (89 Ill. Adm. Code 140)

(Source: Amended at 35 Ill. Reg. 3461, effective February 14, 2011)

SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section 350.2720 Mechanical Systems

a) Mechanical systems shall be tested, balanced, and operated to demonstrate that the installation and performance of these systems conform to the requirements of this Section~~these standards~~.

1) Upon the completion of the contract, the owner shall be furnished with a complete set of manufacturer's operating and preventative maintenance instructions, a parts list with numbers and descriptions for each piece of equipment, and a copy of the air-balance report. A complete set of these documents shall be kept on the premises.

2) The owner shall be provided with instructions in the operational use of the systems and equipment~~ as required~~.

b) Thermal and Acoustical Insulation. Thermal and acoustical insulation shall be provided as set forth in the ASHRAE Handbook of Fundamentals and the Handbook of Applications and NFPA 90A. Commercial kitchen grease hoods shall be insulated according to NFPA 96 and in accordance with the insulation manufacturer's installation instructions. Domestic water piping that is accessible to residents shall be insulated as required by the Illinois Accessibility Code. Insulation shall be provided for the following:

~~1) Insulation shall be provided for the following:~~

1)~~2)~~ Boilers, smoke breeching, and stacks;~~.~~

2)~~3)~~ Steam supply and condensate return piping;~~. (B)~~

3)~~4)~~ Hot water piping above l80 degrees Fahrenheit and all ~~hot~~ water heaters, generators, and convertors;~~.~~

4)~~5)~~ Hot water piping above 125 degrees Fahrenheit that~~which~~ is exposed to contact by residents;~~. (B)~~

5)~~6)~~ Chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below the ambient dew point;~~.~~

6)~~7)~~ Water supply and drainage piping on which condensate may occur;~~.~~

7)~~8)~~ Air ducts and casings with outside surface temperatures below the ambient dew point; and~~.~~

8)~~9)~~ Other piping, ducts, and equipment as necessary to maintain the efficiency of the system.

c)~~10)~~ Insulation may be omitted from hot water and steam condensate piping that is not subject to contact by residents when the~~such~~ insulation is not necessary for preventing excessive system heat loss or excessive heat gain.

d)~~A)~~ Insulation including finishes and adhesives on exterior surfaces of ducts, pipes, and equipment shall have a flame spread rating of 25 or less and a smoke developed rating of 50~~l50~~ or less as determined by an independent testing laboratory in accordance with the American Society for Testing and Materials Standard E84. Exception: Duct, pipe and equipment coverings shall not be required to meet these requirements if~~where~~ they are located entirely outside of a building, or do not penetrate a wall or roof or do not create an exposure hazard. ~~(B)~~

~~B) Access for filter changing shall be provided within equipment rooms.~~

e)~~c)~~ Steam and Hot Water Systems. Supply and return mains and risers for cooling, heating and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends.

f)~~d)~~ Thermal Hazards. Any surface that is accessible to residents and exceeds~~exceeding~~ a temperature of 140 degrees Fahrenheit (such as radiators, hot water or steam pipes, baseboard heaters, or therapy equipment) ~~that is accessible to residents~~ shall be provided with partitions, screens, shields, or other means to protect residents from injury. Any protective device shall be designed and installed so that it does not present a fire or safety hazard or adversely affect the safe operation of the equipment.

g)~~e)~~ Heating, ~~Cooling, and~~ Ventilating and Air Conditioning Systems

1) *Areas of a nursing home used by residents of the nursing home* shall *be air conditioned and heated by means of operable air-conditioning and heating equipment. The areas subject to this air-conditioning and heating requirement include, without limitation, bedrooms or common areas such as sitting rooms, activity rooms, living rooms, community rooms, and dining rooms.* (Section 3-202(8) of the Act)~~A design temperature of 75 degrees Fahrenheit for both summer and winter design conditions shall be provided for all resident use areas including corridors.~~

A) The mechanical system shall be capable of maintaining a temperature of at least 75 degrees Fahrenheit, pursuant to the requirements of Section 350.690(j).

B) The air-conditioning system shall be capable of maintaining an ambient air temperature of between 75 degrees Fahrenheit and 80 degrees Fahrenheit, pursuant to the requirements of Section 350.690(j).

2) All ventilation supply, return, and exhaust systems shall be mechanically operated.

3) Outdoor air intakes shall be located as far as practical, but not less than 15 feet, from the exhaust outlets of ventilation systems, combustion equipment stacks, plumbing vent stacks, or ~~from~~ areas that~~which~~ may collect vehicular exhaust and other noxious fumes, including the exhaust stream from fuel-fired heating, ventilating and air conditioning (HVAC) sections. The bottom of outdoor air intakes serving central systems shall be located as high as practical, but not less than six feet above ground

level, or, if installed above the roof, three feet above roof level. For fuel-fired heating sections of rooftop HVAC units, the exhaust vent may discharge not less than 36 inches above the highest point of the fresh air intake hood in lieu of the 15 foot separation.

4) The ventilation systems shall be designed and balanced to provide the pressure relationships and ventilation rates as shown in Table B. ~~(B)~~

5) A differential pressure measuring device shall be installed across each filter bed serving a central air system. The device may be a remote readout instrument if the remote readout is readily visible in a location accessible to the maintenance staff, or if the readout is displayed on an interactive screen.~~A manometer shall be installed across each filter bed serving central air systems.~~

6) Air conditioning and ventilating~~ventilation~~ systems shall be designed, installed, and maintained as required by NFPA~~National Fire Protection Association Standard~~ 90A. For areas within the footprint of the facility that are heated by fuel-fired appliances using an air-to-air heat exchanger, no fewer than two carbon monoxide (CO) detectors shall be installed in the area served by each heat exchanger. One CO detector shall be installed within five feet of a supply duct and one within five feet of a return or exhaust duct. CO detectors shall be line or system powered and shall signal the building fire alarm system when activated. If detectors are line powered, a battery back-up or connection to the emergency power system is required.~~(A, B)~~

7) The hood and duct system for cooking equipment used in processes that produce~~producing~~ smoke or grease-laden vapors shall comply~~be in conformance~~ with NFPA~~National Fire Protection Association Standard~~ 96. The hood's extinguishment system shall be connected to the building fire alarm system and shall initiate a general alarm when activated. Duct insulation that is used in lieu of spacing from combustible construction members shall terminate at the top of the hood on the lower end, covering the duct collar, and shall pass through any combustible nailer opening in the roof/ceiling assembly and into the roof jack assembly. The material used shall be installed exactly as the manufacturer's installations require.~~That portion of the fire extinguishment system required for protection of the duct system may be omitted when all cooking equipment~~

~~is served by a grease extractor listed by Underwriter's Laboratory or other independent testing laboratories. (A, B)~~

8) Boiler rooms and other rooms having combustion equipment shall be provided with sufficient outdoor air to maintain combustion rates of equipment and limit temperatures to 20~~97~~ degrees Fahrenheit over ambient inside air in adjacent interior spaces. If sealed combustion units are in use, the discharge line shall remain clear of any adjacent walk paths and shall be not less than 15 feet from any operable fenestration or air intakes. NFPA 54 shall apply, including the calculations for combustion air openings. Effective temperature~~Temperature~~ shall be as defined by the American Society of Heating, Refrigerating, and Air Conditioning ~~Refrigeration~~ Engineers Handbook of Fundamentals. ~~(A, B)~~

9) Rooms containing heat-producing equipment, such as boiler rooms, heater rooms, food preparation centers, laundries, and sterilizer rooms, shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of 10~~ten~~ degrees Fahrenheit above the ambient room temperature. The ventilation rates shown in Table B shall be considered as minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates.

10) Access for filter changing shall be provided within equipment rooms.

(Source: Amended at 35 Ill. Reg. 3461, effective February 14, 2011)

SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section 350.3020 Mechanical Systems

a) Mechanical systems shall be maintained to assure proper working order and safe operation. Instructions in the operational use of the systems and equipment shall~~must~~ be available at the facility. ~~(B)~~

b) Thermal and Acoustical Insulation. Insulation shall~~It is recommended that insulation~~ be provided for the following:

1) Boilers, smoke breeching, and stacks;~~.~~

2) Steam supply and condensate return piping;~~.~~

3) Hot water piping above l80 degrees Fahrenheit and all ~~hot~~ water heaters, generators, and converters;~~.~~

4) Hot water piping above 125 degrees Fahrenheit that~~which~~ is exposed to contact by residents;~~.~~

5) Chilled water, refrigerant, and other process piping and equipment operating with fluid temperatures below the ambient dew point;~~.~~

6) Water supply and drainage piping on which condensation may occur;~~.~~

7) Air ducts and casings with outside surface temperature below the ambient dew point; and~~.~~

8) Other piping, ducts, and equipment as necessary to maintain the efficiency of the system.

c)~~9)~~ Insulation may be omitted from hot water and steam condensate piping that is not subject to contact by residents when the~~such~~ insulation is not necessary for preventing excessive system~~systems~~ heat loss or excessive heat gain.

d)~~10)~~ Insulation on cold surfaces shall include an exterior vapor barrier.

e)~~11)~~ Insulation, including finishes and adhesives on exterior surfaces of ducts, pipes, and equipment, shall have a flame spread rating of 25 or less and a smoke developed rating of 50~~l50~~ or less as determined by an independent testing laboratory in accordance with ASTM Standard E 84. Exception: Duct, pipe, and equipment coverings shall not be required to meet these requirements if~~where~~ they are located entirely outside of a building, ~~or~~ do not penetrate a wall or roof, or do not create an exposure hazard.

f)~~e)~~ Steam and Hot Water Systems. Supply~~It is recommended that supply~~ and return mains and risers for cooling, heating, and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends.

g)~~d)~~ Thermal Hazards. Any surface that is accessible to residents and exceeds~~exceeding~~ a temperature of 140 degrees Fahrenheit (such as radiators, hot water or steam pipes, baseboard heaters, or therapy equipment) ~~that is accessible to residents~~ shall be provided with partitions, screens, shields, or other means to protect residents from injury. Any protective device shall be designed and installed so that it does not present a fire or safety hazard or adversely affect the safe operation of the equipment.

h)~~e)~~ Heating, ~~Cooling, and~~ Ventilating, and Air Conditioning Systems

1) *Areas of a nursing home used by residents of the nursing home* shall *be air conditioned and heated by means of operable air-conditioning and heating equipment. The areas subject to this air-conditioning and heating requirement include, without limitation, bedrooms or common areas such as sitting rooms, activity rooms, living rooms, community rooms, and dining rooms.* (Section 3-202(8) of the Act)~~The heating system shall be capable of maintaining a temperature of 75 degrees Fahrenheit in all resident use spaces.~~

A) The mechanical system shall be capable of maintaining a temperature of at least 75 degrees Fahrenheit, pursuant to the requirements of Section 350.690(j).

B) The air-conditioning system shall be capable of maintaining an ambient air temperature of between 75 degrees Fahrenheit and 80 degrees Fahrenheit, pursuant to the requirements of Section 350.690(j).

2) ~~Auxiliary gas or electric space heaters of an approved closed type may be installed in areas requiring more heat than is produced by the central heating system.~~ Heaters or furnaces of a type to be installed under, in, or on the floor are not permitted. ~~(B)~~

3) All ventilation supply, return, and exhaust systems shall be mechanically operated.

4) The kitchen shall be provided with ventilation for reasonable comfort and with sufficient make-up air for the rangehood exhaust. ~~(B)~~

5) The laundry shall be provided with ventilation for reasonable comfort, ~~and~~ with air flowing from clean areas to soiled areas and with exhaust to the outdoors. ~~(B)~~

6) Outdoor~~It is recommended that outdoor~~ air intakes shall be located as far as practical, but not less than 15 feet, from the exhaust outlets of ventilation systems, combustion equipment stacks, plumbing vent stacks, or ~~from~~ areas that~~which~~ may collect vehicular exhaust and other noxious fumes. The bottom of outdoor air intakes serving central systems shall~~should~~ be located as high as practical, but not less than six feet above ground level, or, if installed above the roof, three feet above roof level.

7) Air conditioning and ventilating systems shall be maintained to comply with~~conform to~~ the requirements of NFPA 90A. ~~(A, B) Exception: For facilities not exceeding 25,000 cubic feet in volume, NFPA 90B shall apply except "pipeless floor furnaces" are not permitted.~~

8) The hood and duct system for cooking equipment used in processes that produce smoke or grease-laden vapors, such as griddle frying or deep frying, shall comply~~be in conformance~~ with NFPA 96. The hood's extinguishment system shall be connected to the building fire alarm system and shall initiate a general alarm when activated. Duct insulation that is used in lieu of spacing from combustible construction members shall terminate at the top of the hood on the lower end, covering the duct collar, and shall pass through any combustible nailer opening in the roof/ceiling assembly and into the roof jack assembly. The material used shall be installed exactly as the manufacturer's instructions require.~~That portion of the fire extinguishment system required for protection of the duct system maybe omitted when all cooking equipment is served by a grease extractor listed by Underwriter's Laboratory or other independent testing laboratory. (A, B)~~

9) Boiler rooms and other rooms housing combustion equipment shall be provided with sufficient outdoor air to maintain proper combustion rates of equipment and to limit room temperatures to 20 degrees Fahrenheit over ambient inside air in adjacent interior spaces. If sealed combustion units are in use, the discharge line is to remain clear of any adjacent walk paths and shall be not less than 15 feet from any operable fenestration or air intakes. NFPA 54 shall apply, including the calculations for

combustion air openings. ~~(A, B)~~

10) For areas within the footprint of the facility that are heated by fuel-fired appliances using an air-to-air heat exchanger, no fewer than two carbon monoxide (CO) detectors shall be installed in the area served by each heat exchanger. One CO detector shall be installed within five feet of a supply duct and one within five feet of a return or exhaust duct. CO detectors shall be line or system powered and shall signal the building fire alarm system when activated. If detectors are line powered, a battery back-up or connection to the emergency power system is required.~~A capability shall be provided to maintain a temperature of at least 55 degrees Fahrenheit for at least 12 hours when the normal source of electrical power is interrupted. (A, B)~~

(Source: Amended at 35 Ill. Reg. 3461, effective February 14, 2011)

SUBPART O: RESIDENT'S RIGHTS

Section 350.3220 Medical ~~and Personal~~ Care ~~Program~~

a) *A resident shall be permitted to retain the services of his* or her *own personal physician at his* or her *own expense under an individual or group plan of health insurance, or under any public or private assistance program providing such coverage.* (Section 2-104(a) of the Act) ~~(B)~~

b) *The Department shall not prescribe the course of medical treatment provided to an individual resident by the resident's physician in a facility.* (Section 3-201~~2-104(a)~~ of the Act)

c) *Every resident shall be permitted to obtain from his* or her *own physician or the physician attached to the facility complete and current information concerning his* or her *medical diagnosis, treatment and prognosis in terms and language the resident can reasonably be expected to understand.* (Section 2-104(a) of the Act)

d) *Every resident~~All residents~~ shall be permitted to participate in the planning of his* or her~~*their*~~ *total care and medical treatment to the extent that his* or her~~*their*~~ *condition permits.* (Section 2-104(a) of the Act)

e) *No resident shall be subjected to experimental research or treatment without first*

obtaining his or her *informed, written consent. The conduct of any experimental research or treatment shall be authorized and monitored by an institutional review committee appointed by the administrator of the facility where such research and treatment is conducted.* (Section 2-104(a) of the Act) ~~(A, B)~~

f) *All medical treatment and procedures shall be administered as ordered by a physician. All new physician orders shall be reviewed by the facility's director of nursing or charge nurse designee within 24 hours after such orders have been issued to assure facility compliance with such orders.* (Section 2-104(b) of the Act)

g) *Every woman resident of child-bearing age shall receive routine obstetrical and gynecological evaluations as well as necessary prenatal care.* (Section 2-104(b) of the Act) In addition, women residents shall~~should~~ be referred immediately for diagnosis whenever pregnancy is suspected.

1) "Routine obstetrical evaluations" and "necessary prenatal care" shall include, at~~as~~ a minimum, the following:

A) Early diagnosis of pregnancy;

B) A comprehensive health history, including menstrual history, methods of family planning that the patient has used, a detailed record of past pregnancies, and data on the current pregnancy that allow the physician to estimate the date of delivery;

C) Identification of factors in the current pregnancy that help to identify the patient at high risk, such as maternal age, vaginal bleeding, edema, urinary infection, exposure to radiation and chemicals, ingestion of drugs and alcohol, and use of tobacco;

D) A comprehensive physical examination, including an evaluation of nutritional status; determination of height, weight and blood pressure; examination of the head, breasts, heart, lungs, abdomen, pelvis, rectum, and extremities;~~.~~

E) The following laboratory tests, as early in pregnancy as possible. Findings obtained from the history and physical examination may determine the need for additional laboratory evaluations;~~.~~

i) Hemoglobin or hematocrit measurement;

ii) Urinalysis, including microscopic examination or culture;

iii) Blood group and Rh type determination;

iv) Antibody screen;

v) Rubella antibody titer measurement;

vi) Syphilis screen;

vii) Cervical cytology; and

viii) Viral hepatitis (HBsAg) testing;

F) A risk assessment that, ~~which,~~ based on the findings of the history and physical examination, should indicate any risk factors that may require special management, such as cardiovascular disease, maternal age ~~less than 15 years or~~ more than 35 years, neurologic disorder, or congenital abnormalities;~~.~~

G) Return visits, the frequency of which will be determined by the patient's needs and risk factors. A~~Generally a~~ woman with an uncomplicated pregnancy shall~~should~~ be seen every four~~4~~ weeks for the first 28 weeks of pregnancy, every two to three~~2-3~~ weeks until 36 weeks of gestation, and weekly thereafter;~~.~~

H) Determinations~~The physical examination at each visit should include determinations~~ of blood pressure, measured fundal height, fetal heart rate, and, in later months, fetal presentation, urinalysis for albumin and glucose. Hemoglobin or hematocrit level shall~~should~~ be measured again early in the third trimester. Glucose screening is recommended for women who are 30 years of age or older;~~.~~

I) Evaluation and monitoring of nutritional status and habits;~~.~~

J) Education for health promotion and maintenance;~~.~~

K) Counseling concerning exercise and child birth education programs;~~.~~

L) Postpartum review and evaluation four to eight~~4–8~~ weeks after delivery, including determination of weight and blood pressure and assessment of status of breasts, abdomen, and external and internal genitalia.

2) "Routine gynecological evaluations" shall include, at~~as~~ a minimum, the following:

A) An initial examination, the basic components of which are:

i) History; any present illnesses; menstrual, reproductive, medical, surgical, emotional, social, family, and sexual history; medications; allergies; family planning; and systems review;~~.~~

ii) Physical examination, including height, weight, nutritional status, and blood pressure; head and neck, including thyroid gland; heart; lungs; breasts; abdomen; pelvis, including external and internal genitalia; rectum; extremities, including signs of abuse; lymph nodes; and~~.~~

iii) Laboratory tests, including urine screen; hemoglobin or hematocrit determination and, if indicated, complete blood cell count; cervical cytology; rubella titer.

B) Annual updates, including but not limited to:

i) History, including the purpose of the visit; menstrual history; interval history, including systems review; emotional history;~~.~~

ii) Physical examination, including weight, nutritional status and blood pressure; thyroid gland; breasts; abdomen; pelvis, including external and internal genitalia; rectum;

other areas as indicated by the interval history;.

iii) Laboratory, including urine screen; cervical cytology, unless not indicated; hemoglobin or hematocrit determinations; and.

iv) Additional laboratory tests, such as screening for sexually transmitted disease, should be performed as warranted by the history, physical findings, and risk factors.

C) Cancer screening:

i) An annual Pap test for all women who are or have been sexually active or have reached age 18.

ii) Mammography if indicated.

3) When a resident is referred for a diagnosis of pregnancy and/or for prenatal care, the facility shall send the health care provider a copy of the resident's medical record, including a list of prescription medications taken by the resident;, the resident's use of alcohol, tobacco and illicit drugs; and any, or exposure of the resident to radiation or chemicals during the preceding three months.

h) Cancer screening. Cancer screening for women shall include the following:

1) A periodic Pap test. The frequency and administration of Pap tests shall be according to the guidelines set forth in the Guidelines for Women's Health Care, published by the American College of Obstetricians and Gynecologists; and

2) Mammography. The frequency and administration of mammograms shall be according to the guidelines set forth in the Guidelines for Women's Health Care.

i)h) *Every resident shall be permitted to refuse medical treatment and to know the consequences of such action, unless such refusal would be harmful to the health and safety of others and such harm is documented by a physician in the resident's clinical record.* (Section 2-104(c) of the Act) (B)

j)~~i)~~ ~~Inspection and Copying of Records1)~~*Every resident, resident's guardian, or parent if the resident is a minor shall be permitted to inspect and copy all of* the resident's~~*the resident's*~~ *clinical and other records concerning* the resident's~~*the resident's*~~ *care and maintenance kept by the facility or by* the resident's~~*the resident's*~~ *physician.* (Section 2-104(d) of the Act)

~~2)~~ ~~*Every resident's representative shall be permitted to inspect and copy the resident's records. A "resident's representative" is a person, other than the owner or an agent or employee of a facility who is not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed.* (Sections 1-123 and 2-202(h) of the Act)~~

k)~~j)~~ *A resident shall be permitted respect and privacy in his* or her *medical and personal care program. Every resident's case discussion, consultation, examination and treatment shall be confidential and shall be conducted discreetly, and those persons not directly involved in the resident's care must have his* or her *permission to be present.* (Section 2-105 of the Act) ~~(B)~~

(Source: Amended at 35 Ill. Reg. 3461, effective February 14, 2011)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code

2) Code Citation: 77 Ill. Adm. Code 390

3)

Section Numbers:	Adopted Action:
390.340	Amendment
390.2720	Amendment
390.3020	Amendment
390.3220	Amendment

4) Statutory Authority: MR/DD Community Care Act [210 ILCS 47]

5) Effective Date of Rulemaking: February 14, 2011

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 rulemaking, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: May 21, 2010; 34 Ill. Reg. 7149

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version:

The following changes were made in response to comments received during the first notice or public comment period:

1. In Section 390.2720(g)(2)(A), "at all times" was deleted and ", pursuant to the requirements of Section 390.690(j)" was inserted after "Fahrenheit".

2. In Section 390.2720(g)(1)(B), "81" was changed to "80" and ", pursuant to the requirements of Section 390.690(j)" was inserted after "Fahrenheit".

3. In Section 390.3020(h)(1)(A), "at all times" was deleted and ", pursuant to the requirements of Section 390.690(j)" was inserted after "Fahrenheit".

4. In Section 390.3020(h)(1)(B), "81" was changed to "80" and ", pursuant to the requirements of Section 390.670(j)" was inserted after "Fahrenheit".

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

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of the Rulemaking: Part 390 regulates facilities that provide long-term care for residents under age 22, including climate control for the residents' comfort and regular medical care that residents receive.

Section 390.340 (Incorporated and Referenced Materials) was amended to incorporate professional standards necessary to this rulemaking. The Department is preparing more comprehensive amendments to 390.340 to be proposed in a future rulemaking.

Sections 390.2720 (Mechanical Systems) and 390.3020 (Mechanical Systems) were amended to incorporate minimum standards for air conditioning and heating in all facilities mandated by Public Act 95-0031, enacted by the General Assembly in 2007

In Section 390.3220 (Medical and Personal Care Program) the requirements for cancer screening for women were updated to conform to the standards of the Guidelines for Women's Health Care, published by the American College of Obstetricians and Gynecologists.

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

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

217/782-2043

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

e-mail: dph.rules@illinois.gov

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 390
LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section
390.110 General Requirements
390.120 Application for License
390.130 Licensee
390.140 Issuance of an Initial License for a New Facility
390.150 Issuance of an Initial License Due to a Change of Ownership
390.160 Issuance of a Renewal License
390.165 Criteria for Adverse Licensure Actions
390.170 Denial of Initial License
390.175 Denial of Renewal of License
390.180 Revocation of License
390.190 Experimental Program Conflicting With Requirements
390.200 Inspections, Surveys, Evaluations and Consultation
390.210 Filing an Annual Attested Financial Statement
390.220 Information to be Made Available to the Public by the Department
390.230 Information to Be Made Available to the Public By the Licensee
390.240 Municipal Licensing
390.250 Ownership Disclosure
390.260 Issuance of Conditional Licenses
390.270 Monitor and Receivership
390.271 Presentation of Findings
390.272 Determination to Issue a Notice of Violation or Administrative Warning
390.274 Determination of the Level of a Violation
390.276 Notice of Violation
390.277 Administrative Warning
390.278 Plans of Correction
390.280 Reports of Correction
390.282 Conditions for Assessment of Penalties
390.284 Calculation of Penalties
390.286 Determination to Assess Penalties

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

390.288 Reduction or Waiver of Penalties
390.290 Quarterly List of Violators (Repealed)
390.300 Alcoholism Treatment Programs in Long-Term Care Facilities
390.310 Department May Survey Facilities Formerly Licensed
390.315 Supported Congregate Living Arrangement Demonstration
390.320 Waivers
390.330 Definitions
390.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
390.500 Administrator

SUBPART C: POLICIES

Section
390.610 Management Policies
390.620 Resident Care Policies
390.625 Pre-admission Assessment and Request for Criminal History Record Information (Repealed)
390.630 Admission, Retention and Discharge Policies
390.635 Identified Offenders (Repealed)
390.636 Discharge Planning for Identified Offenders (Repealed)
390.637 Transfer of an Identified Offender (Repealed)
390.640 Contract Between Resident and Facility
390.650 Residents' Advisory Council
390.660 General Policies
390.670 Personnel Policies
390.675 Initial Health Evaluation for Employees
390.680 Child Care/Habilitation Aides
390.681 Health Care Worker Background Check
390.682 Resident Attendants
390.683 Registry of Child Care/Habilitation Aides
390.685 Student Interns
390.690 Disaster Preparedness
390.700 Incidents and Accidents
390.750 Contacting Local Law Enforcement
390.760 Infection Control

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART D: PERSONNEL

Section
390.810 General
390.820 Categories of Personnel
390.830 Consultation Services

SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

Section
390.1010 Service Programs
390.1020 Medical Services
390.1025 Life-Sustaining Treatments
390.1030 Physician Services
390.1035 Tuberculin Skin Test Procedures
390.1040 Nursing Services
390.1050 Dental Care Services
390.1060 Physical and Occupational Therapy Services
390.1070 Psychological Services
390.1080 Social Services
390.1090 Speech Pathology and Audiology Services
390.1100 Recreational and Activity Services
390.1110 Educational Services
390.1120 Work Activity and Prevocational Training Services
390.1130 Communicable Disease Policies
390.1140 Vaccinations
390.1150 Language Assistance Services

SUBPART F: RESTRAINTS AND BEHAVIOR MANAGEMENT

Section
390.1310 Restraints
390.1312 Nonemergency Use of Physical Restraints
390.1314 Emergency Use of Physical Restraints
390.1316 Unnecessary, Psychotropic, and Antipsychotic Drugs
390.1320 Behavior Management
390.1330 Behavior Emergencies (Repealed)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART G: MEDICATIONS

Section
390.1410 Medication Policies and Procedures
390.1420 Compliance with Licensed Prescriber's Orders
390.1430 Administration of Medication
390.1440 Labeling and Storage of Medications
390.1450 Control of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

Section
390.1610 Resident Record Requirements
390.1620 Content of Medical Records
390.1630 Confidentiality of Resident's Records
390.1640 Records Pertaining to Residents' Property
390.1650 Retention and Transfer of Resident Records
390.1660 Other Resident Record Requirements
390.1670 Staff Responsibility for Medical Records
390.1680 Retention of Facility Records
390.1690 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section
390.1810 Director of Food Services
390.1820 Dietary Staff in Addition to Director of Food Services
390.1830 Hygiene of Dietary Staff
390.1840 Diet Orders
390.1850 Meal Planning
390.1860 Infant and Therapeutic Diets
390.1870 Scheduling Meals
390.1880 Menus and Food Records
390.1890 Food Preparation and Service
390.1900 Preparation of Infant Formula
390.1910 Food Handling Sanitation
390.1920 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section
390.2010 Maintenance
390.2020 Housekeeping
390.2030 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
390.2210 Furnishings
390.2220 Equipment and Supplies
390.2230 Sterilization of Supplies and Equipment

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section
390.2410 Codes
390.2420 Water Supply
390.2430 Sewage Disposal
390.2440 Plumbing

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

Section
390.2610 Applicability of these Standards
390.2620 Codes and Standards
390.2630 Preparation of Drawings and Specifications
390.2640 Site
390.2650 Administration and Public Areas
390.2660 Nursing Unit
390.2670 Dining, Play, Activity/Program Rooms
390.2680 Therapy and Personal Care
390.2690 Service Departments
390.2700 General Building Requirements
390.2710 Structural
390.2720 Mechanical Systems
390.2730 Plumbing Systems
390.2740 Electrical Systems

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING FACILITIES

Section
390.2910 Applicability
390.2920 Codes and Standards
390.2930 Preparation of Drawings and Specifications
390.2940 Site
390.2950 Administration and Public Areas
390.2960 Nursing Unit
390.2970 Play, Dining, Activity/Program Rooms
390.2980 Treatment and Personal Care
390.2990 Service Department
390.3000 General Building Requirements
390.3010 Structural
390.3020 Mechanical Systems
390.3030 Plumbing Systems
390.3040 Electrical Requirements

SUBPART O: RESIDENT'S RIGHTS

Section
390.3210 General
390.3220 Medical ~~and Personal~~ Care ~~Program~~
390.3230 Restraints (Repealed)
390.3240 Abuse and Neglect
390.3250 Communication and Visitation
390.3260 Resident's Funds
390.3270 Residents' Advisory Council
390.3280 Contract With Facility
390.3290 Private Right of Action
390.3300 Transfer or Discharge
390.3310 Complaint Procedures
390.3320 Confidentiality
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SUBPART P: DAY CARE PROGRAMS

Section
390.3510 Day Care in Long-Term Care Facilities

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

390.APPENDIX A	Interpretation and Illustrative Services for Long-Term Care Facility for Residents Under 22 Years of Age (Repealed)
390.APPENDIX B	Forms for Day Care in Long-Term Care Facilities
390.APPENDIX C	Guidelines for the Use of Various Drugs
390.TABLE A	Infant Feeding
390.TABLE B	Daily Nutritional Requirements By Age Group
390.TABLE C	Sound Transmissions Limitations
390.TABLE D	Pressure Relationships and Ventilation Rates of Certain Areas for New Long-Term Care Facilities for Persons Under Twenty-Two (22) Years of Age
390.TABLE E	Sprinkler Requirements
390.TABLE F	Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the MR/DD Community Care Act [210 ILCS 47].

SOURCE: Adopted at 6 Ill. Reg. 1658, effective February 1, 1982; emergency amendment at 6 Ill. Reg. 3223, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11622, effective September 14, 1982; amended at 6 Ill. Reg. 14557 and 14560, effective November 8, 1982; amended at 6 Ill. Reg. 14678, effective November 15, 1982; amended at 7 Ill. Reg. 282, effective December 22, 1982; amended at 7 Ill. Reg. 1927, effective January 28, 1983; amended at 7 Ill. Reg. 8574, effective July 11, 1983; amended at 7 Ill. Reg. 15821, effective November 15, 1983; amended at 7 Ill. Reg. 16988, effective December 14, 1983; amended at 8 Ill. Reg. 15585, 15589, and 15592, effective August 15, 1984; amended at 8 Ill. Reg. 16989, effective September 5, 1984; codified at 8 Ill. Reg. 19823; amended at 8 Ill. Reg. 24159, effective November 29, 1984; amended at 8 Ill. Reg. 24656, effective December 7, 1984; amended at 8 Ill. Reg. 25083, effective December 14, 1984; amended at 9 Ill. Reg. 122, effective December 26, 1984; amended at 9 Ill. Reg. 10785, effective July 1, 1985; amended at 11 Ill. Reg. 16782, effective October 1, 1987; amended at 12 Ill. Reg. 931, effective December 24, 1987; amended at 12 Ill. Reg. 16780, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18243, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6301, effective April 17, 1989; amended at 13 Ill. Reg. 19521, effective December 1, 1989; amended at 14 Ill. Reg. 14904, effective October 1, 1990; amended at 15 Ill. Reg. 1878, effective January 25, 1991; amended at 16 Ill. Reg. 623, effective January 1, 1992; amended at 16 Ill. Reg. 14329, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2390, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7974, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15073, effective

September 3, 1993; amended at 17 Ill. Reg. 16167, effective January 1, 1994; amended at 17 Ill. Reg. 19235, effective October 26, 1993; amended at 17 Ill. Reg. 19547, effective November 4, 1993; amended at 17 Ill. Reg. 21031, effective November 20, 1993; amended at 18 Ill. Reg. 1453, effective January 14, 1994; amended at 18 Ill. Reg. 15807, effective October 15, 1994; amended at 19 Ill. Reg. 11525, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 535, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10106, effective July 15, 1996; amended at 20 Ill. Reg. 12101, effective September 10, 1996; amended at 22 Ill. Reg. 4062, effective February 13, 1998; amended at 22 Ill. Reg. 7188, effective April 15, 1998; amended at 22 Ill. Reg. 16576, effective September 18, 1998; amended at 23 Ill. Reg. 1069, effective January 15, 1999; amended at 23 Ill. Reg. 8021, effective July 15, 1999; amended at 24 Ill. Reg. 17283, effective November 1, 2000; amended at 25 Ill. Reg. 4890, effective April 1, 2001; amended at 26 Ill. Reg. 4890, effective April 1, 2002; amended at 26 Ill. Reg. 10645, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2258, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5509, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5947, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14250, effective August 15, 2003, for a maximum of 150 days; emergency expired January 12, 2004; amended at 27 Ill. Reg. 15949, effective September 25, 2003; amended at 27 Ill. Reg. 18204, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3565, effective November 15, 2003; amended at 28 Ill. Reg. 11231, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 12025, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15301, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12988, effective August 2, 2005; amended at 30 Ill. Reg. 1473, effective January 23, 2006; amended at 30 Ill. Reg. 5383, effective March 2, 2006; amended at 31 Ill. Reg. 6145, effective April 3, 2007; amended at 31 Ill. Reg. 8864, effective June 6, 2007; amended at 33 Ill. Reg. 9406, effective June 17, 2009; amended at 34 Ill. Reg. 19239, effective November 23, 2010; amended at 35 Ill. Reg. 3495, effective February 14, 2011.

SUBPART A: GENERAL PROVISIONS

Section 390.340 Incorporated and Referenced Materials

a) The following regulations, guidelines, and standards are incorporated in this Part:

1) ANSI/ASME Standard No. A17.1-2000, Safety Code for Elevators and Escalators, which may be obtained from the American Society of Mechanical Engineers (ASME) International, 22 Law Drive, Box 2900,

Fairfield, New Jersey 07007-2900.

2) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals (2001), and Handbook of Applications (1999), which may be obtained from the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329.

3) American Society for Testing and Materials (ASTM), International Standard No. E90-02 (1996): Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements, and Standard No. E84-08a, Standard Test Method for Surface Burning Characteristics of Building Materials (2006), which may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959.

4) International Building Code (IBC) (2000), which may be obtained from Building Officials and Code Administrators (BOCA) International, 4051 W. Flossmoor Road, Country Club Hills, Illinois 60478-5795.

5) For existing facilities (see Subpart N), National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Appendix B (1981) and the following additional standards, which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169:

A) No. 10 (1978): Standards for Portable Extinguishers

B) No. 13 (1980): Standards for the Installation of Sprinkler Systems

C) No. 54 (1999): National Fuel Gas Code

D)~~C)~~ No. 56F (1977): Standards for Non-Flammable Medical Gas Systems

E)~~D)~~ No. 70 (1981): National Electric Code

F)~~E)~~ No. 90A (1999~~1978~~): Standard for the Installation of Air Conditioning and Ventilating Systems

G)~~F)~~ No. 96 (1998~~1980~~): Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations~~the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment~~

H)~~G)~~ No. 220 (1979): Standards Types of Building Construction

I)~~H)~~ No. 253 (1978): Flooring Radiant Heat Energy Test

J)~~I)~~ No. 255 (1972): Test of Surface Burning Characteristics of Building Materials

K)~~J)~~ Appendix C (1981): Fire Safety Evaluation System for Health Occupancies

6) For new facilities (see Subpart M), the following standards of the National Fire Protection Association (NFPA), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169:

A) NFPA 17A, Standard for Wet Chemical Extinguishing Systems – 2002 Edition

B) NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection – 1999 Edition

C) NFPA 22, Standard for Water Tanks for Private Fire Protection – 1998 Edition

D) NFPA 24, Standard for the Installation of Private Fire Service Mains and Their Appurtenances – 2002 Edition

E) NFPA 50, Standard for Bulk Oxygen Systems at Consumer Sites – 2001 Edition

F) NFPA 54, National Fuel Gas Code − 1999 Edition

G)~~F)~~ NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition

H)~~G)~~ NFPA 70E, Standard for Electrical Safety Requirements for Employee Workplaces – 2000 Edition

I)~~H)~~ NFPA 80A, Recommended Practice for Protection of Buildings from Exterior Fire Exposures – 2001 Edition

J) NFPA 90A, Standard for the Installation of Air Conditioning and Ventilating Systems − 1999 Edition

K) NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations − 1998 Edition

L)~~I)~~ NFPA 101, Life Safety Code – 2000 Edition

M)~~J)~~ NFPA 105, Recommended Practice for the Installation of Smoke-Control Door Assemblies –1999 Edition

7) For new and existing facilities (see Section 300.1410), NFPA 99: Standard for Health Care Facilities – 2003 Edition.

8) The following standards, which may be obtained from Underwriters Laboratories (UL), Inc., 333 Pfingsten Rd., Northbrook, Illinois 60062:

A) Fire Resistance Directory (2003 Edition)

B) Building Material Directory (2003 Edition)

9) The following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, which may be obtained from the National Technical Information Services (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161:

A) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (October 1981)

B) Guideline for Hand Hygiene in Health-Care Settings (October 2002)

C) Guidelines for Prevention of Intravascular Catheter-Related Infections (2002)

D) Guideline for Prevention of Surgical Site Infection (1999)

E) Guideline for Prevention of Nosocomial Pneumonia (February 1994)

F) Guideline for Isolation Precautions in Hospitals (February 18, 1997)

G) Guidelines for Infection Control in Health Care Personnel (1998)

10) American College of Obstetricians and Gynecologists, Guidelines for Women's Health Care, Third Edition (2007), which may be obtained from the American College of Obstetricians and Gynecologists Distribution Center, P.O. Box 933104, Atlanta, Georgia 31193-3104 (800-762-2264). (See Section 390.3220.)

b) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any amendments or editions subsequent to the date specified.

c) The following statutes and State regulations are referenced in this Part:

1) Federal statutes:

A) Civil Rights Act of 1964 (42 USC 2000e et seq.)

B) Social Security Act (42 USC 301 et seq., 1395 et seq., and 1396 et seq.)

C) Controlled Substances Act (21 USC 802)

2) State of Illinois statutes:

A) Illinois Alcoholism and Other Drug Dependency Act [20 ILCS 305]

B) Boiler and Pressure Vessel Safety Act [430 ILCS 75]

C) Child Care Act of 1969 [225 ILCS 10]

D) Civil Practice Act [735 ILCS 5]

E) Court of Claims Act [705 ILCS 505]

F) Illinois Dental Practice Act [225 ILCS 25]

G) Election Code [10 ILCS 5]

H) Freedom of Information Act [5 ILCS 140]

I) General Not For Profit Corporation Act [805 ILCS 105]

J) Hospital Licensing Act [210 ILCS 85]

K) Illinois Controlled Substances Act [720 ILCS 570]

L) Illinois Health Facilities Planning Act [20 ILCS 3960~~3906~~]

M) Illinois Municipal Code [65 ILCS 5]

N) Life Care Facilities Act [210 ILCS 40]

O) Local Governmental and Governmental Employees Tort Immunity Act [745 ILCS 10]

P) Medical Practice Act of 1987 [225 ILCS 60]

Q) Mental Health and Developmental Disabilities Code [405 ILCS 5]

R) Nurse~~Nursing and Advanced~~ Practice ~~Nursing~~ Act [225 ILCS 65]

S) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70]

T) Nursing Home Care Act [210 ILCS 45]

U) Illinois Occupational Therapy Practice Act [225 ILCS 75]

V) Pharmacy Practice Act ~~of 1987~~ [225 ILCS 85]

W) Illinois Physical Therapy Act ~~of 1985~~ [225 ILCS 90]

X) Private Sewage Disposal Licensing Act [225 ILCS 225]

Y) Probate Act of 1975 [755 ILCS 5]

Z) Illinois Public Aid Code [305 ILCS 5]

AA) Safety Glazing Materials Act [430 ILCS 60]

BB) School Code [105 ILCS 5]

CC) Illinois Administrative Procedure Act [5 ILCS 100]

DD) Clinical Psychologist Licensing Act [225 ILCS 15]

EE) Dietetic and Nutrition Services Practices Act [225 ILCS 30]

FF) Health Care Worker Background Check Act [225 ILCS 46]

GG) Clinical Social Work and Social Work Practice Act [225 ILCS 20]

HH) Living Will Act [755 ILCS 35]

II) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV]

JJ) Health Care Surrogate Act [755 ILCS 40]

KK) Right of Conscience Act [745 ILCS 70]

LL) Abused and Neglected Long-Term Care Facility Residents Reporting Act [210 ILCS 30]

MM) Supportive Residences Licensing Act [210 ILCS 65]

NN) Community Residential Alternatives Licensing Act [210 ILCS 40]

OO) Community Living Facilities Licensing Act [210 ILCS 35]

PP) Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]

QQ) Counties Code [55 ILCS 5]

RR) Podiatric Medical Practice Act of 1987 [225 ILCS 100]

SS) Illinois Optometric Practice Act of 1987 [225 ILCS 80]

TT) Physician Assistant Practice Act of 1987 [220 ILCS 95]

UU) Alternative Health Care Delivery Act [210 ILCS 3]

VV) Uniform Conviction Information Act [20 ILCS 2635]

WW) Wrongs to Children Act [720 ILCS 150]

XX) Criminal Jurisprudence Act [720 ILCS 115]

YY) Assisted Living and Shared Housing Act [210 ILCS 9]

ZZ) Language Assistance Services Act [210 ILCS 87]

3) State of Illinois rules:

A) Office of the State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120)

B) Capital Development Board, Illinois Accessibility Code (71 Ill. Adm. Code 400)

C) Department of Public Health

i) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

ii) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)

iii) Food Service Sanitation Code (77 Ill. Adm. Code 750)

iv) Illinois Plumbing Code (77 Ill. Adm. Code 890)

v) Private Sewage Disposal Code (77 Ill. Adm. Code 905)

vi) Drinking Water Systems Code (77 Ill. Adm. Code 900)

vii) Illinois Water Well Construction Code (77 Ill. Adm. Code 920)

viii) Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)

ix) Access to Public Records of the Department of Public Health~~Freedom of Information Code~~ (2 Ill. Adm. Code 1127~~1126~~)

x) ~~Rules of~~ Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

xi) Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

xii) Sheltered Care Facilities Code (77 Ill. Adm. Code 330)

xiii) Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)

xiv) Long-Term Care Assistants and Aides Training Programs

Code (77 Ill. Adm. Code 395)

xv) Control of Tuberculosis Code (77 Ill. Adm. Code 696)

xvi) Health Care Worker Background Check Code (77 Ill. Adm. Code 955)

xvii) Language Assistance Services Code (77 Ill. Adm. Code 940)

D) Department of Financial and Professional Regulation:

i) Controlled Substances Act (77 Ill. Adm. Code 3100)

ii) Pharmacy Practice Act ~~of 1987~~ (68 Ill. Adm. Code 1330)

E) Department of Human Services, Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060)

F) Department of Natural Resources, Regulation of Construction within Flood Plains (17 Ill. Adm. Code 2706)

G) Department of Healthcare and Family Services~~Public Aid~~, Medical Payment (89 Ill. Adm. Code 140)

(Source: Amended at 35 Ill. Reg. 3495, effective February 14, 2011)

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

Section 390.2720 Mechanical Systems

a) General Mechanical System Requirements

1) Mechanical systems shall be tested, balanced, and operated to demonstrate that the installation and performance of these systems conform to the requirements of this Section~~these standards~~.

2) Upon the completion of the contract, the owner shall be furnished with a complete set of manufacturer's operating and preventative maintenance

instructions, a parts list with numbers and descriptions for each piece of equipment, and a copy of the air-balance report. A complete set of these documents shall be kept on the premises.

3) The owner shall be provided with instructions in the operational use of the systems and equipment~~ as required~~.

b) Thermal and Acoustical Insulation shall be provided as set forth in the ASHRAE Handbook of Fundamentals and the Handbook of Applications and NFPA 90A. Commercial kitchen grease hoods shall be insulated according to NFPA 96 and in accordance with the insulation manufacturer's installation instructions. Domestic water piping that is accessible to residents shall be insulated as required by the Illinois Accessibility Code. Insulation shall be provided for the following:

~~1) Insulation shall be provided for the following:~~

1)~~2)~~ Boilers, smoke breeching, and stacks;~~.~~

2)~~3)~~ Steam supply and condensate return piping;~~. (B)~~

3)~~4)~~ Hot water piping above 180 degrees Fahrenheit and all ~~hot~~ water heaters, generators, and convertors;~~.~~

4)~~5)~~ Hot water piping above 125 degrees Fahrenheit that~~which~~ is exposed to contact by residents;~~. (B)~~

5)~~6)~~ Chilled water, refrigerant, and other process piping and equipment operating with fluid temperatures below the ambient dew point;~~.~~

6)~~7)~~ Water supply and drainage piping on which condensate may occur;~~.~~

7)~~8)~~ Air ducts and casings with outside surface temperatures below the ambient dew point; and~~.~~

8)~~9)~~ Other piping, ducts, and equipment as necessary to maintain the efficiency of the system.

c)~~10)~~ Insulation may be omitted from hot water and steam condensate piping that is not subject to contact by residents when the~~such~~ insulation is not necessary for

preventing excessive system heat loss or excessive heat gain.

d)~~11)~~ Insulation, including finishes and adhesives on exterior surfaces of ducts, pipes, and equipment, shall have a flame spread rating of 25 or less and a smoke developed rating of 50~~150~~ or less as determined by an independent testing laboratory in accordance with the American Society for Testing and Materials Standard E84. ~~(B)~~ Exception: Duct, pipe and equipment coverings shall not be required to meet these requirements if~~where~~ they are located entirely outside of a building, or do not penetrate a wall or roof, or do not create an exposure hazard.

~~12) Access for filter changing shall be provided within equipment rooms.~~

e)~~e)~~ Steam and Hot Water Systems. Supply and return mains and risers for cooling, heating, and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends.

f)~~d)~~ Thermal Hazards. Any surface that is accessible to residents and exceeds~~exceeding~~ a temperature of 140 degrees Fahrenheit (such as radiators, hot water or steam pipes, baseboard heaters, or therapy equipment) ~~that is accessible to residents~~ shall be provided with partitions, screens, shields, or other means to protect residents from injury. Any protective device shall be designed and installed so that it does not present a fire or safety hazard or adversely affect the safe operation of the equipment.

g)~~e)~~ Heating, ~~Cooling, and~~ Ventilating, and Air Conditioning Systems

1) *Areas of a nursing home used by residents of the nursing home* shall *be air conditioned and heated by means of operable air-conditioning and heating equipment. The areas subject to this air-conditioning and heating requirement include, without limitation, bedrooms or common areas such as sitting rooms, activity rooms, living rooms, community rooms, and dining rooms.* (Section 3-202(8) of the Act)~~A design temperature of 75 degrees Fahrenheit for both summer and winter design conditions shall be provided for all resident use areas including corridors.~~

A) The mechanical system shall be capable of maintaining a temperature of at least 75 degrees Fahrenheit, pursuant to the requirements of Section 390.690(j).

B) The air-conditioning system shall be capable of maintaining an ambient air temperature of between 75 degrees Fahrenheit and 80 degrees Fahrenheit, pursuant to the requirements of Section 390.690(j).

2) All ventilation supply, return, and exhaust systems shall be mechanically operated.

3) Outdoor air intakes shall be located as far as practical, but not less than 15 feet, from the exhaust outlets of ventilation systems, combustion equipment stacks, plumbing vent stacks, or ~~from~~ areas that~~which~~ may collect vehicular exhaust and other noxious fumes, including the exhaust stream from fuel-fired heating, ventilating and air conditioning (HVAC) sections. The bottom of outdoor air intakes serving central systems shall be located as high as practical, but not less than six feet above ground level, or, if installed above the roof, three feet above roof level. For fuel-fired heating sections of rooftop HVAC units, the exhaust vent may discharge not less than 36 inches above the highest point of the fresh air intake hood in lieu of the 15-foot separation.

4) The ventilation systems shall be designed and balanced to provide the pressure relationships and ventilation rates as shown in Table D. ~~(B)~~

5) A differential pressure measuring device shall be installed across each filter bed serving a central air system. The device may be a remote readout instrument if the remote readout is readily visible in a location accessible to the maintenance staff, or if the readout is displayed on an interactive screen.~~A manometer shall be installed across each filter bed serving central air systems.~~

6) Air conditioning and ventilating~~ventilation~~ systems shall be designed, installed, and maintained as required by NFPA~~National Fire Protection Association Standard~~ 90A. For areas within the footprint of the facility that are heated by fuel-fired appliances using an air-to-air heat exchanger, no fewer than two carbon monoxide (CO) detectors shall be installed in the area served by each heat exchanger. One CO detector shall be installed within five feet of a supply duct and one within five feet of a return or exhaust duct. CO detectors shall be line or system powered and

shall signal the building fire alarm system when activated. If detectors are line powered, a battery back-up or connection to the emergency power system is required.~~(A, B)~~

7) The hood and duct system for cooking equipment used in processes that produce~~producing~~ smoke or grease-laden vapors shall comply~~be in conformance~~ with NFPA~~National Fire Protection Association Standard~~ 96. The hood's extinguishment system shall be connected to the building fire alarm system and shall initiate a general alarm when activated. Duct insulation that is used in lieu of spacing from combustible construction members shall terminate at the top of the hood on the lower end, covering the duct collar, and shall pass through any combustible nailer opening in the roof/ceiling assembly and into the roof jack assembly. The material used shall be installed exactly as the manufacturer's installations require.~~That portion of the fire extinguishment system required for protection of the duct system may be omitted when all cooking equipment is served by a grease extractor listed by Underwriter's Laboratory or other independent testing laboratories. (A, B)~~

8) The ventilation of the medical gas storage and manifold rooms~~room~~ shall comply with~~conform to~~ the requirements of NFPA 99, Standard for Health Care Facilities, Chapters 4 and 8, as applicable,~~National Fire Protection Association Standard 56A "Inhalation Anesthetics"~~ including the gravity option system. If a concentrator is used simultaneously to fill a portable container and as a patient breathing device, the standards in NFPA 99 governing the use of medical gasses shall be observed.~~(B)~~

9) Boiler rooms and other rooms having combustion equipment shall be provided with sufficient outdoor air to maintain combustion rates of equipment and limit temperatures to 20~~97~~ degrees Fahrenheit over ambient air in adjacent interior spaces. If sealed combustion units are in use, the discharge line shall remain clear of any adjacent walk paths and not less than 15 feet from any operable fenestration or air intake. NFPA 54 shall apply, including the calculations for combustion air openings.~~,~~ Effective temperature~~Effective Temperature~~ shall be as defined by the American Society Heating, Refrigerating, and Air Conditioning~~Refrigeration~~ Engineers Handbook of Fundamentals.~~(A, B)~~

10) Rooms containing heat-producing equipment, such as boiler rooms, heater

rooms, food preparation centers, laundries, and sterilizer rooms, shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of 10~~ten~~ degrees Fahrenheit above the ambient room temperature.

11) Access for filter changing shall be provided within equipment rooms.

(Source: Amended at 35 Ill. Reg. 3495, effective February 14, 2011)

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING FACILITIES

Section 390.3020 Mechanical Systems

a) Mechanical systems shall be maintained to assure proper working order and safe operation. Instructions in the operational use of the systems and equipment shall~~must~~ be available at the facility. ~~(B)~~

b) Thermal and Acoustical Insulation. Insulation shall~~It is recommended that insulation~~ be provided for the following:

1) Boilers, smoke breeching, and stacks;~~.~~

2) Steam supply and condensate return piping;~~.~~

3) Hot water piping above 180 degrees Fahrenheit and all ~~hot~~ water heaters, generators, and converters;~~.~~

4) Hot water piping above 125 degrees Fahrenheit that~~which~~ is exposed to contact by residents;~~.~~

5) Chilled water, refrigerant, and other process piping and equipment operating with fluid temperatures below the ambient dew point.

6) Water supply and drainage piping on which condensation may occur;~~.~~

7) Air ducts and casings with outside surface temperature below the ambient dew point; and~~.~~

8) Other piping, ducts, and equipment as necessary to maintain the efficiency of the system.

c)~~9)~~ Insulation may be omitted from hot water and steam condensate piping that is not subject to contact by residents when the~~such~~ insulation is not necessary for preventing excessive system~~systems~~ heat loss or excessive heat gain.

d)~~10)~~ Insulation on cold surfaces shall include an exterior vapor barrier.

e)~~11)~~ Insulation, including finishes and adhesives on exterior surfaces of ducts, pipes, and equipment, shall have a flame spread rating of 25 or less and a smoke developed rating of 50~~150~~ or less as determined by an independent testing laboratory in accordance with ASTM Standard E 84. Exception: Duct, pipe, and equipment coverings shall not be required to meet these requirements if~~where~~ they are located entirely outside of a building, or do not penetrate a wall or roof, or do not create an exposure hazard.

f)~~c)~~ Supply~~It is recommended that supply~~ and return mains and risers for cooling, heating and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends.

g)~~d)~~ Thermal Hazards. Any surface that is accessible to residents and exceeds~~exceeding~~ a temperature of 140 degrees Fahrenheit (such as radiators, hot water or steam pipes, baseboard heaters, or therapy equipment) ~~that is accessible to residents~~ shall be provided with partitions, screens, shields, or other means to protect residents from injury. Any protective device shall be designed and installed so that it does not present a fire or safety hazard or adversely affect the safe operation of the equipment.

h)~~e)~~ Heating, ~~Cooling, and~~ Ventilating, Air Conditioning Systems

1) *Areas of a nursing home used by residents of the nursing home* shall *be air conditioned and heated by means of operable air-conditioning and heating equipment. The areas subject to this air-conditioning and heating requirement include, without limitation, bedrooms or common areas such as sitting rooms, activity rooms, living rooms, community rooms, and dining rooms.* (Section 3-202(8) of the Act)

A) The mechanical system shall be capable of maintaining a temperature of at least 75 degrees Fahrenheit, pursuant to the requirements of Section 390.690(j).~~The heating system shall be capable of maintaining a temperature of 75 degrees Fahrenheit in all resident use spaces.~~

B) The air-conditioning system shall be capable of maintaining an ambient air temperature of between 75 degrees Fahrenheit and 80 degrees Fahrenheit, pursuant to the requirements of Section 390.670(j).

2) ~~Auxiliary gas or electric space heaters of an approved closed type may be installed in areas requiring more heat than is produced by the central heating system.~~ Heaters or furnaces of a type to be installed under, in, or on the floor are not permitted.~~(B~~)

3) All ventilation supply, return, and exhaust systems shall be mechanically operated.

4) The kitchen shall be provided with ventilation for reasonable comfort and with sufficient make-up air for the rangehood exhaust.~~(B)~~

5) The laundry shall be provided with ventilation for reasonable comfort, with air flowing from clean areas to soiled areas and with exhaust to the outdoors~~. (B)~~

6) Outdoor~~It is recommended that outdoor air~~ intakes shall be located as far as practical, but not less than 15 feet, from the exhaust outlets of ventilation systems, combustion equipment stacks, plumbing vent stacks, or ~~from~~ areas that~~which~~ may collect vehicular exhaust and other noxious fumes. The bottom of outdoor air intakes serving central systems shall~~should~~ be located as high as practical, but not less than six feet above ground level, or, if installed above the roof, three feet above roof level.

7) Air conditioning and ventilating systems shall be maintained to comply with~~conform to~~ the requirements of NFPA 90A.~~(A, B)~~

8) The hood and duct system for cooking equipment used in processes that produce smoke or grease-laden vapors, such as griddle frying or deep

frying, shall comply~~be in conformance with~~ NFPA 96. The hood's extinguishment system shall be connected to the building fire alarm system and shall initiate a general alarm when activated. Duct insulation that is used in lieu of spacing from combustible construction members shall terminate at the top of the hood on the lower end, covering the duct collar, and shall pass through any combustible nailer opening in the roof/ceiling assembly and into the roof jack assembly. The material used shall be installed exactly as the manufacturer's instructions require.~~That portion of the fire extinguishment system required for protection of the duct system may be omitted when all cooking equipment is served by a grease extractor listed by Underwriter's Laboratory or other independent testing laboratory. (A, B)~~

9) Boiler rooms and other rooms housing combustion equipment shall be provided with sufficient outdoor air to maintain proper combustion rates of equipment and to limit room temperatures to 20 degrees Fahrenheit over ambient inside air in adjacent interior spaces. If sealed combustion units are in use, the discharge line is to remain clear of any adjacent walk paths and shall be not less than 15 feet from any operable fenestration or air intakes. NFPA 54 shall apply, including the calculations for combustion air openings.~~(A, B)~~

10) For areas within the footprint of the facility that are heated by fuel-fired appliances using an air-to-air heat exchanger, not fewer than two carbon monoxide (CO) detectors shall be installed in the area served by each heat exchanger. One CO detector shall be installed within five feet of a supply duct and one within five feet of a return or exhaust duct. CO detectors shall be line or system powered and shall signal the building fire alarm system when activated. If detectors are line powered, a battery back-up or connection to the emergency power system is required.~~A capability shall be provided to maintain a temperature of at least 55 degrees Fahrenheit for at least 12 hours when the normal source of electrical power is interrupted. (A, B)~~

(Source: Amended at 35 Ill. Reg. 3495, effective February 14, 2011)

SUBPART O: RESIDENT'S RIGHTS

Section 390.3220 Medical ~~and Personal~~ Care ~~Program~~

a) *A resident shall be permitted to retain the services of his* or her *own personal physician at his* or her *own expense under an individual or group plan of health insurance, or under any public or private assistance program providing such coverage.* (Section 2-104(a) of the Act) ~~(B)~~

b) *The Department shall not prescribe the course of medical treatment provided to an individual resident by the resident's physician in a facility.* (Section 3-201~~2-104(a)~~ of the Act)

c) *Every resident shall be permitted to obtain from his* or her *own physician or the physician attached to the facility complete and current information concerning his* or her *medical diagnosis, treatment and prognosis in terms and language the resident can reasonably be expected to understand.* (Section 2-104(a) of the Act)

d) *Every resident~~All residents~~ shall be permitted to participate in the planning of his* or her~~their~~ *total care and medical treatment to the extent that his* or her~~their~~ *condition permits*. (Section 2-104(a) of the Act)

e) *No resident shall be subjected to experimental research or treatment without first obtaining his* or her *informed, written consent. The conduct of any experimental research or treatment shall be authorized and monitored by an institutional review committee appointed by the administrator of the facility where such research and treatment is conducted.* (Section 2-104(a) of the Act) ~~(A, B)~~

f) *All medical treatment and procedures shall be administered as ordered by a physician. All new physician orders shall be reviewed by the facility's director of nursing or charge nurse designee within 24 hours after such orders have been issued to assure facility compliance with such orders.* (Section 2-104(b) of the Act)

g) *Every woman resident of child-bearing age shall receive routine obstetrical and gynecological evaluations as well as necessary prenatal care.* (Section 2-104(b) of the Act) In addition, women residents shall~~should~~ be referred immediately for diagnosis whenever pregnancy is suspected.

1) "Routine obstetrical evaluations" and "necessary prenatal care" shall include, at~~as~~ a minimum, the following:

A) Early diagnosis of pregnancy;~~.~~

B) A comprehensive health history, including menstrual history, methods of family planning that the patient has used, a detailed record of past pregnancies, and data on the current pregnancy that allow the physician to estimate the date of delivery;~~.~~

C) Identification of factors in the current pregnancy that help to identify the patient at high risk, such as maternal age, vaginal bleeding, edema, urinary infection, exposure to radiation and chemicals, ingestion of drugs and alcohol, and use of tobacco;~~.~~

D) A comprehensive physical examination, including an evaluation of nutritional status; determination of height, weight and blood pressure; examination of the head, breasts, heart, lungs, abdomen, pelvis, rectum, and extremities;~~.~~

E) The following laboratory tests, as early in pregnancy as possible. Findings obtained from the history and physical examination may determine the need for additional laboratory evaluations;~~.~~

i) Hemoglobin or hematocrit measurement;

ii) Urinalysis, including microscopic examination or culture;

iii) Blood group and Rh type determination;

iv) Antibody screen;

v) Rubella antibody titer measurement;

vi) Syphilis screen;

vii) Cervical cytology~~Cytology~~; and

viii) Viral hepatitis (HBsAg) testing;

F) A risk assessment that, ~~which,~~ based on the findings of the history and physical examination, shall~~should~~ indicate any risk factors that

may require special management, such as cardiovascular disease, maternal age less than 15 years~~ or more than 35 years~~, neurologic disorder, or congenital abnormalities;~~.~~

G) Return visits, the frequency of which will be determined by the patient's needs and risk factors. A ~~Generally a~~ woman with an uncomplicated pregnancy shall~~should~~ be seen every four~~4~~ weeks for the first 28 weeks of pregnancy, every two to three~~2-3~~ weeks until 36 weeks of gestation, and weekly thereafter;~~.~~

H) Determinations~~The physical examination at each visit should include determinations~~ of blood pressure, measured fundal height, fetal heart rate, and, in later months, fetal presentation, and urinalysis for albumin and glucose. Hemoglobin or hematocrit level shall~~should~~ be measured again early in the third trimester;~~. Glucose screening is recommended for women who are 30 years of age or older.~~

I) Evaluation and monitoring of nutritional status and habits;~~.~~

J) Education for health promotion and maintenance;~~.~~

K) Counseling concerning exercise and child birth education programs;~~.~~

L) Postpartum review and evaluation four to eight~~4-8~~ weeks after delivery, including determination of weight and blood pressure and assessment of status of breasts, abdomen, and external and internal genitalia.

2) "Routine gynecological evaluations" shall include, at~~as~~ a minimum, the following:

A) An initial examination, the basic components of which are:

i) History; any present illnesses; menstrual, reproductive, medical, surgical, emotional, social, family, and sexual history; medications; allergies; family planning; and systems review;~~.~~

ii) Physical examination, including height, weight, nutritional status, and blood pressure; head and neck, including thyroid gland; heart; lungs; breasts; abdomen; pelvis, including external and internal genitalia; rectum; extremities, including signs of abuse; lymph nodes; and~~.~~

iii) Laboratory tests, including urine screen; hemoglobin or hematocrit determination and, if indicated, complete blood cell count; cervical cytology; rubella titer.

B) Annual updates, including, but not limited to:

i) History, including the purpose of the visit; menstrual history; interval history, including systems review; emotional history;~~.~~

ii) Physical examination, including weight, nutritional status and blood pressure; thyroid gland; breasts; abdomen; pelvis, including external and internal genitalia; rectum; other areas as indicated by the interval history;~~.~~

iii) Laboratory, including urine screen; cervical cytology, unless not indicated; hemoglobin or hematocrit determinations; and~~.~~

iv) Additional laboratory tests, such as screening for sexually transmitted disease, ~~should be performed~~ as warranted by the history, physical findings, and risk factors.

~~C) Cancer screening.~~

~~i) An annual and Pap test for all women who are or have been sexually active or have reached age 18.~~

~~ii) Mammography if indicated.~~

3) When a resident is referred for a diagnosis of pregnancy and/or for prenatal care, the facility shall send the health care provider a copy of the

resident's medical record, including a list of prescription medications taken by the resident; the resident's use of alcohol, tobacco and illicit drugs, and any~~or~~ exposure of the resident to radiation or chemicals during the preceding three months.

h) Cancer screening. Cancer screening for women shall include the following:

1) A periodic Pap test. The frequency and administration of Pap tests shall be according to the guidelines set forth in the Guidelines for Women's Health Care, published by the American College of Obstetricians and Gynecologists; and

2) Mammography. The frequency and administration of mammograms shall be according to the guidelines set forth in the Guidelines for Women's Health Care.

i)~~h)~~ *Every resident shall be permitted to refuse medical treatment and to know the consequences of such action, unless such refusal would be harmful to the health and safety of others and such harm is documented by a physician in the resident's clinical record.* (Section 2-104(c) of the Act) (B)

j)~~i)~~ *Every resident, resident's guardian, or parent ~~(~~if the resident is a minor shall be permitted to inspect and copy all of the* the resident's *clinical and other records concerning* the resident's~~*the resident's*~~ *care and maintenance kept by the facility or by* the resident's~~*the resident's*~~ *physician* (Section 2-104 (d) of the Act).

~~j)~~ ~~*Every resident's representative shall be permitted to inspect and copy the resident's records. A "resident's representative" is a person, other than the owner or an agent or employee of a facility who is not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed.* (Sections 1-123 2-202(h) of the Act).~~

k) *A resident~~All residents~~ shall be permitted respect and privacy in his* or her~~*their*~~ *medical and personal care program. Every resident's case discussion, consultation, examination and treatment shall be confidential and shall be conducted discreetly, and those persons not directly involved in the resident's care must have his* or her ~~*the resident's*~~ *permission to be present.* (Section 2-105~~2-015~~ of the Act) ~~(B)~~

(Source: Amended at 35 Ill. Reg. 3495, effective February 14, 2011)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Robert C. Byrd Honors Scholarship Program

2) Code Citation: 23 Ill. Adm. Code 2755

3)

Section Numbers:	Adopted Action:
2755.30	Amendment
2755.APPENDIX A	Amendment

4) Statutory Authority: Implementing Section 65.60 of the Higher Education Student Assistance Act [110 ILCS 947/65.60] and Title IV, Part A, Subpart 6 of the Higher Education Act of 1965, as amended (20 USC 1070d-31 et seq.) and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

5) Effective date of amendments: February 16, 2011

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of these 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: September 24, 2010; 34 Ill. Reg. 13625

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposed and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were necessary.

13) Will these amendments replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The three main changes adopted in the Robert C. Byrd Honors Scholarship Program are as follows:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- The component of the formula regarding class size and rank is modified to achieve more equity when selecting scholars within each geographic district.
- In another effort to achieve equity, if not already selected as a scholar, a student who ranks first in his/her class and has a perfect GPA and standardized test score will be given first priority for a scholarship through the at-large category.
- The geographic districts used to determine the number of scholarships awarded within each district across the state are updated with more current population data.

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015

847/948-8500 ext. 2216
Email: lhynes@isac.org

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2755
ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

Section
2755.10 Summary and Purpose
2755.20 Applicant Eligibility
2755.30 Program Procedures
2755.40 Institutional Procedures
2755.APPENDIX A Geographic Districts

AUTHORITY: Implementing Section 65.60 of the Higher Education Student Assistance Act [110 ILCS 947/65.60] and Title IV, Part A, Subpart 6 of the Higher Education Act of 1965, as amended (20 USC 1070d-31 et seq.) and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted at 19 Ill. Reg. 8386, effective July 1, 1995; amended at 20 Ill. Reg. 9244, effective July 1, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11211, effective July 18, 1997; amended at 22 Ill. Reg. 11162, effective July 1, 1998; amended at 24 Ill. Reg. 9195, effective July 1, 2000; amended at 27 Ill. Reg. 10377, effective July 1, 2003; amended at 30 Ill. Reg. 11666, effective July 1, 2006; amended at 35 Ill. Reg. 3529, effective February 16, 2011.

Section 2755.30 Program Procedures

a) Applicant data for a Robert C. Byrd Honors Scholarship must be received in ISAC's Deerfield office on or before March 1 preceding the academic year for which the scholarship is being requested.

b) Information on applying for the Robert C. Byrd Honors Scholarship is available for distribution to students at approved high schools in Illinois, ISAC's web site and ISAC's Springfield, Deerfield and Chicago offices ~~and offices of ISAC in Springfield, Chicago and Deerfield~~.

c) If the applicant data are incomplete, notification shall be sent to the applicant. The applicant will then have an opportunity to furnish the missing information;

however, the applicant will only be considered as of the date when the data are complete and received in ISAC's Deerfield office.

d) Each year new and renewal Byrd applicants are to certify to ISAC that they meet eligibility requirements.

e) Recipients must be enrolled on a full-time basis unless granted a postponement, waiver or interruption.

f) A new recipient may postpone his or her initial enrollment for a maximum of 12 months.

g) After the first year of full-time study, the recipient may request a waiver of the full-time enrollment requirement due to unusual circumstances for a maximum of 12 months.

1) The request is to be submitted in writing to ISAC and any documentation must also be submitted.

2) The circumstances under which an exception to the full-time enrollment requirement may be granted include:

A) the recipient's employment hours will not permit full-time enrollment;

B) the recipient has medical problems that will not permit full-time enrollment, as established by the sworn statement of a licensed physician;

C) the recipient is in his or her~~his/her~~ last semester of school and full-time enrollment is not required to complete the degree; or

D) the care of an immediate family member due to illness or incapacitation will not permit full-time enrollment.

3) In order to receive a waiver of the full-time enrollment requirement, the recipient must be enrolled at least half-time.

h) If the full-time enrollment requirement is waived, the Byrd award is prorated

according to the number of hours the recipient is enrolled.

i) After the first year of study, a recipient may interrupt his or her enrollment at an institution for a maximum of 12 continuous months.

1) The request is to be submitted in writing to ISAC and any documentation must also be submitted.

2) The circumstances under which an interruption may be granted include:

A) the recipient's participation in a cooperative education or study abroad program;

B) the recipient is experiencing financial difficulties that will not permit continuous enrollment;

C) the recipient has medical problems that will not permit continuous enrollment; or

D) the recipient has family responsibilities that will not permit continuous enrollment.

j) The scholar is not eligible to receive scholarship funds during the periods of postponement or interruption. The funds that would have been awarded to the scholar during that time period can be awarded to the scholar during a subsequent period of enrollment at an institution as an undergraduate student.

k) A recipient who is subsequently determined to be ineligible shall repay ISAC the total amount of the funds received for the period during which he or she~~s/he~~ was ineligible.

l) ISAC shall select new recipients from among the timely applicants by choosing the highest scoring qualified applicants on the basis of the following criteria:

1) Academic Data. A qualified applicant's score shall be computed as follows:

$$[(\text{number in class} \div (\text{rank})^2 \times .05]$$

+ [(grade point average ÷ scale) x 100]

+ (Illinois Standard Test Score x 10) = score

A) Rank in class, class size and non-weighted grade point average (GPA) shall be reported as of the end of the third semester prior to graduation from high school or its equivalent. An institution shall use the same class size and non-weighted GPA scale in reporting all of its applicants.

B) SAT I or ACT tests, which must be taken during the time frame identified for State Scholar eligibility (see 23 Ill. Adm. Code 2760.20(b)), shall be converted to the Illinois Standard Test Score as described in 23 Ill. Adm. Code 2760.30(b).

C) If more than one composite score is submitted, the highest score is used.

D) For applicants qualifying by virtue of their GED scores (see Section 2755.20(a)(4)~~ of this Part~~), class rank shall be set at 5 out of 100 (top 5%) and average GED percentile rank shall be used in lieu of grade point average ÷ scale.

E) For high schools that cannot provide class ranks, non-weighted grade point averages (GPA) as of the third semester prior to graduation must be provided. Class ranks are calculated the same as for the State Scholar Program (see 23 Ill. Adm. Code 2760.30(a)(1)).~~For those high schools that do not submit class ranks, the applicant scores shall be computed using number in class and rank as equal to one.~~

2) Geographic District. New Robert C. Byrd Honors Scholarships will be allocated within geographic districts in accordance with Appendix A~~ of this Part~~. An applicant's county of residence shall be determined by his or her permanent home address.

m) Scholarships will be awarded first to renewing applicants.

n) Scholarship funds are applicable towards an academic year of study.

o) New recipients are selected from each of the 15 geographic districts, and on an at-large basis, in accordance with the number of awards set forth in Appendix A~~ to this Part~~. A student who has not been selected to be a scholar within his or her geographic district but who ranks first in his or her class and has a perfect GPA and standardized test score will be given first priority for a scholarship through the at-large category. Any remaining awards in the at-large category will then be made to qualified applicants~~The at-large recipients shall be~~ chosen from among the highest scoring non-selected qualified applicants statewide, regardless of their geographic district. A lottery will be used to determine recipients if the number of students receiving first priority exceeds the number of scholarships in the at-large category.

p) The total number of scholarships awarded in a given fiscal year is contingent upon available funding (see section~~Section~~ 419D of the HEA~~Higher Education Act of 1965, as amended~~ (20 USC~~USCA~~ 1070d-34), Allocation Among States), notwithstanding the number of new scholarships outlined in Appendix A~~ to this Part~~.

q) Recipients will be informed of their selection by the May 1 preceding the academic year for which the scholarship was requested.

r) High schools will be notified of the recipients attending their high school by May 1.

s) If an individual does not accept the offer of a new scholarship award, the next highest scoring qualified applicant not yet selected from the same geographic district will be chosen to receive a scholarship.

t) Each year recipients shall complete an "Eligibility Certification" that includes certification statements required by ED.

u) Scholarship funds shall be sent to the institution on behalf of the recipients.

(Source: Amended at 35 Ill. Reg. 3529, effective February 16, 2011)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 2755.APPENDIX A Geographic Districts

District Number	Counties	Number of New Scholarships
1	Cook	112~~110~~
2	DuPage	20~~22~~
3	Lake	14~~11~~
4	Winnebago, Boone, McHenry	13~~11~~
5	Mercer, McDonough, Adams, Schuyler, Warren, Fulton, Sangamon, Cass, Menard, Hancock, Mason, Henderson	9~~11~~
6	DeKalb, Kane, Lee	14~~11~~
7	Kendall, Will, Grundy	17~~11~~
8	Jo Daviess, Ogle, Carroll, Henry, Bureau, Rock Island, Whiteside, Stephenson	9~~11~~
9	LaSalle, Putnam, Livingston, Ford, McLean, Kankakee, Iroquois	10~~11~~
10	Knox, Stark, Marshall, Peoria, Woodford, Tazewell	9~~11~~
11	Champaign, Edgar, Vermilion, Coles, Clark, Douglas, Cumberland, Jasper, Crawford	9~~11~~
12	Logan, DeWitt, Piatt, Macon, Christian, Moultrie, Shelby, Montgomery, Clay, Marion, Effingham, Bond, Fayette	9~~11~~
13	Calhoun, Green, Scott, Brown, Pike, Jersey, Morgan, Madison, Macoupin	9~~11~~

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

14	Richland, Wayne, Lawrence, Wabash, Edwards, White, Jefferson, Union, Franklin, Hardin, Hamilton, Saline, Gallatin, Johnson, Pope, Jackson, Massac, Alexander, Pulaski, Williamson	8~~11~~
15	St. Clair, Perry, Clinton, Monroe, Washington, Randolph	9~~11~~
-	At-Large	15~~11~~

(Source: Amended at 35 Ill. Reg. 3529, effective February 16, 2011)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Prepaid Tuition Program

2) Code Citation: 23 Ill. Adm. Code 2775

3)

Section Numbers:	Adopted Action:
2775.10	Amendment
2775.20	Amendment
2775.40	Amendment
2775.50	Amendment
2775.70	Amendment

4) Statutory Authority: Implementing the Illinois Prepaid Tuition Act [110 ILCS 979] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

5) Effective date of amendments: February 16, 2011

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of proposal published in Illinois Register: September 24, 2010, 34 Ill. Reg. 13634

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposed and final version: The text for Section 2775.40(d)(1)(C) and (D) was moved to Section 2775.40(d)(1)(E) and (F). In Section 2775.40(d)(1)(C), added "For monthly payment plans, failure to make full payment within 15 days after the due date shall result in assessment of a late fee and suspension of the qualified beneficiary's rights under the plan". In Section 2775.40(d)(1)(D), added "For annual payment plans, failure to make full payment within 30 days after the due date shall result in assessment of a late fee and suspension of the qualified beneficiary's rights under the plan".

In Section 2775.50(c)(1), "and Disclosure Statement" was added after "Agreement".

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rulemaking: The Illinois Prepaid Tuition Program is amended to address the expanded definition of eligible institution as authorized in Public Act 96-1282. The definition of "eligible institution" is modified such that it now aligns with the definition of an "institution of higher learning" found in the Higher Education Student Assistance Act.

The remaining non-substantive changes are intended to clarify the rules, making them easier to understand.

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015

847/948-8500, ext. 2216
email: lhynes@isac.org

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2775
ILLINOIS PREPAID TUITION PROGRAM

Section

2775.10 Summary and Purpose
2775.20 Definitions
2775.30 Participant Eligibility
2775.40 Program Procedures
2775.50 Contract Terms and Conditions
2775.60 Scholarships, Grants or Monetary Assistance
2775.70 Disclosure

AUTHORITY: Implementing the Illinois Prepaid Tuition Act [110 ILCS 979] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 16652, effective September 11, 1998, for a maximum of 150 days; adopted at 23 Ill. Reg. 2591, effective February 1, 1999; amended at 24 Ill. Reg. 9154, effective July 1, 2000; amended at 25 Ill. Reg. 8410, effective July 1, 2001; amended at 26 Ill. Reg. 10043, effective July 1, 2002; amended at 28 Ill. Reg. 9177, effective July 1, 2004; amended at 29 Ill. Reg. 9954, effective July 1, 2005; amended at 32 Ill. Reg. 10349, effective July 1, 2008; amended at 35 Ill. Reg. 3538, effective February 16, 2011.

Section 2775.10 Summary and Purpose

a) The Illinois Prepaid Tuition Program~~, also known as College Illinois!℠,~~ provides Illinois families with a tax-advantaged method of saving for college. The purpose of the program is to encourage and better enable Illinois families to help themselves finance the cost of higher education.

b) This Part establishes rules that govern the Illinois Prepaid Tuition Program. Additional rules and definitions are contained in General Provisions, 23 Ill. Adm. Code 2700.

(Source: Amended at 35 Ill. Reg. 3538, effective February 16, 2011)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 2775.20 Definitions

"Eligible Institution" – A public institution of higher education, or a nonpublic institution of higher education whose students are eligible to receive benefits under Section 529(a) of the Internal Revenue Code of 1986, as specified by the federal Small Business Act of 1996 and subsequent amendments to this federal law, and that provides a minimum of an organized two-year degree program at the postsecondary level, or a program in health education directly applicable toward the attainment of a certificate, diploma or associate degree. The institution must maintain an accredited status with an accrediting agency recognized by the U.S. Department of Education for the purpose of establishing eligibility to participate in federal student assistance programs administered by the Department under Title IV of the Higher Education Act of 1965, as amended, and, if the institution is for profit, must enroll a majority of its students in degree programs that it is legally authorized to offer by the appropriate agency in the state in which the institution is located.

"Illinois Community College" – A public community college as defined in Section 1-2 of the Public Community College Act [110 ILCS 805].

"Illinois Prepaid Tuition Contract" or "Contract" – A contract entered into between the Illinois Student Assistance Commission, on behalf of the State of Illinois, and a purchaser under Section 45 of the Illinois Prepaid Tuition Act to provide for the higher education of a qualified beneficiary.

"Illinois Prepaid Tuition Program" or "Program" – The college savings and investment program created in Section 15 of the Illinois Prepaid Tuition Act.

"Illinois Prepaid Tuition Trust Fund" – The repository of all moneys received by the Commission, including all contributions, appropriations, interest and dividend payments, gifts, or other financial assets received in connection with operation of the Illinois Prepaid Tuition Program.

"Illinois Public University" – Any campus of: the University of Illinois, Illinois State University, Chicago State University, Governors State University, Southern Illinois University, Northern Illinois University, Eastern Illinois University, Western Illinois University or Northeastern Illinois University.

~~"MAP-eligible Institution" – A public institution of higher education or a~~

~~nonpublic institution of higher education whose students are eligible to receive need-based student financial assistance through Monetary Award Program (MAP) grants administered by the Illinois Student Assistance Commission under the Higher Education Student Assistance Act and whose students also are eligible to receive benefits under Section 529(a) of the Internal Revenue Code of 1986, as specified by the federal Small Business Act of 1996 and subsequent amendments to this federal law.~~

"Member of the Family" or "Immediate Family" – Member of the family, as defined in the Internal Revenue Code, Section 529(e)(2), as amended, means an individual who bears a relationship to a qualified beneficiary as follows: son or daughter, or a descendant of either; stepson or stepdaughter; brother, sister, stepbrother, stepsister, half-brother, or half-sister; father or mother or an ancestor of either; stepfather or stepmother; son or daughter of a brother or sister; brother or sister of the father or mother; son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law, the spouse of any of the above; the spouse; or any first cousin. In determining whether any of these relationships exist, a legally adopted child of an individual shall be treated as a child of such individual by blood.

"Nonpublic Institution of Higher Education" – An eligible institution~~Any MAP-eligible educational organization~~, other than a public institution of higher education.~~, that provides a minimum of an organized 2-year program at the postsecondary level and that operates in conformity with standards substantially equivalent to those of public institutions of higher education.~~

"Public Institution of Higher Education" – An Illinois public university or Illinois community college.

"Purchaser" – Any person that has contracted to make payments under an Illinois prepaid tuition contract in accordance with State and federal laws.

"Qualified Beneficiary" – An individual designated as the recipient of the benefits of a prepaid tuition contract, provided he/she: has been a resident of this State for at least 12 months prior to the date of the application; or is a nonresident, so long as the purchaser has been a resident of the State for at least 12 months prior to the date of the application; or is less than one year of age and whose parent or legal guardian has been a resident of the State for at least 12 months prior to the date of the application.

"Registration Fees" – The charges derived by combining tuition and mandatory fees.

(Source: Amended at 35 Ill. Reg. 3538, effective February 16, 2011)

Section 2775.40 Program Procedures

a) Application and Master Agreement and Disclosure Statement~~Application/Master Agreement~~

1) The application period for purchases of contracts for the prepayment of postsecondary registration fees shall commence and terminate on dates set annually and announced publicly by the Commission.

2) After receipt and approval of the purchaser's application, the Master Agreement and Disclosure Statement, and~~/master agreement,~~ a participation and payment schedule shall be mailed to the purchaser. The contract shall be comprised of these three documents. ~~The contract itself shall be comprised of the application/master agreement, participation and payment schedule.~~

3) Each prepaid tuition contract must have one person designated as purchaser and one person designated as qualified beneficiary, except as provided in the Master Agreement and Disclosure Statement.

b) Contract Prices and Fees
The Commission shall annually review contract prices and adjust prices for new contracts, referencing annual changes in registration fees at Illinois public universities and Illinois community colleges. An implied interest rate for installment payment plans will be calculated annually, and subsequently approved or reaffirmed by the Commission as part of its pricing policy for the program. The Commission shall also approve annually a schedule of administrative, service and cancellation fees~~administrative fees or changes to fees for the program, including, but not limited to, application, late payment, cancellation and monthly maintenance fees~~.

c) Payment Options
All contributions must be made in cash or its equivalent. Payments may be made

only by check, money order, authorized monthly debit (ACH) from a bank account, payroll deduction, if available, or other payment method established by the Commission.~~Purchasers may make payments through a variety of means. Automated clearinghouse checks, payroll deductions or payments via coupon books will be acceptable.~~ Payments are due in accordance with conditions set forth in the contract. Payments may be made by lump sum or by installments. No penalty shall be assessed for early payment of installment contracts.

d) Delinquency and Default

1) Contracts purchased on or after November 1, 2009

A) A late fee will be assessed if no contract payment is received by the first payment due date.

B) An account will be cancelled if the initial payment is not received within 15 days after the first payment due date.

C) For monthly payment plans, failure to make full payment within 15 days after the due date shall result in assessment of a late fee and suspension of the qualified beneficiary's rights under the plan.

D) For annual payment plans, failure to make full payment within 30 days after the due date shall result in assessment of a late fee and suspension of the qualified beneficiary's rights under the plan.

E) Contracts that are suspended for missing information will be cancelled on the 16th of the month, along with those accounts that have made no contract payment.

F) If an account is delinquent for 210 days, the account is automatically converted from an installment plan to the same contract plan type reflecting the number of semesters already paid in full at the time of conversion, less any outstanding fees. If the amount paid towards the account is insufficient to pay in full the same contract plan type at the time the application was submitted, the account is cancelled and the purchaser is sent the appropriate refund amount.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

2)~~1)~~ Contracts purchased prior to November 1, 2009

A) For monthly payment plans, failure to make full payment within 15 days after the due date shall result in assessment of a late fee and suspension of the qualified beneficiary's rights under the plan.

B) For lump sum and annual payment plans, failure to make full payment within 30 days after the due date shall result in assessment of a late fee and suspension of the qualified beneficiary's rights under the plan.

C) If an account is delinquent for 210 days after the scheduled payment date, the account is cancelled~~canceled~~ and the purchaser is sent the appropriate refund amount.

e) Termination
There are two types of contract termination, involuntary and voluntary:

1) Involuntary termination shall occur upon a finding of fraud in the verification of residency of a qualified beneficiary at the time of application or the nonpayment of any appropriate payments due within established time frames.

2) Voluntary termination shall occur within 30 days after receiving written notice of a purchaser's desire to cancel a contract.

f) Refunds
Generally, no refund shall exceed the amount paid into the Illinois Prepaid Tuition Trust Fund by the purchaser and no refund shall be authorized under any prepaid tuition contract for any term partially attended but not completed. Refunds shall be made payable to the order of the purchaser only. The Commission shall authorize refunds in excess of the amount paid into the Illinois Prepaid Tuition Trust Fund only for contracts held for at least three years under the following conditions:

1) When a qualified beneficiary is awarded a grant or scholarship, the terms of which duplicate the benefits covered by his or her prepaid tuition contract, then the moneys paid for the purchase of the contract shall be returned to the purchaser, in term installments that coincide with the

matriculation of the qualified beneficiary.

A) If the qualified beneficiary is enrolled at an Illinois Public University or Illinois Community College, the refund will be equal to the institution's current in-state or in-district registration fees, less any registration fees not covered by the scholarship and any applicable service fees.

B) If the qualified beneficiary is enrolled at a nonpublic~~non-public or out-of-state~~ institution of higher education, the refund will be equal to the current mean-weighted average of registration fees at Illinois public universities~~Public Universities~~ or Illinois community colleges~~Community Colleges~~, depending on the plan purchased under the contract, less the registration fees not covered by the scholarship and any applicable service fees.

2) In the event of death or total disability of the qualified beneficiary, moneys paid for the purchase of the contract shall be returned to the purchaser together with all accrued earnings.

3) In cases where a public university plan contract is converted for usage at an Illinois community college, then the amount refunded shall be on a term-by-term basis. The refund should be the current value of the original contract minus the current value of the contract after conversion.

4) In all instances of a voluntary contract cancellation, the amount refunded shall be the original purchase price of the contract plus two percent compounded annually, less a cancellation fee.

(Source: Amended at 35 Ill. Reg. 3538, effective February 16, 2011)

Section 2775.50 Contract Terms and Conditions

a) Contract Types
The program shall offer purchasers at least two different types of contracts: a public university plan and a community college plan. Additional contract plans may be offered. All contract types shall cover registration fees.

1) The public university plan specifies that no more than 9 terms, or 135

credit hours, at an Illinois public university may be purchased for the benefit of a qualified beneficiary. Applicants may choose to purchase as little as one term, or 15 credit hours, at a time.

2) The community college plan specifies that no more than 4 terms, or 60 credit hours, at an Illinois community college may be purchased for the benefit of a qualified beneficiary. Applicants may choose to purchase as little as one term, or 15 credit hours, at a time.

3) No more than an aggregate of 135 credit hours of benefits may be purchased on behalf of any qualified beneficiary.

b) Contract Benefits

1) The registration fees contracted for by the purchaser shall be paid directly to the institution at the time of enrollment of the qualified beneficiary. The credit hours purchased may be used during any term of postsecondary undergraduate enrollment. A bona fide social security number must be on file prior to payment of benefits.

2) No contract benefits may be received by a qualified beneficiary of an Illinois prepaid tuition contract earlier than three years from the due date of the first contract payment.

3) No interest in all or any portion of a contract may be used as security for a loan.

c) Contract Requirements

1) Purchasers must name a qualified beneficiary in the application, except as provided in the Master Agreement and Disclosure Statement. Only one qualified beneficiary is allowed per contract. A separate accounting will be provided for each designated beneficiary.

2) In the event duplicate applications for the same qualified beneficiary are processed, the application processed first shall be deemed valid and the remaining application or applications shall be deemed valid, if and only if, they provide for registration fees not already covered by previous applications.

3) The purchaser does not have to designate the postsecondary institution that~~which~~ the qualified beneficiary is expected to attend.

4) The benefits of a contract may be used ~~within three years~~ in advance of the selected matriculation date indicated in the application with no penalty or additional cost. However, to utilize a contract prior to the selected matriculation date, the purchaser must pay the contract in full before changing the~~such~~ matriculation date.

5) Benefits may be received for up to a 10-year period after the qualified beneficiary's first enrollment date. This 10-year limitation may be extended upon application to the Commission and the payment of a renewal fee assessed at that time. Any time spent by the qualified beneficiary in active military service shall not count as part of the time period for receiving contract benefits under all contract plans.

6) The purchaser and qualified beneficiary are prohibited from directing the investment of any contributions to the program.

d) Contract Exclusions

1) Prepaid tuition contract plans do not cover payment of registration fees for graduate programs, adult basic programs, adult secondary programs, or postsecondary adult vocational programs.

2) Purchasers may request approval to apply unexpended prepaid tuition credits toward payment of graduate school registration fees, in cases in which~~where~~ other prepaid tuition contract benefits already have been utilized for undergraduate education and an undergraduate degree has been conferred.

e) Change of Purchaser and Change of Qualified Beneficiary

1) The purchaser of a contract may be changed upon written request of the original purchaser and the new purchaser. The new purchaser must meet the requirements of a qualified purchaser contained in the master agreement other than the residency requirement. (See Section 2775.30(a).)

2) Upon written request, contract benefits may be transferred by the purchaser to a new qualified beneficiary prior to actual use. The new qualified beneficiary must be a member of the family of the original qualified beneficiary but need not meet the residency requirement. (See Section 2775.30(a).)

f) Benefit Portability and Conversion Between Illinois Public Universities and Illinois Community Colleges

1) Public university plan benefits may be converted for usage at community colleges and community college plan benefits may be converted for usage at public universities.

2) Benefits shall be converted by referencing the relative current average mean-weighted credit hour value of registration fees purchased under the contract. The~~Such~~ benefit conversions shall be authorized on a term-by-term basis and no fee shall be assessed for conversion of benefits among in-State public institutions.

g) Benefit Portability and Conversion to Nonpublic Institutions of Higher Education~~and Out-of-State Higher Education Institutions~~

1) Public university plan and community college plan contract benefits may be converted for payment of registration fees at nonpublic institutions of ~~and out-of-state not-for-profit~~ higher education ~~institutions~~.

2) Benefits shall be converted by referencing the current average mean-weighted credit hour value of registration fees purchased under the contract. Each term, the Commission shall transfer this amount to the nonpublic ~~or out-of-state~~ institution of higher education on behalf of the qualified beneficiary.

(Source: Amended at 35 Ill. Reg. 3538, effective February 16, 2011)

Section 2775.70 Disclosure

a) Information that identifies purchasers or qualified beneficiaries of Illinois prepaid tuition contracts is exempt from inspection, copying, or public disclosure under

the Freedom of Information Act [5 ILCS 140].

b) The Commission nonetheless authorizes its program records administrator to release such information to appropriate personnel at the ~~MAP~~ eligible institution at which the qualified beneficiary may enroll or is already enrolled or to another State or federal agency, for purposes deemed appropriate by the Commission.

c) Any institution to which this information is released by the Commission shall ensure the continued confidentiality of the information.

(Source: Amended at 35 Ill. Reg. 3538, effective February 16, 2011)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Rates to be Charged by Official Testing Stations for School Buses

2) Code Citation: 92 Ill. Adm. Code 446

3)

Section Numbers:	Adopted Action:
446.102	Amend
446.103	Amend
446.104	Amend
446.106	Amend
446.302	Amend
446.306	Amend
446.402	Amend
446.502	Amend
446.602	Amend

4) Statutory Authority: Implementing Sections 6-410 and 13-106 of the Illinois Vehicle Code [625 ILCS 5/6-410 and 13-106] and Section 2705-125 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-125] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625] and Section 5-25 of the Illinois Administrative Procedure Act [5 ILCS 100/5-25]

5) Effective Date of Amendments: February 10, 2011

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's Division of Traffic Safety and Office of Chief Counsel and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 22, 2010; 34 Ill. Reg. 16301

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: Only nonsubtantive text changes have been made since 1st Notice.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of the Amendments: By this Notice, the Department is increasing the base rates that Official Testing Stations (Stations) charge, as required by Section 13-106 of the Illinois Vehicle Inspection Law, to inspect a school bus. Under the current rule, when a new Station opens, the owner must charge the rate prescribed under Section 446.310, Rates or Charges, or request a hearing for a rate increase to allow the owner to charge the prevailing rates for the same or similar tests made in the community where the Station is located. Since the base rates in Section 446.310 are out-of-date and no longer "just and reasonable," the cost of doing business has risen over the years, and the hearing process delays the Station owner's ability to increase the base rate during that timeframe when the hearing proceedings and the subsequent paperwork are finalized (thus creating an economic burden on new Stations and Stations that are small businesses), the rule had to be revised.

As prescribed in Section 13-106 of the Illinois Vehicle Inspection Law, *a "just and reasonable" rate or charge means a rate or charge which is the same, or nearly the same, as the prevailing rate or charge for the same or similar tests made in the community where the station is located.*

The Department calculated the new base rates by comparing the minimum base rates in Section 446.310 with the prevailing rates being charged by Stations. The Department calculated the percentage increase in the rates, where a percentage increase occurred. The percentages were then averaged and that average was added to the rates in Section 446.310 to determine what the new base rates should be. The new base rates were then rounded to the nearest 50 cents so the rates will be easier for the Stations to calculate.

Following are summaries of the significant changes to the Part:

At Section 446.40, Definitions, the Department has updated statutory language and citations, amended existing definitions, and added new definitions.

At Section 446.310, Rates or Charges, the Department increased the base inspection rates Stations charge to perform safety tests on school buses.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

At Section 446.410(a), Notice and Place of Hearing, the Department deleted language that restricts the hearing location to specific counties. A hearing can now be presided over via video conference at either the Department's Schaumburg or Springfield office or at another location designated by the Department. The Department is also deleting a requirement concerning publication in the newspaper of a notice of petition for rate change because the Department has determined that publication is cost-prohibitive and, also, because no one other than the Station requesting the rate change has ever appeared to testify or object to a rate change.

Finally, in Sections 446.20, 446.30(a), 446.60(a), 446.210(a), 446.250(b), 446.410(a) and 446.510(a), the Department's address has been amended to reflect the Division of Traffic Safety's new address. The street address has been updated but the post office box number will remain the same.

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

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety 217/785-3031
1340 North 9th Street
P.O. Box 19212
Springfield, Illinois 62794-9212

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 446
RATES TO BE CHARGED BY OFFICIAL TESTING
STATIONS FOR SCHOOL BUSES

SUBPART A: RULES OF GENERAL APPLICABILITY

Section
446.101 General Information
446.102 Information; Special Instructions
446.103 Communications and Pleadings
446.104 Definitions
446.105 Rules of Construction
446.106 Regulatory Dockets
446.107 Appearances

SUBPART B: DOCUMENT SPECIFICATIONS GENERALLY

Section
446.201 Typographical Specifications
446.202 Copies
446.203 Time
446.204 Service

SUBPART C: RULES FOR FILING AND APPROVAL OF RATES AND CHARGES

Section
446.301 General Requirements
446.302 Application for Rate Approval
446.303 Initial Application Review
446.304 Processing of Application
446.305 Withdrawal
446.306 Application for Rate Change
446.307 Appeal

SUBPART D: LEVEL OF RATES OR CHARGES

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section
446.401 General Requirements
446.402 Rates or Charges
446.403 Enforcement

SUBPART E: HEARINGS ON PETITIONS FOR APPROVAL OF DISALLOWED RATES AND APPEALS

Section
446.501 Request for Hearing
446.502 Notice and Place of Hearing
446.503 Hearings
446.504 Presiding Officer's Decision
446.505 Appeal

SUBPART F: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

Section
446.601 Notice
446.602 Complaints
446.603 Reply
446.604 Request for Hearing
446.605 Hearing
446.606 Presiding Officer's Decision
446.607 Appeal

SUBPART G: MISCELLANEOUS PROVISIONS

Section
446.701 Discovery
446.702 Motions
446.703 Intervention

AUTHORITY: Implementing Sections 6-410 and 13-106 of the Illinois Vehicle Code [625 ILCS 5/6-410 and 13-106] and Section 2705-125 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-125] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625] and Section 5-25 of the Illinois Administrative Procedure Act [5 ILCS 100/5-25].

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted at 6 Ill. Reg. 1291, effective February 1, 1982; codified at 6 Ill. Reg. 14689; amended at 19 Ill. Reg. 15754, effective November 2, 1995; amended at 35 Ill. Reg. 3551, effective February 10, 2011.

SUBPART A: RULES OF GENERAL APPLICABILITY

Section 446.102 Information; Special Instructions

Information as to procedure under the rules in this Part and instructions supplementing this Part in special instances, will be furnished upon written application to the Director, Division of Traffic Safety, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

(Source: Amended at 35 Ill. Reg. 3551, effective February 10, 2011)

Section 446.103 Communications and Pleadings

a) How Addressed~~addressed~~. All communications and pleadings should, unless otherwise specifically directed, be addressed and submitted to: Director, Division of Traffic Safety, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212. A communication should clearly designate the docket number, if any, and short title of any proceeding to and about which it is directed. The person communicating shall state his or her address, and the party he or she represents.

b) Timely Filing Required. All documents required or permitted to be filed under this Part must be received for filing at the offices of the Department's Division of Traffic Safety in Springfield, Illinois, within the time limits for that~~such~~ filing. The date of receipt at the Department and not the date of deposit in the mail is determinative, provided, however, that if the~~such~~ document is mailed by certified, registered, or express mail postmarked at least two days prior to the due date, it will be accepted as timely filed.

c) ~~Disposition of When~~Defective Filing. When~~In any proceeding when~~, upon inspection, the Department is of the opinion that a document tendered for filing does not comply with this Part or does not sufficiently set forth material required by any form of the Department, the Department may decline to accept the document for filing and may return it unfiled or the Department may accept it for

filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(Source: Amended at 35 Ill. Reg. 3551, effective February 10, 2011)

Section 446.104 Definitions

As used in this Part:

"Code" means the Illinois Vehicle Code [625 ILCS 5].

"Commercial Vehicle Safety Section" or "Section" means a section of the Bureau of Safety Programs of the Division of Traffic Safety, Illinois Department of Transportation.

"Department" means *the Department of Transportation of the State of Illinois, acting directly or through its duly authorized officers and agents*. (Section 1-115.05 of the Code)~~agents or officers. (Section 13-100 of the Code)~~

"Director" means the Director of the Division of Traffic Safety of the Illinois Department of Transportation.

"Division" means the ~~Division of Traffic Safety of the~~ Illinois Department of Transportation, Division of Traffic Safety.

"Official Testing Station" means all contiguous real and personal property that~~which~~ houses the testing lanes~~lane(s)~~ and all equipment and supplies relating to the safety testing of vehicles~~vehicle safety test program~~.

"Person" means *every natural person, firm, copartnership, association or corporation*. (Section 1-159 of the Code)~~any person as defined in Section 1-159 of the Code.~~

"Rate" or "Charge" means the monetary charge to any person offering a school bus for a safety test pursuant to Section 13-106 of the Code.

"Safety test" means the inspection of vehicles and components required to be tested by the Illinois Vehicle Equipment Law [625 ILCS 5/12-101 through 12-902], the Illinois Vehicle Inspection Law [625 ILCS 5/13-100.1 through 13-117]

and 92 Ill. Adm. Code 451, Administrative Requirements for Official Testing Stationstest required by Section 13-101 of the Code.

"School bus" means everyEvery motor vehicle, except as provided in this definitionbelow, owned or operated by or for any of the following entities for the transportation of persons regularly enrolled as students in grade 12 or below in connection with any activity of such entity:

Any public or private primary or secondary school;

Any primary or secondary school operated by a religious institution; or

Any public, private or religious nursery school.

This definition shall not include the following:

A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when such bus is not traveling a specific school bus route but is:

On a regularly scheduled route for the transportation of other fare paying passengers;

Furnishing charter service for the transportation of groups on field trips or other special trips or in connection with other special events; or

Being used for shuttle service between attendance centers or other educational facilities.

A motor vehicle of the first division.

A multifunction school-activity bus. (See Section 1-182 of the Code.)

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Section" means the Commercial Vehicle Safety Section of the Bureau of Safety Programs of the Division of Traffic Safety of the Department.

(Source: Amended at 35 Ill. Reg. 3551, effective February 10, 2011)

Section 446.106 Regulatory Dockets

a) Information and data relating to Department actions pursuant to this Part are maintained by the Bureau of Safety Programs, Division of Traffic Safety, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

b) Any person may examine and copy any docketed material at the offices of the Division during regular business hours.

(Source: Amended at 35 Ill. Reg. 3551, effective February 10, 2011)

SUBPART C: RULES FOR FILING AND APPROVAL OF RATES AND CHARGES

Section 446.302 Application for Rate Approval

a) Every operator of a currently licensed school bus Official Testing Station must file with the Department~~, within 60 days of the effective date of this Part,~~ a schedule of all rates and charges intended to be made by the applicant~~him~~ for performing a safety test on school buses and for which he or she seeks the approval of the Department. Each application for approval shall be submitted on the form provided by the Department by mailing or delivering that form to: Commercial Vehicle Safety Section, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

b) Each applicant for an Official Testing Station Permit shall file with the Department a proposed schedule of all rates and charges intended to be made by the applicant~~him~~ for performing a safety test on school buses and for which he or she seeks the approval of the Department. Each application made under this subsection (b)~~paragraph~~ shall be filed by the applicant with his or her application for a station permit pursuant to 92 Ill. Adm. Code 451 – Administrative Requirements for Official Testing Stations. The applicant shall submit his or her proposed schedule on the form provided by the Department by mailing or delivering that form to: Commercial Vehicle Safety Section, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box

19212, Springfield, Illinois 62794-9212.

c) A schedule of rates and charges filed with the Department under subsections (a) and (b) of this Section shall include an amount to reimburse the operator of an Official Testing Station for the purchase from the Department of the Certificate of Safety required by Section 13-109 of the Code. The reimbursement~~, which amount~~ shall not exceed the fee paid by the operator to the Department for the certificate.

(Source: Amended at 35 Ill. Reg. 3551, effective February 10, 2011)

Section 446.306 Application for Rate Change

a) Any operator of an Official Testing Station who desires to change his or her schedule of rates and charges filed with and approved by the Department shall file with the Department the new schedule of rates and charges proposed to be made ~~by him~~ for performing a safety test on school buses.

b) Applications under subsection (a) of this Section shall be submitted on the form provided by the Department by mailing or delivering that form to: Commercial Vehicle Safety Section, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

c) Applications under this Section shall initially be reviewed as provided in Section 446.303 and processed as provided in Section 446.304.

d) Withdrawals of applications under this Section shall be governed by Section 446.305.

e) If a proposed change in an applicant's rate or charge is disallowed or denied by the Section, an applicant may file a written petition under Section 446.307. All hearings scheduled under this subsection (e)~~paragraph~~ shall be conducted in accordance with the provisions of Sections 446.501, 446.502, 446.503, 446.504 and 446.505.

(Source: Amended at 35 Ill. Reg. 3551, effective February 10, 2011)

SUBPART D: LEVEL OF RATES OR CHARGES

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section 446.402 Rates or Charges

The following rates or charges for safety inspections of school buses have been determined by the Department to be prima facie just and reasonable rates or charges for the counties indicated. An application for a charge or rate equal to or less than the specified charge or rate will be approved. An application for a charge or rate in excess of the specified charge or rate will be disapproved. If a proposed rate or charge is disapproved by the Section, an applicant may appeal the disapproval to the Director under Section 446.307.

1	Cook, DuPage, Grundy, Kankakee, Kendall, Lake, Will	$26.00~~19.50~~
2	Boone, DeKalb, Jo Daviess, Kane, McHenry, Stephenson, Winnebago	$26.50~~16.50~~
3	Bureau, Carroll, Fulton, Henderson, Henry, Knox, LaSalle, Lee, Livingston, Marshall, Mercer, Ogle, Putnam, Rock Island, Stark, Warren, Whiteside	$29.00~~14.00~~
4	Mason, Menard, Morgan, Peoria, Sangamon, Tazewell, Woodford	$30.00~~17.00~~
5	DeWitt, Logan, Macon, McLean	$28.50~~12.50~~
6	Adams, Brown, Calhoun, Cass, Greene, Hancock, Jersey, Macoupin, McDonough, Pike, Schuyler, Scott	$27.00~~11.00~~
7	Coles, Champaign, Douglas, Edgar, Ford, Iroquois, Moultrie, Piatt, Shelby, Vermilion	$31.50~~13.50~~
8	Bond, Christian, Clay, Clinton, Effingham, Fayette, Jasper, Marion, Montgomery	$32.50~~14.00~~
9	Madison, St. Clair	$30.50~~17.50~~
10	Jackson, Monroe, Perry, Randolph, Union, Washington	$34.50~~13.00~~
11	Alexander, Clark, Crawford, Cumberland, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jefferson, Johnson, Lawrence, Massac, Pope, Pulaski, Richland, Saline, Wabash, Wayne, White, Williamson	$30.00~~11.00~~

(Source: Amended at 35 Ill. Reg. 3551, effective February 10, 2011)

SUBPART E: HEARINGS ON PETITIONS FOR APPROVAL OF DISALLOWED RATES AND APPEALS

Section 446.502 Notice and Place of Hearing

a) Hearings on petitions filed by operators of Official Testing Stations will be held at either of the offices of the Department at 201 West Center Court, Schaumburg, Illinois or at 1340 North 9th Street, Springfield, Illinois or at another location designated by the Department.~~in Boone, Bureau, Carroll, Cook, DeKalb, DuPage, Grundy, Henry, Jo Daviess, Kane, Kankakee, Kendall, Lake, LaSalle, Lee, McHenry, Ogle, Rock Island, Stephenson, Whiteside, Will and Winnebago Counties shall be held at the offices of the Department at 201 West Center Court, Schaumburg, Illinois. Hearings for operators in Alexander, Clay, Clinton, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Lawrence, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, Saline, St. Clair, Union, Wabash, Washington, Wayne, White and Williamson Counties shall be held at the offices of the Department at 2801 West Murphysboro Road, Carbondale, Illinois. Hearings for operators in any other county shall be held at the Department's offices located at 3215 Executive Park Drive, Springfield, Illinois.~~

b) The Department shall give notice of the hearing to the person requesting the hearing and to the Department's Office of Chief Counsel. ~~In the case of a petition for approval of rate change, the Department shall also cause to be published a Notice of the petition for Rate Change in a newspaper of general circulation in the community in which the petitioner's Official Testing Station is located, setting forth the time and place of the hearing.~~

(Source: Amended at 35 Ill. Reg. 3551, effective February 10, 2011)

SUBPART F: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

Section 446.602 Complaints

a) Whenever any person intends to complain to the Department about the justness or reasonableness of any rate or~~of~~ charge filed by any operator with the Department, that person shall make the complaint in writing and mail or submit it to: Commercial Vehicle Safety Section, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

b) Each complaint shall include:

1) the name, address and telephone number of the person making the

complaint;

2) a statement whether the complainant owns or operates an Official Testing Station, and if applicable, the name, business address and telephone number of that Official Testing Station;

3) the name and, if known, the business address, of the operator against whom the person complains;

4) A description or statement of the rates~~rate(s)~~ about which the person complains;

5) a statement setting forth in detail the specific facts and reasons why the person believes the rates~~rate(s)~~ about which that person complains are~~is~~ unjust or unreasonable; and

6) any information, document or other matters upon which the person relies.

c) The facts asserted in any complaint must be sworn to by persons having knowledge of those facts~~thereof~~. Except under unusual circumstances, those~~such~~ persons should be ~~those who will be~~ available to appear as witnesses at a hearing convened by the Department to substantiate the facts asserted should a hearing become necessary.

d) An original copy of the complaint~~Complainant~~ shall be filed with the Department. The original must show the signature, capacity and impression seal, if any, of the person administering the oath, and the date of the oath~~thereof~~.

(Source: Amended at 35 Ill. Reg. 3551, effective February 10, 2011)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Rates to be Charged by Official Testing Stations for Vehicles other than School Buses

2) Code Citation: 92 Ill. Adm. Code 454

3)

Section Numbers:	Adopted Action:
454.20	Amend
454.30	Amend
454.40	Amend
454.60	Amend
454.210	Amend
454.250	Amend
454.310	Amend
454.410	Amend
454.510	Amend

4) Statutory Authority: Implementing Sections 6-410 and 13-106 of the Illinois Vehicle Code [625 ILCS 5/6-410 and 13-106] and Section 2705-125 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-125] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625] and Section 5-25 of the Illinois Administrative Procedure Act [5 ILCS 100/5-25]

5) Effective Date of Amendments: February 10, 2011

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's Division of Traffic Safety and Office of Chief Counsel and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 22, 2010; 34 Ill. Reg. 16315

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: Only nonsubstantive text changes have been made since 1st Notice.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of the Amendments: By this Notice, the Department is increasing the base rates that Official Testing Stations (Stations) charge, as required by Section 13-106 of the Illinois Vehicle Inspection Law, to inspect a school bus. Under the current rule, when a new Station opens, the owner must charge the rate prescribed under Section 454.402, Rates or Charges, or request a hearing for a rate increase to allow the owner to charge the prevailing rates for the same or similar tests made in the community where the Station is located. Since the base rates in Section 454.402 are out-of-date and no longer "just and reasonable," the cost of doing business has risen over the years, and the hearing process delays the Station owner's ability to increase the base rate during that timeframe when the hearing proceedings and the subsequent paperwork are finalized (thus creating an economic burden on new Stations and Stations that are small businesses), the rule had to be revised.

As prescribed in Section 13-106 of the Illinois Vehicle Inspection Law, *a "just and reasonable" rate or charge means a rate or charge which is the same, or nearly the same, as the prevailing rate or charge for the same or similar tests made in the community where the station is located.*

The Department calculated the new base rates by comparing the minimum base rates in Section 454.402 with the prevailing rates being charged by Stations. The Department calculated the percentage increase in the rates, where a percentage increase occurred. The percentages were then averaged and that average was added to the rates in Section 454.402 to determine what the new base rates should be. The new base rates were then rounded to the nearest 50 cents so the rates will be easier for the Stations to calculate.

Following are summaries of the significant changes to the Part:

At Section 454.104, Definitions, the Department has updated statutory language and citations; amended existing definitions, and added new definitions.

At Section 454.402, Rates or Charges, the Department increased the base inspection rates Stations charge to perform safety tests on school buses.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

At Section 454.502(a), Notice and Place of Hearing, the Department deleted language that restricts the hearing location to specific counties. A hearing can now be presided over via video conference at either the Department's Schaumburg or Springfield office or at another location designated by the Department. The Department is also deleting a requirement concerning publication in the newspaper of a notice of petition for rate change because the Department has determined that publication is cost-prohibitive and, also, because no one other than the Station requesting the rate change has ever appeared to testify or object to a rate change.

Finally, in Sections 454.102, 454.103(a), 454.106(a), 454.302(a) and (b), 454.306(b), and 454.602(a), the Department's address has been amended to reflect the Division of Traffic Safety's new address. The street address has been updated but the post office box number will remain the same.

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

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
1340 North 9th Street
P.O. Box 19212
Springfield, Illinois 62794-9212

217/785-3031

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 454
RATES TO BE CHARGED BY OFFICIAL TESTING STATIONS
FOR VEHICLES OTHER THAN SCHOOL BUSES

SUBPART A: RULES OF GENERAL APPLICABILITY

Section
454.10 General Information
454.20 Information; Special Instructions
454.30 Communications and Pleadings
454.40 Definitions
454.50 Rules of Construction
454.60 Regulatory Dockets
454.70 Appearances

SUBPART B: DOCUMENT SPECIFICATIONS GENERALLY

Section
454.110 Typographical Specifications
454.120 Copies
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SUBPART C: RULES FOR FILING AND APPROVAL OF RATES AND CHARGES

Section
454.200 General Requirements
454.210 Application for Rate Approval
454.220 Initial Application Review
454.230 Processing of Application
454.240 Withdrawal
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SUBPART D: LEVEL OF RATES OR CHARGES

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section
454.300 General Requirements
454.310 Rates or Charges
454.320 Enforcement

SUBPART E: HEARINGS ON PETITIONS FOR APPROVAL OF DISALLOWED RATES AND APPEALS

Section
454.400 Request for Hearing
454.410 Notice and Place of Hearings
454.420 Hearings
454.430 Presiding Officer's Decision
454.440 Appeal

SUBPART F: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

Section
454.500 Notice
454.510 Complaints
454.520 Reply
454.530 Request for Hearing
454.540 Hearing
454.550 Presiding Officer's Decision
454.560 Appeal

SUBPART G: MISCELLANEOUS PROVISIONS

Section
454.600 Discovery
454.610 Motions
454.620 Intervention

AUTHORITY: Implementing Sections 6-410 and 13-106 of the Illinois Vehicle Code [625 ILCS 5/6-410] and 13-106] and Section 2705-125 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-125] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625] and Section 5-25 of the Illinois Administrative Procedure Act [5 ILCS 100/5-25].

SOURCE: Adopted at 2 Ill. Reg. 26, p. 149, effective May 26, 1978; amended at 5 Ill. Reg. 12989, effective November 16, 1981; codified at 7 Ill. Reg. 2748; amended at 17 Ill. Reg. 19662, effective November 1, 1993; amended at 35 Ill. Reg. 3564, effective February 10, 2011.

SUBPART A: RULES OF GENERAL APPLICABILITY

Section 454.20 Information; Special Instructions

Information as to procedure under the rules in this Part and instructions supplementing this Part in special instances, will be furnished upon written application to the Director, Division of Traffic Safety, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

(Source: Amended at 35 Ill. Reg. 3564, effective February 10, 2011)

Section 454.30 Communications and Pleadings

a) How Addressed~~addressed~~. All communication and pleadings should, unless otherwise specifically directed, be addressed and submitted to: Director, Division of Traffic Safety, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212. All communications should clearly designate the docket number, if any, and short title of any proceeding to and about which it is directed. The person communicating shall state his or her address, and the party he or she represents.

b) Timely Filing Required. All documents required or permitted to be filed under this Part~~these Rules~~ must be received for filing at the offices of the Department's Division of Traffic Safety in Springfield, Illinois, within the time limits, if any, for that~~such~~ filing. The date of receipt at the Department and not the date of deposit in the mail is determinative, provided, however, that if the~~such~~ document is mailed by certified, registered, or express mail postmarked at least two days prior to the due date, it will be accepted as timely filed.

c) Disposition~~ of~~; When Defective. In any proceeding when, upon inspection, the Department is of the opinion that a document tendered for filing does not comply with this Part~~these Rules~~ or does not sufficiently set forth material required by any form of the Department, the Department may decline to accept it for filing and advise the person tendering it of the deficiency and require that the deficiency

be corrected.

(Source: Amended at 35 Ill. Reg. 3564, effective February 10, 2011)

Section 454.40 Definitions

As used in this Part:

"Code" means the Illinois Vehicle Code [625 ILCS 5].

"Commercial Vehicle Safety Section" means a section of the Bureau of Safety Programs of the Division of Traffic Safety, ~~of the~~ Illinois Department of Transportation.~~;~~

"Department" means *the Department of Transportation of the State of Illinois, acting directly or through its duly authorized officers and agents*. (Section 1-115.05 of the Code).~~agents or officers (Ill. Rev. Stat. 1991, ch. 95½, par. 13-100) [625 ILCS 5/13-100];~~

"Director" means the Director of the Division of Traffic Safety of the Illinois Department of Transportation.~~;~~

~~"Division" means the Division of Traffic Safety of the Illinois Department of Transportation;~~

"Division" means the Illinois Department of Transportation, Division of Traffic Safety.

~~"Illinois Vehicle Code" means the provisions of Chapter 95½ of the Illinois Revised Statutes [Chapter 625 of the Illinois Compiled Statutes];~~

"Official Testing Station" means all contiguous real and personal property that~~which~~ houses the testing lanes~~lane(s)~~ and all equipment and supplies relating to the safety testing of vehicles.~~vehicle safety test program;~~

"Person" means *every natural person, firm, copartnership, association or corporation*. (Section 1-159 of the Code)~~any person as defined in Section 1-159 of the Illinois Vehicle Code;~~

"Rate" or "Charge" means the monetary charge to any person offering a second division vehicle or vehicles other than a school bus for a safety test pursuant to Section 13-106 of the ~~Illinois Vehicle~~ Code.~~;~~

"Safety Test~~test~~" means the inspection of vehicles and components required to be tested by the Illinois Vehicle Equipment Law [625 ILCS 5/12-101 through 12-902], the Illinois Vehicle Inspection Law [625 ILCS 5/13-100.1 through 13-117] and 92 Ill. Adm. Code 451, Administrative Requirements For Official Testing Stations.~~the test required by Section 13-101 of the Illinois Vehicle Code (Ill. Rev. Stat. 1991, ch. 95½, par. 13-101) [625 ILCS 5/13-101];~~

"Second Division Vehicle" means *those vehicles which are designed for carrying more than 10~~ten~~ persons, those designed or used for living quarters and those vehicles which are designed for pulling or carrying property, freight or cargo, those motor vehicles of the First Division remodelled for use and used as motor vehicles of the Second Division, and those motor vehicles of the First Division used and registered as school buses*. (Section 1-217 of the Code)~~(Ill. Rev. Stat. 1991, ch. 95½, par. 1-217) [625 ILCS 5/1-217];~~

"Secretary" means the Secretary of the Illinois Department of Transportation.

(Source: Amended at 35 Ill. Reg. 3564, effective February 10, 2011)

Section 454.60 Regulatory Dockets

a) Information and data relating to Department actions pursuant to this Part are maintained by the Bureau of Safety Programs, Division of Traffic Safety, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

b) Any person may examine and copy any docketed material at the offices of the Division during regular business hours.

(Source: Amended at 35 Ill. Reg. 3564, effective February 10, 2011)

SUBPART C: RULES FOR FILING AND APPROVAL OF RATES AND CHARGES

Section 454.210 Application for Rate Approval

a) Each applicant for an Official Testing Station Permit shall file with the Department a proposed schedule of all rates and charges intended to be made by the applicant~~him~~ for performing a safety test on vehicles other than school buses and for which he or she seeks the approval of the Department. Each application made under this subsection (a) shall be filed by the applicant after he or she submits the~~his~~ application for a station permit pursuant to 92 Ill. Adm. Code 451, ~~"~~Administrative Requirements for Official Testing Stations,~~"~~ but prior to the issuance of the station permit ~~to him~~ by the Department. The applicant shall submit his or her proposed schedule on the form provided by the Department by mailing or delivering that form to: Bureau of Safety Programs, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

b) A schedule of rates and charges filed with the Department under subsection (a) shall include an amount to reimburse the operator of an Official Testing Station for the purchase from the Department of the Certificate of Safety required by Section 13-109 of the~~ Illinois Vehicle~~ Code. ~~(Ill. Rev. Stat. 1991, ch. 95½, par. 13-109) [625 ILCS 5/13-109]~~ The reimbursement~~which amount~~ shall not exceed the fee paid by the operator to the Department for the Certificate.

(Source: Amended at 35 Ill. Reg. 3564, effective February 10, 2011)

Section 454.250 Application for Rate Change

a) Any operator of an Official Testing Station who desires to change his or her schedule of rates and charges filed with and approved by the Department shall file with the Department the new schedule of rates and charges proposed to be made ~~by him~~ for performing a safety inspection on vehicles other than school buses.

b) Applications under subsection (a) shall be submitted on the form provided by the Department by mailing or delivering that form to: Bureau of Safety Programs, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

c) Applications under this Section shall initially be reviewed as provided in Section 454.220 and processed as provided in Section 454.230.

d) Withdrawals of applications under this Section shall be governed by Section 454.240.

e) If a proposed change in an applicant's rate or charge is disallowed or denied by the Commercial Vehicle Safety Section, an applicant may file a written petition under Section 454.260. All hearings scheduled under this subsection (e) shall be conducted in accordance with the provisions of Sections 454.400 through 454.440.

(Source: Amended at 35 Ill. Reg. 3564, effective February 10, 2011)

SUBPART D: LEVEL OF RATES OR CHARGES

Section 454.310 Rates or Charges

The following rates or charges for safety inspections of vehicles other than school buses have been determined by the Department to be prima facie just and reasonable rates or charges for the counties indicated. Any existing charge or rate that~~which~~ has previously been approved by the Department is acceptable. An application for a future charge or rate in excess of the specified charge or rate will be disapproved. If a proposed rate or charge is disapproved by the Commercial Vehicle Safety Section, an applicant may appeal the disapproval to the Director under Section 454.260. The following rates or charges do not include the Certificate of Safety fee.

Region	Counties	RATES SWA*	RATES DWA**
1	Cook, DuPage, Grundy, Kankakee, Kendall, Lake, Will	$11.00~~6.20~~	$11.50~~7.00~~
2	Boone, DeKalb, Jo Daviess, Kane, McHenry, Stephenson, Winnebago	$10.00~~5.15~~	$10.50~~5.80~~
3	Bureau, Carroll, Fulton, Henderson, Henry, Knox, LaSalle, Lee, Livingston, Marshall, Mercer, Ogle, Putnam, Rock Island, Stark, Warren, Whiteside	$8.50~~4.45~~	$9.00~~5.00~~
4	Mason, Menard, Morgan, Peoria, Sangamon, Tazewell, Woodford	$9.50~~5.25~~	$10.00~~5.90~~
5	DeWitt, Logan, Macon, McLean	$9.50~~3.95~~	$9.50~~4.45~~
6	Adams, Brown, Calhoun, Cass, Greene, Hancock, Jersey, Macoupin, McDonough, Pike, Schuyler, Scott	$8.00~~3.50~~	$8.50~~3.95~~
7	Coles, Champaign, Douglas, Edgar, Ford, Iroquois, Moultrie, Piatt, Shelby, Vermilion~~Vermillion~~	$9.00~~4.25~~	$9.50~~4.75~~

8	Bond, Christian, Clay, Clinton, Effingham, Fayette, Jasper, Marion, Montgomery	$9.00~~4.35~~	$10.00~~4.95~~
9	Madison, St. Clair	$10.00~~5.45~~	$10.50~~6.10~~
10	Jackson, Monroe, Perry, Randolph, Union, Washington	$9.50~~4.10~~	$10.00~~4.60~~
11	Alexander, Clark, Crawford, Cumberland, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jefferson, Johnson, Lawrence, Massac, Pope, Pulaski, Richland, Saline, Wabash, Wayne, White, Williamson	$8.00~~3.50~~	$8.50~~3.95~~

* SWA – Single wheel axle

** DWA – Double wheel axle

(Source: Amended at 35 Ill. Reg. 3564, effective February 10, 2011)

SUBPART E: HEARINGS ON PETITIONS FOR APPROVAL OF DISALLOWED RATES AND APPEALS

Section 454.410 Notice and Place of Hearings

a) Hearings~~Hearing~~ on petitions filed by operators of Official Testing Stations will be held at either of the offices of the Department at 201 West Center Court, Schaumburg, Illinois or at 1340 North 9th Street, Springfield, Illinois or at another location designated by the Department.~~in Boone, Bureau, Carroll, Cook, DeKalb, DuPage, Grundy, Henry, Jo Daviess, Kane, Kankakee, Kendall, Lake, LaSalle, Lee, McHenry, Ogle, Rock Island, Stephenson, Whiteside, Will, and Winnebago Counties shall be held at the offices of the Department at 201 West Center Court, Schaumburg, Illinois. Hearings for operators in Alexander, Clay, Clinton, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Lawrence, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, Saline, St. Clair, Union, Wabash, Washington, Wayne, White and Williamson Counties shall be held at the offices of the Department at 2801 West Murphysboro Road, Carbondale, Illinois. Hearings for operators of any other country shall be held at the Department's offices located at 3215 Executive Park Drive, Springfield, Illinois.~~

b) The Department shall, as soon as possible, give notice of the hearing to the person requesting the hearing and to the Department's Office of Chief Counsel.~~ In the case of a petition for approval of rate change, the Department shall also cause to~~

~~be published a Notice of the Petition for Rate Change in a newspaper of general circulation in the community in which the petitioner's Official Testing Station is located, setting forth the time and place of the hearing.~~

(Source: Amended at 35 Ill. Reg. 3564, effective February 10, 2011)

SUBPART F: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

Section 454.510 Complaints

a) Whenever any person intends to complain to the Department about the justness or reasonableness of any rate or charge filed by any operator with the Department, that person shall make the complaint in writing and mail or submit it to: Bureau of Safety Programs, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

b) Each complaint~~Complaint~~ shall include:

1) the name, address and telephone number of the person making the complaint;

2) a statement whether the complainant owns or operates an Official Testing Station, and if applicable, the name, business address and telephone number of that Official Testing Station;

3) the name and if known the business address, of the operator against whom the person complains;

4) A description or statement of the rates~~rate(s)~~ about which the person complains;

5) a statement setting forth in detail the specific facts and reasons why the person believes the rates~~rate(s)~~ about which that person complains is unjust or unreasonable; and

6) any information, document or other matters upon which the person relies.

c) The facts asserted in any complaint must be sworn to by persons having

knowledge thereof. Except under unusual circumstances, those~~such~~ persons should be ~~those who will be~~ available to appear as witnesses at a hearing convened by the Department to substantiate the facts asserted should a hearing become necessary.

d) An original copy of the complaint~~Complaint~~ shall be filed with the Department. The original must show the signature, capacity and impression seal, if any, of the person administering the oath, and the date of the oath~~thereof~~.

(Source: Amended at 35 Ill. Reg. 3564, effective February 10, 2011)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

1) Heading of the Part: Pay Plan

2) Code Citation: 80 Ill. Adm. Code 310

3) Section Number: 310.APPENDIX A TABLE W
Peremptory Action: Amendment

4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute which Requires this Peremptory Rulemaking: The Department of Central Management Services (CMS) is amending the Pay Plan (80 Ill. Adm. Code 310) Section 310.Appendix A Table W to reflect the Memorandum of Understanding (MOU) between the American Federation of State, County and Municipal Employees (AFSCME) and the State of Illinois for the Public Service Administrator title Option 8C, which is Special License - Certified Public Accountant/Certified Internal Auditor, signed January 13, 2011. The Public Service Administrator title Option 8C is assigned to RC-062-24 pay grade Pay Plan Code B rates effective October 15, 2010. Issued on October 15, 2010 was the Illinois Labor Relations Board (ILRB) State Panel Certification of Representative (Case No. S-RC-10-138) assigning the classification Public Service Administrator, Option 8C (CMS, Pollution Control Board and Public Health) to the RC-062 bargaining unit with no position excluded. Issued on December 23, 2010, nunc pro tunc October 15, 2010, was the ILRB State Panel Corrected Certification of Representative (Case No. S-RC-10-138) assigning the classification Public Service Administrator, Option 8C to the RC-062 bargaining unit with no position excluded.

5) Statutory Authority: Authorized by Sections 8, 8a and 9(7) of the Personnel Code [20 ILCS 415/8, 20 ILCS 415/8a and 20 ILCS 415/9(7)], subsection (d) of Section 1-5 of the Illinois Administrative Procedure Act [5 ILCS 100/1-5(d)] and by Sections 4, 6, 15 and 21 of the Illinois Public Labor Relations Act [5 ILCS 315/4, 5 ILCS 315/6, 5 ILCS 315/15 and 5 ILCS 315/21].

6) Effective Date: February 10, 2011

7) A Complete Description of the Subjects and Issues Involved: In Section 310.Appendix A Table W and in the title table, the Option 8C is added to the Public Service Administrator title positions assigned to the RC-062-24 pay grade. In the Note, the Option 8C is added to the positions allocated to the Public Service Administrator title that are assigned to the negotiated RC-062 pay grade so that the definition of option in Section 310.50 may be referenced for the meaning of 8C.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

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

9) Date filed with the Index Department: February 10, 2011

10) This and other Pay Plan amendments are available in the Division of Technical Services of the Bureau of Personnel.

11) Is this rulemaking in compliance with Section 5-50 of the Illinois Administrative Procedure Act? Yes

12) Are there any other proposed amendments pending on this Part? Yes.

Section Numbers:	Proposed Action:	Illinois Register Citation:
310.210	Amendment	35 Ill. Reg. 678, January 14, 2011
310.Appendix A Table C	Amendment	35 Ill. Reg. 678, January 14, 2011
310.Appendix A Table G	Amendment	35 Ill. Reg. 678, January 14, 2011
310.Appendix A Table K	Amendment	35 Ill. Reg. 678, January 14, 2011
310.Appendix A Table L	Amendment	35 Ill. Reg. 678, January 14, 2011
310.Appendix A Table P	Amendment	35 Ill. Reg. 678, January 14, 2011
310.Appendix A Table Q	Amendment	35 Ill. Reg. 678, January 14, 2011
310.47		35 Ill. Reg. 3577, February 25, 2011
310.Appendix A Table AA	Amendment	35 Ill. Reg. 3577, February, 25 2011

13) Statement of Statewide Policy Objectives: The amendment to the Pay Plan affects only the employees subject to the Personnel Code and does not set out any guidelines that affect local or other jurisdictions in the State.

14) Information and questions regarding this peremptory amendment shall be directed to:

Mr. Jason Doggett, Manager
Compensation Section - Division of Technical Services and Agency Training and Development
Bureau of Personnel
Department of Central Management Services
504 William G. Stratton Building
Springfield IL 62706

217/782-7964
Fax: 217/524-4570

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

CMS.PayPlan@Illinois.gov

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section
310.20 Policy and Responsibilities
310.30 Jurisdiction
310.40 Pay Schedules
310.45 Comparison of Pay Grades or Salary Ranges Assigned to Classifications
310.47 In-Hiring Rate
310.50 Definitions
310.60 Conversion of Base Salary to Pay Period Units
310.70 Conversion of Base Salary to Daily or Hourly Equivalents
310.80 Increases in Pay
310.90 Decreases in Pay
310.100 Other Pay Provisions
310.110 Implementation of Pay Plan Changes (Repealed)
310.120 Interpretation and Application of Pay Plan
310.130 Effective Date
310.140 Reinstitution of Within Grade Salary Increases (Repealed)
310.150 Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section
310.205 Introduction
310.210 Prevailing Rate
310.220 Negotiated Rate
310.230 Part-Time Daily or Hourly Special Services Rate (Repealed)
310.240 Daily or Hourly Rate Conversion
310.250 Member, Patient and Inmate Rate
310.260 Trainee Rate

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310.270 Legislated Rate
310.280 Designated Rate
310.290 Out-of-State Rate (Repealed)
310.295 Foreign Service Rate (Repealed)
310.300 Educator Schedule for RC-063 and HR-010
310.310 Physician Specialist Rate
310.320 Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections (Repealed)
310.330 Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

Section
310.410 Jurisdiction
310.415 Merit Compensation Salary Range Assignments
310.420 Objectives
310.430 Responsibilities
310.440 Merit Compensation Salary Schedule
310.450 Procedures for Determining Annual Merit Increases and Bonuses
310.455 Intermittent Merit Increase (Repealed)
310.456 Merit Zone (Repealed)
310.460 Other Pay Increases
310.470 Adjustment
310.480 Decreases in Pay
310.490 Other Pay Provisions
310.495 Broad-Band Pay Range Classes
310.500 Definitions
310.510 Conversion of Base Salary to Pay Period Units (Repealed)
310.520 Conversion of Base Salary to Daily or Hourly Equivalents
310.530 Implementation
310.540 Annual Merit Increase and Bonus Guidechart
310.550 Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

310.APPENDIX A Negotiated Rates of Pay
310.TABLE A RC-104 (Conservation Police Supervisors, Laborers' – ISEA Local #2002)
310.TABLE B VR-706 (Assistant Automotive Shop Supervisors, Automotive Shop Supervisors and Meat and Poultry Inspector Supervisors, Laborers' –

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	ISEA Local #2002)
310.TABLE C	RC-056 (Site Superintendents and Veterans' Affairs, Natural Resources, Human Services, Historic Preservation Agency and Agriculture Managers, IFPE)
310.TABLE D	HR-001 (Teamsters Local #726)
310.TABLE E	RC-020 (Teamsters Local #330)
310.TABLE F	RC-019 (Teamsters Local #25)
310.TABLE G	RC-045 (Automotive Mechanics, IFPE)
310.TABLE H	RC-006 (Corrections Employees, AFSCME)
310.TABLE I	RC-009 (Institutional Employees, AFSCME)
310.TABLE J	RC-014 (Clerical Employees, AFSCME)
310.TABLE K	RC-023 (Registered Nurses, INA)
310.TABLE L	RC-008 (Boilermakers)
310.TABLE M	RC-110 (Conservation Police Lodge)
310.TABLE N	RC-010 (Professional Legal Unit, AFSCME)
310.TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
310.TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
310.TABLE Q	RC-033 (Meat Inspectors, IFPE)
310.TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
310.TABLE S	VR-704 (Corrections, Financial and Professional Regulation, Juvenile Justice and State Police Supervisors, Laborers' – ISEA Local #2002)
310.TABLE T	HR-010 (Teachers of Deaf, IFT)
310.TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
310.TABLE V	CU-500 (Corrections Meet and Confer Employees)
310.TABLE W	RC-062 (Technical Employees, AFSCME)
310.TABLE X	RC-063 (Professional Employees, AFSCME)
310.TABLE Y	RC-063 (Educators, AFSCME)
310.TABLE Z	RC-063 (Physicians, AFSCME)
310.TABLE AA	NR-916 (Departments of Natural Resources and Transportation, Teamsters)
310.TABLE AB	RC-150 (Public Service Administrators Option 6, AFSCME)
310.TABLE AC	RC-036 (Public Service Administrators Option 8L Department of Healthcare and Family Services, INA)
310.TABLE AD	RC-184 (Public Service Administrators Option 8X Department of Natural Resources, SEIU Local 73)
310.TABLE AE	RC-090 (Internal Security Investigators, Metropolitan Alliance of Police Chapter 294)
310.APPENDIX B	Schedule of Salary Grade Pay Grades – Monthly Rates of Pay (Repealed)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

310.APPENDIX C Medical Administrator Rates (Repealed)
310.APPENDIX D Merit Compensation System Salary Schedule
310.APPENDIX E Teaching Salary Schedule (Repealed)
310.APPENDIX F Physician and Physician Specialist Salary Schedule (Repealed)
310.APPENDIX G Broad-Band Pay Range Classes Salary Schedule

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory

amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg.

3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160,

effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; peremptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective August 31, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; peremptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg.

13053, effective September 27, 1999; peremptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; peremptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; emergency expired November 27, 2000; peremptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; peremptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; peremptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; peremptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; peremptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; peremptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001; amended at 25 Ill. Reg. 5618, effective April 4, 2001; amended at 25 Ill. Reg. 6655, effective May 11, 2001; amended at 25 Ill. Reg. 7151, effective May 25, 2001; peremptory amendment at 25 Ill. Reg. 8009, effective June 14, 2001; emergency amendment at 25 Ill. Reg. 9336, effective July 3, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 9846, effective July 23, 2001; amended at 25 Ill. Reg. 12087, effective September 6, 2001; amended at 25 Ill. Reg. 15560, effective November 20, 2001; peremptory amendment at 25 Ill. Reg. 15671, effective November 15, 2001; amended at 25 Ill. Reg. 15974, effective November 28, 2001; emergency amendment at 26 Ill. Reg. 223, effective December 21, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1143, effective January 17, 2002; amended at 26 Ill. Reg. 4127, effective March 5, 2002; peremptory amendment at 26 Ill. Reg. 4963, effective March 15, 2002; amended at 26 Ill. Reg. 6235, effective April 16, 2002; emergency amendment at 26 Ill. Reg. 7314, effective April 29, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 10425, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10952, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13934, effective September 10, 2002; amended at 26 Ill. Reg. 14965, effective October 7, 2002; emergency amendment at 26 Ill. Reg. 16583, effective October 24, 2002, for a maximum of 150 days; emergency expired March 22, 2003; peremptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002; amended at 26 Ill. Reg. 17374, effective November 25, 2002; amended at 26 Ill. Reg. 17987, effective December 9, 2002; amended at 27 Ill. Reg. 3261, effective February 11, 2003; expedited correction at 28 Ill. Reg. 6151, effective February 11, 2003; amended at 27 Ill. Reg. 8855, effective May 15, 2003; amended at 27 Ill. Reg. 9114, effective May 27, 2003; emergency amendment at 27 Ill. Reg. 10442, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; peremptory amendment at 27 Ill. Reg. 17433, effective November 7, 2003; amended at 27 Ill. Reg. 18560, effective December 1, 2003; peremptory amendment at 28 Ill. Reg. 1441, effective January 9, 2004; amended at 28

Ill. Reg. 2684, effective January 22, 2004; amended at 28 Ill. Reg. 6879, effective April 30, 2004; peremptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004; amended at 28 Ill. Reg. 8842, effective June 11, 2004; peremptory amendment at 28 Ill. Reg. 9717, effective June 28, 2004; amended at 28 Ill. Reg. 12585, effective August 27, 2004; peremptory amendment at 28 Ill. Reg. 13011, effective September 8, 2004; peremptory amendment at 28 Ill. Reg. 13247, effective September 20, 2004; peremptory amendment at 28 Ill. Reg. 13656, effective September 27, 2004; emergency amendment at 28 Ill. Reg. 14174, effective October 15, 2004, for a maximum of 150 days; emergency expired March 13, 2005; peremptory amendment at 28 Ill. Reg. 14689, effective October 22, 2004; peremptory amendment at 28 Ill. Reg. 15336, effective November 15, 2004; peremptory amendment at 28 Ill. Reg. 16513, effective December 9, 2004; peremptory amendment at 29 Ill. Reg. 726, effective December 15, 2004; amended at 29 Ill. Reg. 1166, effective January 7, 2005; peremptory amendment at 29 Ill. Reg. 1385, effective January 4, 2005; peremptory amendment at 29 Ill. Reg. 1559, effective January 11, 2005; peremptory amendment at 29 Ill. Reg. 2050, effective January 19, 2005; peremptory amendment at 29 Ill. Reg. 4125, effective February 23, 2005; amended at 29 Ill. Reg. 5375, effective April 4, 2005; peremptory amendment at 29 Ill. Reg. 6105, effective April 14, 2005; peremptory amendment at 29 Ill. Reg. 7217, effective May 6, 2005; peremptory amendment at 29 Ill. Reg. 7840, effective May 10, 2005; amended at 29 Ill. Reg. 8110, effective May 23, 2005; peremptory amendment at 29 Ill. Reg. 8214, effective May 23, 2005; peremptory amendment at 29 Ill. Reg. 8418, effective June 1, 2005; amended at 29 Ill. Reg. 9319, effective July 1, 2005; peremptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005; peremptory amendment at 29 Ill. Reg. 13265, effective August 11, 2005; amended at 29 Ill. Reg. 13540, effective August 22, 2005; peremptory amendment at 29 Ill. Reg. 14098, effective September 2, 2005; amended at 29 Ill. Reg. 14166, effective September 9, 2005; amended at 29 Ill. Reg. 19551, effective November 21, 2005; emergency amendment at 29 Ill. Reg. 20554, effective December 2, 2005, for a maximum of 150 days; peremptory amendment at 29 Ill. Reg. 20693, effective December 12, 2005; peremptory amendment at 30 Ill. Reg. 623, effective December 28, 2005; peremptory amendment at 30 Ill. Reg. 1382, effective January 13, 2006; amended at 30 Ill. Reg. 2289, effective February 6, 2006; peremptory amendment at 30 Ill. Reg. 4157, effective February 22, 2006; peremptory amendment at 30 Ill. Reg. 5687, effective March 7, 2006; peremptory amendment at 30 Ill. Reg. 6409, effective March 30, 2006; amended at 30 Ill. Reg. 7857, effective April 17, 2006; amended at 30 Ill. Reg. 9438, effective May 15, 2006; peremptory amendment at 30 Ill. Reg. 10153, effective May 18, 2006; peremptory amendment at 30 Ill. Reg. 10508, effective June 1, 2006; amended at 30 Ill. Reg. 11336, effective July 1, 2006; emergency amendment at 30 Ill. Reg. 12340, effective July 1, 2006, for a maximum of 150 days; peremptory amendment at 30 Ill. Reg. 12418, effective July 1, 2006; amended at 30 Ill. Reg. 12761, effective July 17, 2006; peremptory amendment at 30 Ill. Reg. 13547, effective August 1, 2006; peremptory amendment at 30 Ill. Reg. 15059, effective September 5, 2006; peremptory amendment at 30 Ill. Reg. 16439, effective September 27, 2006; emergency amendment at 30 Ill. Reg. 16626, effective October 3,

2006, for a maximum of 150 days; peremptory amendment at 30 Ill. Reg. 17603, effective October 20, 2006; amended at 30 Ill. Reg. 18610, effective November 20, 2006; peremptory amendment at 30 Ill. Reg. 18823, effective November 21, 2006; peremptory amendment at 31 Ill. Reg. 230, effective December 20, 2006; emergency amendment at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days; peremptory amendment at 31 Ill. Reg. 2485, effective January 17, 2007; peremptory amendment at 31 Ill. Reg. 4445, effective February 28, 2007; amended at 31 Ill. Reg. 4982, effective March 15, 2007; peremptory amendment at 31 Ill. Reg. 7338, effective May 3, 2007; amended at 31 Ill. Reg. 8901, effective July 1, 2007; emergency amendment at 31 Ill. Reg. 10056, effective July 1, 2007, for a maximum of 150 days; peremptory amendment at 31 Ill. Reg. 10496, effective July 6, 2007; peremptory amendment at 31 Ill. Reg. 12335, effective August 9, 2007; emergency amendment at 31 Ill. Reg. 12608, effective August 16, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 13220, effective August 30, 2007, for a maximum of 150 days; peremptory amendment at 31 Ill. Reg. 13357, effective August 29, 2007; amended at 31 Ill. Reg. 13981, effective September 21, 2007; peremptory amendment at 31 Ill. Reg. 14331, effective October 1, 2007; amended at 31 Ill. Reg. 16094, effective November 20, 2007; amended at 31 Ill. Reg. 16792, effective December 13, 2007; peremptory amendment at 32 Ill. Reg. 598, effective December 27, 2007; amended at 32 Ill. Reg. 1082, effective January 11, 2008; peremptory amendment at 32 Ill. Reg. 3095, effective February 13, 2008; peremptory amendment at 32 Ill. Reg. 6097, effective March 25, 2008; peremptory amendment at 32 Ill. Reg. 7154, effective April 17, 2008; expedited correction at 32 Ill. Reg. 9747, effective April 17, 2008; peremptory amendment at 32 Ill. Reg. 9360, effective June 13, 2008; amended at 32 Ill. Reg. 9881, effective July 1, 2008; peremptory amendment at 32 Ill. Reg. 12065, effective July 9, 2008; peremptory amendment at 32 Ill. Reg. 13861, effective August 8, 2008; peremptory amendment at 32 Ill. Reg. 16591, effective September 24, 2008; peremptory amendment at 32 Ill. Reg. 16872, effective October 3, 2008; peremptory amendment at 32 Ill. Reg. 18324, effective November 14, 2008; peremptory amendment at 33 Ill. Reg. 98, effective December 19, 2008; amended at 33 Ill. Reg. 2148, effective January 26, 2009; peremptory amendment at 33 Ill. Reg. 3530, effective February 6, 2009; peremptory amendment at 33 Ill. Reg. 4202, effective February 26, 2009; peremptory amendment at 33 Ill. Reg. 5501, effective March 25, 2009; peremptory amendment at 33 Ill. Reg. 6354, effective April 15, 2009; peremptory amendment at 33 Ill. Reg. 6724, effective May 1, 2009; peremptory amendment at 33 Ill. Reg. 9138, effective June 12, 2009; emergency amendment at 33 Ill. Reg. 9432, effective July 1, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 10211, effective July 1, 2009; peremptory amendment at 33 Ill. Reg. 10823, effective July 2, 2009; peremptory amendment at 33 Ill. Reg. 11082, effective July 10, 2009; peremptory amendment at 33 Ill. Reg. 11698, effective July 23, 2009; peremptory amendment at 33 Ill. Reg. 11895, effective July 31, 2009; peremptory amendment at 33 Ill. Reg. 12872, effective September 3, 2009; amended at 33 Ill. Reg. 14944, effective October 26, 2009; peremptory amendment at 33 Ill. Reg. 16598, effective November 13, 2009; peremptory amendment at 34

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Ill. Reg. 305, effective December 18, 2009; emergency amendment at 34 Ill. Reg. 957, effective January 1, 2010, for a maximum of 150 days; peremptory amendment at 34 Ill. Reg. 1425, effective January 5, 2010; peremptory amendment at 34 Ill. Reg. 3684, effective March 5, 2010; peremptory amendment at 34 Ill. Reg. 5776, effective April 2, 2010; peremptory amendment at 34 Ill. Reg. 6214, effective April 16, 2010; amended at 34 Ill. Reg. 6583, effective April 30, 2010; peremptory amendment at 34 Ill. Reg. 7528, effective May 14, 2010; amended at 34 Ill. Reg. 7645, effective May 24, 2010; peremptory amendment at 34 Ill. Reg. 7947, effective May 26, 2010; peremptory amendment at 34 Ill. Reg. 8633, effective June 18, 2010; amended at 34 Ill. Reg. 9759, effective July 1, 2010; peremptory amendment at 34 Ill. Reg. 10536, effective July 9, 2010; peremptory amendment at 34 Ill. Reg. 11864, effective July 30, 2010; emergency amendment at 34 Ill. Reg. 12240, effective August 9, 2010, for a maximum of 150 days; peremptory amendment at 34 Ill. Reg. 13204, effective August 26, 2010; peremptory amendment at 34 Ill. Reg. 13657, effective September 8, 2010; peremptory amendment at 34 Ill. Reg. 15897, effective September 30, 2010; peremptory amendment at 34 Ill. Reg. 18912, effective November 15, 2010; peremptory amendment at 34 Ill. Reg. 19582, effective December 3, 2010; amended at 35 Ill. Reg. 765, effective December 30, 2010; emergency amendment at 35 Ill. Reg. 1092, effective January 1, 2011, for a maximum of 150 days; peremptory amendment at 35 Ill. Reg. 2465, effective January 19, 2011; peremptory amendment at 35 Ill. Reg. 3577, effective February 10, 2011.

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Section 310.APPENDIX A Negotiated Rates of Pay

Section 310.TABLE W RC-062 (Technical Employees, AFSCME)

Title	Title Code	Bargaining Unit	Pay Grade
Accountant	00130	RC-062	14
Accountant Advanced	00133	RC-062	16
Accountant Supervisor	00135	RC-062	18
Accounting and Fiscal Administration Career Trainee	00140	RC-062	12
Activity Therapist	00157	RC-062	15
Activity Therapist Coordinator	00160	RC-062	17
Activity Therapist Supervisor	00163	RC-062	20
Actuarial Assistant	00187	RC-062	16
Actuarial Examiner	00195	RC-062	16
Actuarial Examiner Trainee	00196	RC-062	13
Actuarial Senior Examiner	00197	RC-062	19
Actuary I	00201	RC-062	20
Actuary II	00202	RC-062	24
Agricultural Market News Assistant	00804	RC-062	12
Agricultural Marketing Generalist	00805	RC-062	14
Agricultural Marketing Reporter	00807	RC-062	18
Agricultural Marketing Representative	00810	RC-062	18
Agriculture Land and Water Resource Specialist I	00831	RC-062	14
Agriculture Land and Water Resource Specialist II	00832	RC-062	17
Agriculture Land and Water Resource Specialist III	00833	RC-062	20
Aircraft Pilot I	00955	RC-062	19
Aircraft Pilot II	00956	RC-062	22
Aircraft Pilot II – Dual Rating	00957	RC-062	23
Appraisal Specialist I	01251	RC-062	14
Appraisal Specialist II	01252	RC-062	16
Appraisal Specialist III	01253	RC-062	18
Arts Council Associate	01523	RC-062	12
Arts Council Program Coordinator	01526	RC-062	18
Arts Council Program Representative	01527	RC-062	15
Assignment Coordinator	01530	RC-062	20
Bank Examiner I	04131	RC-062	16
Bank Examiner II	04132	RC-062	19
Bank Examiner III	04133	RC-062	22

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Behavioral Analyst Associate	04355	RC-062	15
Behavioral Analyst I	04351	RC-062	17
Behavioral Analyst II	04352	RC-062	19
Business Administrative Specialist	05810	RC-062	16
Business Manager	05815	RC-062	18
Buyer	05900	RC-062	18
Capital Development Board Account Technician	06515	RC-062	11
Capital Development Board Art in Architecture Technician	06533	RC-062	12
Capital Development Board Construction Support Analyst	06520	RC-062	11
Capital Development Board Project Technician	06530	RC-062	12
Chemist I	06941	RC-062	16
Chemist II	06942	RC-062	19
Chemist III	06943	RC-062	21
Child Protection Advanced Specialist	07161	RC-062	19
Child Protection Associate Specialist	07162	RC-062	16
Child Protection Specialist	07163	RC-062	18
Child Support Specialist I	07198	RC-062	16
Child Support Specialist II	07199	RC-062	17
Child Support Specialist Trainee	07200	RC-062	12
Child Welfare Associate Specialist	07216	RC-062	16
Child Welfare Staff Development Coordinator I	07201	RC-062	17
Child Welfare Staff Development Coordinator II	07202	RC-062	19
Child Welfare Staff Development Coordinator III	07203	RC-062	20
Child Welfare Staff Development Coordinator IV	07204	RC-062	22
Children and Family Service Intern – Option I	07241	RC-062	12
Children and Family Service Intern – Option II	07242	RC-062	15
Clinical Laboratory Technologist I	08220	RC-062	18
Clinical Laboratory Technologist II	08221	RC-062	19
Clinical Laboratory Technologist Trainee	08229	RC-062	14
Communications Systems Specialist	08860	RC-062	23
Community Management Specialist I	08891	RC-062	15
Community Management Specialist II	08892	RC-062	17
Community Management Specialist III	08893	RC-062	19
Community Planner I	08901	RC-062	15
Community Planner II	08902	RC-062	17
Community Planner III	08903	RC-062	19
Conservation Education Representative	09300	RC-062	12
Conservation Grant Administrator I	09311	RC-062	18
Conservation Grant Administrator II	09312	RC-062	20

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Conservation Grant Administrator III	09313	RC-062	22
Construction Program Assistant	09525	RC-062	12
Correctional Counselor I	09661	RC-062	15
Correctional Counselor II	09662	RC-062	17
Correctional Counselor III	09663	RC-062	19
Corrections Apprehension Specialist	09750	RC-062	19
Corrections Industries Marketing Representative	09803	RC-062	17
Corrections Leisure Activities Specialist I	09811	RC-062	15
Corrections Leisure Activities Specialist II	09812	RC-062	17
Corrections Leisure Activities Specialist III	09813	RC-062	19
Corrections Parole Agent	09842	RC-062	17
Corrections Senior Parole Agent	09844	RC-062	19
Criminal Intelligence Analyst I	10161	RC-062	18
Criminal Intelligence Analyst II	10162	RC-062	20
Criminal Intelligence Analyst Specialist	10165	RC-062	22
Criminal Justice Specialist I	10231	RC-062	16
Criminal Justice Specialist II	10232	RC-062	20
Criminal Justice Specialist Trainee	10236	RC-062	13
Curator of the Lincoln Collection	10750	RC-062	16
Data Processing Supervisor I	11435	RC-062	11
Data Processing Supervisor II	11436	RC-062	14
Data Processing Supervisor III	11437	RC-062	18
Day Care Licensing Representative I	11471	RC-062	16
Developmental Disabilities Council Program Planner I	12361	RC-062	12
Developmental Disabilities Council Program Planner II	12362	RC-062	16
Developmental Disabilities Council Program Planner III	12363	RC-062	18
Dietary Manager I	12501	RC-062	16
Dietary Manager II	12502	RC-062	18
Dietitian	12510	RC-062	15
Disability Appeals Officer	12530	RC-062	22
Disability Claims Adjudicator I	12537	RC-062	16
Disability Claims Adjudicator II	12538	RC-062	18
Disability Claims Adjudicator Trainee	12539	RC-062	13
Disability Claims Analyst	12540	RC-062	21
Disability Claims Specialist	12558	RC-062	19
Disaster Services Planner	12585	RC-062	19
Document Examiner	12640	RC-062	22
Economic Development Representative I	12931	RC-062	17
Economic Development Representative II	12932	RC-062	19

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Educational Diagnostician	12965	RC-062	12
Educator – Provisional	13105	RC-062	12
Employment Security Field Office Supervisor	13600	RC-062	20
Employment Security Manpower Representative I	13621	RC-062	12
Employment Security Manpower Representative II	13622	RC-062	14
Employment Security Program Representative	13650	RC-062	14
Employment Security Program Representative – Intermittent	13651	RC-062	14H
Employment Security Service Representative	13667	RC-062	16
Employment Security Service Representative (Intermittent)	13667	RC-062	16H
Employment Security Specialist I	13671	RC-062	14
Employment Security Specialist II	13672	RC-062	16
Employment Security Specialist III	13673	RC-062	19
Employment Security Tax Auditor I	13681	RC-062	17
Employment Security Tax Auditor II	13682	RC-062	19
Energy and Natural Resources Specialist I	13711	RC-062	15
Energy and Natural Resources Specialist II	13712	RC-062	17
Energy and Natural Resources Specialist III	13713	RC-062	19
Energy and Natural Resources Specialist Trainee	13715	RC-062	12
Engineering Technician IV (Department of Public Health)	13734	RC-062	18
Environmental Health Specialist I	13768	RC-062	14
Environmental Health Specialist II	13769	RC-062	16
Environmental Health Specialist III	13770	RC-062	18
Environmental Protection Associate	13785	RC-062	12
Environmental Protection Specialist I	13821	RC-062	14
Environmental Protection Specialist II	13822	RC-062	16
Environmental Protection Specialist III	13823	RC-062	18
Environmental Protection Specialist IV	13824	RC-062	22
Equal Pay Specialist	13837	RC-062	17
Executive I	13851	RC-062	18
Executive II	13852	RC-062	20
Financial Institutions Examiner I	14971	RC-062	16
Financial Institutions Examiner II	14972	RC-062	19
Financial Institutions Examiner III	14973	RC-062	22
Financial Institutions Examiner Trainee	14978	RC-062	13
Fire Protection Specialist I	15351	RC-062	16
Flight Safety Coordinator	15640	RC-062	22
Forensic Scientist I	15891	RC-062	18
Forensic Scientist II	15892	RC-062	20
Forensic Scientist III	15893	RC-062	22

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Forensic Scientist Trainee	15897	RC-062	15
Gaming Licensing Analyst	17171	RC-062	13
Gaming Senior Special Agent	17191	RC-062	23
Gaming Special Agent	17192	RC-062	19
Gaming Special Agent Trainee	17195	RC-062	14
Guardianship Representative	17710	RC-062	17
Habilitation Program Coordinator	17960	RC-062	17
Handicapped Services Representative I	17981	RC-062	11
Health Facilities Surveyor I	18011	RC-062	16
Health Facilities Surveyor II	18012	RC-062	19
Health Facilities Surveyor III	18013	RC-062	20
Health Information Administrator	18041	RC-062	15
Health Services Investigator I – Opt. A	18181	RC-062	19
Health Services Investigator I – Opt. B	18182	RC-062	20
Health Services Investigator II – Opt. A	18185	RC-062	22
Health Services Investigator II – Opt. B	18186	RC-062	22
Health Services Investigator II – Opt. C	18187	RC-062	25
Health Services Investigator II – Opt. D	18188	RC-062	25
Historical Documents Conservator I	18981	RC-062	13
Historical Exhibits Designer	18985	RC-062	15
Historical Research Editor II	19002	RC-062	14
Human Relations Representative	19670	RC-062	16
Human Resources Representative	19692	RC-062	17
Human Resources Specialist	19693	RC-062	20
Human Rights Investigator I	19774	RC-062	16
Human Rights Investigator II	19775	RC-062	18
Human Rights Investigator III	19776	RC-062	19
Human Rights Specialist I	19778	RC-062	14
Human Rights Specialist II	19779	RC-062	16
Human Rights Specialist III	19780	RC-062	18
Human Services Casework Manager	19788	RC-062	20
Human Services Caseworker	19785	RC-062	16
Human Services Grants Coordinator I	19791	RC-062	14
Human Services Grants Coordinator II	19792	RC-062	17
Human Services Grants Coordinator III	19793	RC-062	20
Human Services Grants Coordinator Trainee	19796	RC-062	12
Human Services Sign Language Interpreter	19810	RC-062	16
Iconographer	19880	RC-062	12
Industrial and Community Development Representative I	21051	RC-062	17

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Industrial and Community Development Representative II	21052	RC-062	19
Industrial Services Consultant I	21121	RC-062	14
Industrial Services Consultant II	21122	RC-062	16
Industrial Services Consultant Trainee	21125	RC-062	11
Industrial Services Hygienist	21127	RC-062	19
Industrial Services Hygienist Technician	21130	RC-062	16
Industrial Services Hygienist Trainee	21133	RC-062	12
Information Technology/Communication Systems Specialist I	21216	RC-062	19
Information Technology/Communication Systems Specialist II	21217	RC-062	24
Instrument Designer	21500	RC-062	18
Insurance Analyst III	21563	RC-062	14
Insurance Analyst IV	21564	RC-062	16
Insurance Company Claims Examiner II	21602	RC-062	19
Insurance Company Field Staff Examiner	21608	RC-062	16
Insurance Company Financial Examiner Trainee	21610	RC-062	13
Insurance Performance Examiner I	21671	RC-062	14
Insurance Performance Examiner II	21672	RC-062	17
Insurance Performance Examiner III	21673	RC-062	20
Intermittent Unemployment Insurance Representative	21689	RC-062	12H
Internal Auditor I	21721	RC-062	17
Internal Security Investigator I, not Department of Corrections	21731	RC-062	18
Internal Security Investigator II, not Department of Corrections	21732	RC-062	21
International Marketing Representative I, Department of Agriculture	21761	RC-062	14
Juvenile Justice Youth and Family Specialist, Option 1	21991	RC-062	18
Juvenile Justice Youth and Family Specialist, Option 2	21992	RC-062	20
KidCare Supervisor	22003	RC-062	20
Labor Conciliator	22750	RC-062	20
Laboratory Equipment Specialist	22990	RC-062	18
Laboratory Quality Specialist I	23021	RC-062	19
Laboratory Quality Specialist II	23022	RC-062	21
Laboratory Research Specialist I	23027	RC-062	19
Laboratory Research Specialist II	23028	RC-062	21
Land Acquisition Agent I	23091	RC-062	15
Land Acquisition Agent II	23092	RC-062	18
Land Acquisition Agent III	23093	RC-062	21
Land Reclamation Specialist I	23131	RC-062	14
Land Reclamation Specialist II	23132	RC-062	17
Liability Claims Adjuster I	23371	RC-062	14

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Liability Claims Adjuster II	23372	RC-062	18
Library Associate	23430	RC-062	12
Life Sciences Career Trainee	23600	RC-062	12
Liquor Control Special Agent II	23752	RC-062	15
Local Historical Services Representative	24000	RC-062	17
Local Housing Advisor I	24031	RC-062	14
Local Housing Advisor II	24032	RC-062	16
Local Housing Advisor III	24033	RC-062	18
Local Revenue and Fiscal Advisor I	24101	RC-062	15
Local Revenue and Fiscal Advisor II	24102	RC-062	17
Local Revenue and Fiscal Advisor III	24103	RC-062	19
Lottery Regional Coordinator	24504	RC-062	19
Lottery Sales Representative	24515	RC-062	16
Management Operations Analyst I	25541	RC-062	18
Management Operations Analyst II	25542	RC-062	20
Manpower Planner I	25591	RC-062	14
Manpower Planner II	25592	RC-062	17
Manpower Planner III	25593	RC-062	20
Manpower Planner Trainee	25597	RC-062	12
Medical Assistance Consultant I	26501	RC-062	13
Medical Assistance Consultant II	26502	RC-062	16
Medical Assistance Consultant III	26503	RC-062	19
Mental Health Administrator I	26811	RC-062	18
Mental Health Administrator II	26812	RC-062	20
Mental Health Administrator Trainee	26817	RC-062	16
Mental Health Recovery Support Specialist I	26921	RC-062	17
Mental Health Recovery Support Specialist II	26922	RC-062	18
Mental Health Specialist I	26924	RC-062	12
Mental Health Specialist II	26925	RC-062	14
Mental Health Specialist III	26926	RC-062	16
Mental Health Specialist Trainee	26928	RC-062	11
Meteorologist	27120	RC-062	18
Methods and Procedures Advisor I	27131	RC-062	14
Methods and Procedures Advisor II	27132	RC-062	16
Methods and Procedures Advisor III	27133	RC-062	20
Methods and Procedures Career Associate I	27135	RC-062	11
Methods and Procedures Career Associate II	27136	RC-062	12
Methods and Procedures Career Associate Trainee	27137	RC-062	09
Metrologist Associate	27146	RC-062	15

Microbiologist I	27151	RC-062	16
Microbiologist II	27152	RC-062	19
Natural Resources Advanced Specialist	28833	RC-062	20
Natural Resources Coordinator	28831	RC-062	15
Natural Resources Specialist	28832	RC-062	18
Oral Health Consultant	30317	RC-062	18
Paralegal Assistant	30860	RC-062	14
Pension and Death Benefits Technician I	30961	RC-062	12
Pension and Death Benefits Technician II	30962	RC-062	19
Plumbing Consultant (Department of Public Health)	32910	RC-062	22
Police Training Specialist	32990	RC-062	17
Program Integrity Auditor I	34631	RC-062	16
Program Integrity Auditor II	34632	RC-062	19
Program Integrity Auditor Trainee	34635	RC-062	12
Property Consultant	34900	RC-062	15
Public Aid Investigator	35870	RC-062	19
Public Aid Investigator Trainee	35874	RC-062	14
Public Aid Lead Casework Specialist	35880	RC-062	17
Public Aid Program Quality Analyst	35890	RC-062	19
Public Aid Quality Control Reviewer	35892	RC-062	17
Public Aid Quality Control Supervisor	35900	RC-062	19
Public Aid Staff Development Specialist I	36071	RC-062	15
Public Aid Staff Development Specialist II	36072	RC-062	17
Public Health Educator Associate	36434	RC-062	14
Public Health Program Specialist I	36611	RC-062	14
Public Health Program Specialist II	36612	RC-062	16
Public Health Program Specialist III	36613	RC-062	19
Public Health Program Specialist Trainee	36615	RC-062	12
Public Information Coordinator	36750	RC-062	18
Public Information Officer I	37001	RC-062	12
Public Information Officer II	37002	RC-062	14
Public Information Officer III	37003	RC-062	19
Public Information Officer IV	37004	RC-062	21
Public Safety Inspector	37007	RC-062	16
Public Safety Inspector Trainee	37010	RC-062	10
Public Service Administrator, Option 8Z	37015	RC-062	19
Public Service Administrator, Options 2, 7 Gaming Board and Department of Revenue, 8C and 8F executive chief pilot function Department of Transportation	37015	RC-062	24

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Public Service Administrator, Options 8B and 8Y	37015	RC-062	23
Railroad Safety Specialist I	37601	RC-062	19
Railroad Safety Specialist II	37602	RC-062	21
Railroad Safety Specialist III	37603	RC-062	23
Railroad Safety Specialist IV	37604	RC-062	25
Real Estate Investigator	37730	RC-062	19
Real Estate Professions Examiner	37760	RC-062	22
Recreation Worker I	38001	RC-062	12
Recreation Worker II	38002	RC-062	14
Rehabilitation Counselor	38145	RC-062	17
Rehabilitation Counselor Senior	38158	RC-062	19
Rehabilitation Counselor Trainee	38159	RC-062	15
Rehabilitation Services Advisor I	38176	RC-062	20
Rehabilitation Workshop Supervisor I	38194	RC-062	12
Rehabilitation Workshop Supervisor II	38195	RC-062	14
Rehabilitation Workshop Supervisor III	38196	RC-062	16
Reimbursement Officer I	38199	RC-062	14
Reimbursement Officer II	38200	RC-062	16
Research Economist I	38207	RC-062	18
Research Scientist I	38231	RC-062	13
Research Scientist II	38232	RC-062	16
Research Scientist III	38233	RC-062	20
Residential Services Supervisor	38280	RC-062	15
Resource Planner I	38281	RC-062	17
Resource Planner II	38282	RC-062	19
Resource Planner III	38283	RC-062	22
Retirement System Disability Specialist	38310	RC-062	19
Revenue Audit Supervisor (IL)	38369	RC-062	25
Revenue Audit Supervisor (states other than IL and not assigned to RC-062-29)	38369	RC-062	27
Revenue Audit Supervisor (See Note)	38369	RC-062	29
Revenue Auditor I (IL)	38371	RC-062	16
Revenue Auditor I (states other than IL and not assigned to RC-062-21)	38371	RC-062	19
Revenue Auditor I (See Note)	38371	RC-062	21
Revenue Auditor II (IL)	38372	RC-062	19
Revenue Auditor II (states other than IL and not assigned to RC-062-24)	38372	RC-062	22
Revenue Auditor II (See Note)	38372	RC-062	24

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Revenue Auditor III (IL)	38373	RC-062	22
Revenue Auditor III (states other than IL and not assigned to RC-062-26)	38373	RC-062	24
Revenue Auditor III (See Note)	38373	RC-062	26
Revenue Auditor Trainee (IL)	38375	RC-062	12
Revenue Auditor Trainee (states other than IL and not assigned to RC-062-15)	38375	RC-062	13
Revenue Auditor Trainee (See Note)	38375	RC-062	15
Revenue Collection Officer I	38401	RC-062	15
Revenue Collection Officer II	38402	RC-062	17
Revenue Collection Officer III	38403	RC-062	19
Revenue Collection Officer Trainee	38405	RC-062	12
Revenue Computer Audit Specialist (IL)	38425	RC-062	23
Revenue Computer Audit Specialist (states other than IL and not assigned to RC-062-27)	38425	RC-062	25
Revenue Computer Audit Specialist (See Note)	38425	RC-062	27
Revenue Senior Special Agent	38557	RC-062	23
Revenue Special Agent	38558	RC-062	19
Revenue Special Agent Trainee	38565	RC-062	14
Revenue Tax Specialist I	38571	RC-062	12
Revenue Tax Specialist II (IL)	38572	RC-062	14
Revenue Tax Specialist II (states other than IL, CA or NJ)	38572	RC-062	17
Revenue Tax Specialist II (CA or NJ)	38572	RC-062	19
Revenue Tax Specialist III	38573	RC-062	17
Revenue Tax Specialist Trainee	38575	RC-062	10
Site Assistant Superintendent I	41071	RC-062	15
Site Assistant Superintendent II	41072	RC-062	17
Site Interpretive Coordinator	41093	RC-062	13
Site Services Specialist I	41117	RC-062	15
Site Services Specialist II	41118	RC-062	17
Social Service Consultant I	41301	RC-062	18
Social Service Consultant II	41302	RC-062	19
Social Service Program Planner I	41311	RC-062	15
Social Service Program Planner II	41312	RC-062	17
Social Service Program Planner III	41313	RC-062	20
Social Service Program Planner IV	41314	RC-062	22
Social Services Career Trainee	41320	RC-062	12
Social Worker I	41411	RC-062	16

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Staff Development Specialist I	41771	RC-062	18
Staff Development Technician I	41781	RC-062	12
Staff Development Technician II	41782	RC-062	15
State Mine Inspector	42230	RC-062	19
State Police Field Specialist I	42001	RC-062	18
State Police Field Specialist II	42002	RC-062	20
Statistical Research Specialist I	42741	RC-062	12
Statistical Research Specialist II	42742	RC-062	14
Statistical Research Specialist III	42743	RC-062	17
Storage Tank Safety Specialist	43005	RC-062	18
Telecommunications Specialist	45295	RC-062	15
Telecommunications Systems Analyst	45308	RC-062	17
Telecommunications Systems Technician I	45312	RC-062	10
Telecommunications Systems Technician II	45313	RC-062	13
Terrorism Research Specialist I	45371	RC-062	18
Terrorism Research Specialist II	45372	RC-062	20
Terrorism Research Specialist III	45373	RC-062	22
Terrorism Research Specialist Trainee	45375	RC-062	14
Unemployment Insurance Adjudicator I	47001	RC-062	11
Unemployment Insurance Adjudicator II	47002	RC-062	13
Unemployment Insurance Adjudicator III	47003	RC-062	15
Unemployment Insurance Revenue Analyst I	47081	RC-062	15
Unemployment Insurance Revenue Analyst II	47082	RC-062	17
Unemployment Insurance Revenue Specialist	47087	RC-062	13
Unemployment Insurance Special Agent	47096	RC-062	18
Vehicle Emission Compliance Supervisor, Environmental Protection Agency	47583	RC-062	15
Veterans Educational Specialist I	47681	RC-062	15
Veterans Educational Specialist II	47682	RC-062	17
Veterans Educational Specialist III	47683	RC-062	21
Veterans Employment Representative I	47701	RC-062	14
Veterans Employment Representative II	47702	RC-062	16
Volunteer Services Coordinator I	48481	RC-062	13
Volunteer Services Coordinator II	48482	RC-062	16
Volunteer Services Coordinator III	48483	RC-062	18
Wage Claims Specialist	48770	RC-062	09
Weatherization Specialist I	49101	RC-062	14
Weatherization Specialist II	49102	RC-062	17
Weatherization Specialist III	49103	RC-062	20

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Weatherization Specialist Trainee	49105	RC-062	12
Workers Compensation Insurance Compliance Investigator	49640	RC-062	20

NOTE: The positions allocated to the Public Service Administrator title that are assigned to the negotiated RC-062 pay grade have the following options: 2; 7; 8B; 8C; 8F; 8Y; and 8Z. See the definition of option in Section 310.50.

For the Revenue Tax Specialist II position classification title only – The pay grade assigned to the employee is based on the location of the position and the residence held by the employee. In the same position classification, the employee holding a position and residence outside the boundaries of the State of Illinois is assigned to a different pay grade than the pay grade assigned to the employee holding a position within the boundaries of the State of Illinois. The pay grade assigned to the employee holding a position located within the boundaries of the State of Illinois is the pay grade with the (IL) indication next to the position classification. The pay grade assigned to the employee holding the position located outside the boundaries of the State of Illinois is determined by the location of the employee's residence or position location (e.g., IL, CA or NJ or a state other than IL, CA or NJ). If the employee's residence moves to another state while the employee is in the same position located outside the boundaries of the State of Illinois, or moves into another position located outside the boundaries of the State of Illinois in the same position classification, the base salary may change depending on the location of the employee's new residence. In all cases, change in base salary shall be on a step for step basis (e.g., if the original base salary was on Step 5 in one pay grade, the new base salary will also be on Step 5 of the newly appropriate pay grade).

For the Revenue Audit Supervisor, Revenue Auditor I, II and III, Revenue Auditor Trainee, and Revenue Computer Audit Specialist position classification titles only – Effective July 1, 2010, State employees appointed to positions allocated to the Revenue Audit Supervisor, Revenue Auditor I, II and III, Revenue Auditor Trainee, and Revenue Computer Audit Specialist classifications shall be assigned to the pay grades:

Revenue Audit Supervisor, RC-062-29
Revenue Auditor I, RC-062-21
Revenue Auditor II, RC-062-24
Revenue Auditor III, RC-062-26
Revenue Auditor Trainee, RC-062-25
Revenue Computer Audit Specialist, RC-062-27

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if the employee lives in California, 50% or more of the employee's work is within a 200 mile radius of the Paramus NJ Illinois Department of Revenue office, or 50% or more of the employee's work is within the District of Columbia.

Effective January 1, 2010
Bargaining Unit: RC-062

Pay Grade	Pay Plan Code	STEPS 1b	1a	1	2	3	4	5	6	7	8
09	B	2776	2846	2917	3008	3104	3200	3303	3400	3560	3703
09	Q	2888	2960	3036	3128	3230	3329	3437	3540	3710	3859
09	S	2956	3025	3099	3194	3296	3398	3507	3609	3780	3932
10	B	2867	2939	3011	3121	3213	3319	3424	3530	3711	3860
10	Q	2979	3054	3132	3246	3345	3458	3566	3678	3874	4029
10	S	3047	3120	3197	3311	3413	3525	3634	3752	3946	4104
11	B	2970	3047	3122	3228	3332	3453	3566	3677	3872	4027
11	Q	3090	3167	3248	3363	3473	3598	3718	3835	4043	4204
11	S	3156	3232	3312	3429	3539	3666	3788	3908	4114	4278
12	B	3088	3165	3248	3367	3477	3607	3725	3863	4070	4232
12	Q	3211	3294	3381	3506	3622	3761	3889	4030	4250	4420
12	S	3276	3361	3447	3573	3690	3833	3963	4106	4326	4499
12H	B	19.00	19.48	19.99	20.72	21.40	22.20	22.92	23.77	25.05	26.04
12H	Q	19.76	20.27	20.81	21.58	22.29	23.14	23.93	24.80	26.15	27.20
12H	S	20.16	20.68	21.21	21.99	22.71	23.59	24.39	25.27	26.62	27.69
13	B	3201	3281	3370	3494	3627	3762	3899	4046	4270	4441
13	Q	3331	3418	3510	3638	3781	3930	4073	4223	4463	4641
13	S	3399	3486	3577	3709	3854	4005	4145	4300	4540	4722
14	B	3332	3423	3514	3648	3790	3956	4100	4255	4504	4684
14	Q	3473	3565	3663	3803	3958	4129	4285	4448	4707	4894

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14	S	3539	3633	3731	3878	4029	4204	4359	4525	4781	4971
14H	B	20.50	21.06	21.62	22.45	23.32	24.34	25.23	26.18	27.72	28.82
14H	Q	21.37	21.94	22.54	23.40	24.36	25.41	26.37	27.37	28.97	30.12
14H	S	21.78	22.36	22.96	23.86	24.79	25.87	26.82	27.85	29.42	30.59
15	B	3463	3557	3653	3815	3972	4127	4296	4455	4724	4911
15	Q	3608	3708	3812	3979	4145	4312	4491	4656	4934	5133
15	S	3675	3778	3883	4053	4218	4389	4567	4731	5012	5212
16	B	3619	3718	3824	3995	4173	4345	4528	4708	4986	5185
16	Q	3773	3881	3991	4173	4361	4543	4730	4920	5213	5422
16	S	3847	3955	4067	4248	4438	4622	4806	4998	5285	5496
16H	B	22.27	22.88	23.53	24.58	25.68	26.74	27.86	28.97	30.68	31.91
16H	Q	23.22	23.88	24.56	25.68	26.84	27.96	29.11	30.28	32.08	33.37
16H	S	23.67	24.34	25.03	26.14	27.31	28.44	29.58	30.76	32.52	33.82
17	B	3783	3893	4008	4191	4385	4571	4756	4949	5243	5453
17	Q	3949	4065	4181	4382	4583	4774	4968	5171	5478	5699
17	S	4023	4139	4256	4458	4660	4853	5045	5246	5559	5780
18	B	3979	4094	4217	4420	4627	4837	5033	5236	5548	5770
18	Q	4154	4277	4405	4624	4836	5056	5262	5471	5800	6031
18	S	4227	4355	4479	4696	4911	5132	5339	5550	5873	6109
19	B	4189	4313	4444	4671	4891	5117	5334	5556	5894	6130
19	J	4189	4313	4444	4671	4891	5117	5334	5556	5894	6130
19	Q	4379	4510	4644	4882	5108	5352	5574	5808	6158	6405
19	S	4456	4588	4723	4959	5187	5427	5652	5886	6234	6484
20	B	4430	4560	4695	4933	5162	5407	5644	5877	6233	6483
20	Q	4629	4765	4907	5154	5397	5653	5896	6142	6517	6777
20	S	4703	4842	4985	5231	5471	5728	5972	6218	6590	6853
21	B	4676	4814	4958	5214	5465	5720	5981	6230	6619	6883
21	U	4676	4814	4958	5214	5465	5720	5981	6230	6619	6883

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21	Q	4887	5030	5182	5450	5710	5979	6251	6513	6917	7193
21	S	4962	5106	5259	5523	5786	6056	6327	6587	6993	7274
22	B	4942	5092	5242	5515	5784	6058	6339	6601	7013	7293
22	Q	5165	5319	5476	5764	6048	6330	6623	6901	7328	7620
22	S	5240	5396	5556	5838	6123	6405	6700	6980	7406	7702
23	B	5242	5398	5560	5855	6155	6447	6744	7037	7480	7780
23	Q	5476	5643	5814	6121	6435	6737	7049	7355	7815	8127
23	S	5556	5720	5889	6195	6510	6814	7125	7430	7892	8206
24	B	5578	5745	5918	6232	6560	6873	7191	7515	7987	8306
24	J	5578	5745	5918	6232	6560	6873	7191	7515	7987	8306
24	Q	5827	6006	6186	6516	6854	7184	7513	7854	8348	8681
24	S	5904	6080	6263	6589	6929	7259	7591	7932	8422	8759
25	B	5945	6124	6308	6652	7003	7353	7702	8053	8569	8913
25	J	5945	6124	6308	6652	7003	7353	7702	8053	8569	8913
25	Q	6215	6397	6590	6952	7316	7686	8052	8416	8956	9315
25	S	6288	6479	6668	7029	7392	7760	8125	8489	9032	9394
26	B	6282	6475	6731	7099	7476	7855	8221	8590	9145	9510
26	U	6282	6475	6731	7099	7476	7855	8221	8590	9145	9510
27	B	6641	6842	7185	7576	7976	8380	8773	9167	9759	10150
27	J	6641	6842	7185	7576	7976	8380	8773	9167	9759	10150
27	U	6641	6842	7185	7576	7976	8380	8773	9167	9759	10150
28	B	6970	7179	7540	7949	8369	8794	9206	9619	10242	10652
29	U	7313	7535	7912	8342	8782	9230	9660	10094	10747	11176

Effective July 1, 2010
Bargaining Unit: RC-062

Pay Grade	Pay Plan

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Code		STEPS								
		1a	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**
09	B	2874	2946	3038	3135	3232	3336	3434	3596	3740
09	Q	2990	3066	3159	3262	3362	3471	3575	3747	3898
09	S	3055	3130	3226	3329	3432	3542	3645	3818	3971
10	B	2968	3041	3152	3245	3352	3458	3565	3748	3899
10	Q	3085	3163	3278	3378	3493	3602	3715	3913	4069
10	S	3151	3229	3344	3447	3560	3670	3790	3985	4145
11	B	3077	3153	3260	3365	3488	3602	3714	3911	4067
11	Q	3199	3280	3397	3508	3634	3755	3873	4083	4246
11	S	3264	3345	3463	3574	3703	3826	3947	4155	4321
12	B	3197	3280	3401	3512	3643	3762	3902	4111	4274
12	Q	3327	3415	3541	3658	3799	3928	4070	4293	4464
12	S	3395	3481	3609	3727	3871	4003	4147	4369	4544
12H	B	19.67	20.18	20.93	21.61	22.42	23.15	24.01	25.30	26.30
12H	Q	20.47	21.02	21.79	22.51	23.38	24.17	25.05	26.42	27.47
12H	S	20.89	21.42	22.21	22.94	23.82	24.63	25.52	26.89	27.96
13	B	3314	3404	3529	3663	3800	3938	4086	4313	4485
13	Q	3452	3545	3674	3819	3969	4114	4265	4508	4687
13	S	3521	3613	3746	3893	4045	4186	4343	4585	4769
14	B	3457	3549	3684	3828	3996	4141	4298	4549	4731
14	Q	3601	3700	3841	3998	4170	4328	4492	4754	4943
14	S	3669	3768	3917	4069	4246	4403	4570	4829	5021
14H	B	21.27	21.84	22.67	23.56	24.59	25.48	26.45	27.99	29.11
14H	Q	22.16	22.77	23.64	24.60	25.66	26.63	27.64	29.26	30.42
14H	S	22.58	23.19	24.10	25.04	26.13	27.10	28.12	29.72	30.90
15	B	3593	3690	3853	4012	4168	4339	4500	4771	4960
15	Q	3745	3850	4019	4186	4355	4536	4703	4983	5184
15	S	3816	3922	4094	4260	4433	4613	4778	5062	5264

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

16	B	3755	3862	4035	4215	4388	4573	4755	5036	5237
16	Q	3920	4031	4215	4405	4588	4777	4969	5265	5476
16	S	3995	4108	4290	4482	4668	4854	5048	5338	5551
16H	B	23.11	23.77	24.83	25.94	27.00	28.14	29.26	30.99	32.23
16H	Q	24.12	24.81	25.94	27.11	28.23	29.40	30.58	32.40	33.70
16H	S	24.58	25.28	26.40	27.58	28.73	29.87	31.06	32.85	34.16
17	B	3932	4048	4233	4429	4617	4804	4998	5295	5508
17	Q	4106	4223	4426	4629	4822	5018	5223	5533	5756
17	S	4180	4299	4503	4707	4902	5095	5298	5615	5838
18	B	4135	4259	4464	4673	4885	5083	5288	5603	5828
18	Q	4320	4449	4670	4884	5107	5315	5526	5858	6091
18	S	4399	4524	4743	4960	5183	5392	5606	5932	6170
19	B	4356	4488	4718	4940	5168	5387	5612	5953	6191
19	J	4356	4488	4718	4940	5168	5387	5612	5953	6191
19	Q	4555	4690	4931	5159	5406	5630	5866	6220	6469
19	S	4634	4770	5009	5239	5481	5709	5945	6296	6549
20	B	4606	4742	4982	5214	5461	5700	5936	6295	6548
20	Q	4813	4956	5206	5451	5710	5955	6203	6582	6845
20	S	4890	5035	5283	5526	5785	6032	6280	6656	6922
21	B	4862	5008	5266	5520	5777	6041	6292	6685	6952
21	U	4862	5008	5266	5520	5777	6041	6292	6685	6952
21	Q	5080	5234	5505	5767	6039	6314	6578	6986	7265
21	S	5157	5312	5578	5844	6117	6390	6653	7063	7347
22	B	5143	5294	5570	5842	6119	6402	6667	7083	7366
22	Q	5372	5531	5822	6108	6393	6689	6970	7401	7696
22	S	5450	5612	5896	6184	6469	6767	7050	7480	7779
23	B	5452	5616	5914	6217	6511	6811	7107	7555	7858
23	Q	5699	5872	6182	6499	6804	7119	7429	7893	8208

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

23	S	5777	5948	6257	6575	6882	7196	7504	7971	8288
24	B	5802	5977	6294	6626	6942	7263	7590	8067	8389
24	J	5802	5977	6294	6626	6942	7263	7590	8067	8389
24	Q	6066	6248	6581	6923	7256	7588	7933	8431	8768
24	S	6141	6326	6655	6998	7332	7667	8011	8506	8847
25	B	6185	6371	6719	7073	7427	7779	8134	8655	9002
25	J	6185	6371	6719	7073	7427	7779	8134	8655	9002
25	Q	6461	6656	7022	7389	7763	8133	8500	9046	9408
25	S	6544	6735	7099	7466	7838	8206	8574	9122	9488
26	B	6540	6798	7170	7551	7934	8303	8676	9236	9605
26	U	6540	6798	7170	7551	7934	8303	8676	9236	9605
27	B	6910	7257	7652	8056	8464	8861	9259	9857	10252
27	J	6910	7257	7652	8056	8464	8861	9259	9857	10252
27	U	6910	7257	7652	8056	8464	8861	9259	9857	10252
28	B	7251	7615	8028	8453	8882	9298	9715	10344	10759
29	U	7610	7991	8425	8870	9322	9757	10195	10854	11288

Effective January 1, 2011
Bargaining Unit: RC-062

Pay Grade	Pay Plan Code	STEPS 1a	1	2	3	4	5	6	7	8
09	B	2903	2975	3068	3166	3264	3369	3468	3632	3777
09	Q	3020	3097	3191	3295	3396	3506	3611	3784	3937
09	S	3086	3161	3258	3362	3466	3577	3681	3856	4011
10	B	2998	3071	3184	3277	3386	3493	3601	3785	3938
10	Q	3116	3195	3311	3412	3528	3638	3752	3952	4110
10	S	3183	3261	3377	3481	3596	3707	3828	4025	4186

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

11	B	3108	3185	3293	3399	3523	3638	3751	3950	4108
11	Q	3231	3313	3431	3543	3670	3793	3912	4124	4288
11	S	3297	3378	3498	3610	3740	3864	3986	4197	4364
12	B	3229	3313	3435	3547	3679	3800	3941	4152	4317
12	Q	3360	3449	3576	3695	3837	3967	4111	4336	4509
12	S	3429	3516	3645	3764	3910	4043	4188	4413	4589
12H	B	19.87	20.39	21.14	21.83	22.64	23.38	24.25	25.55	26.57
12H	Q	20.68	21.22	22.01	22.74	23.61	24.41	25.30	26.68	27.75
12H	S	21.10	21.64	22.43	23.16	24.06	24.88	25.77	27.16	28.24
13	B	3347	3438	3564	3700	3838	3977	4127	4356	4530
13	Q	3487	3580	3711	3857	4009	4155	4308	4553	4734
13	S	3556	3649	3783	3932	4085	4228	4386	4631	4817
14	B	3492	3584	3721	3866	4036	4182	4341	4594	4778
14	Q	3637	3737	3879	4038	4212	4371	4537	4802	4992
14	S	3706	3806	3956	4110	4288	4447	4616	4877	5071
14H	B	21.49	22.06	22.90	23.79	24.84	25.74	26.71	28.27	29.40
14H	Q	22.38	23.00	23.87	24.85	25.92	26.90	27.92	29.55	30.72
14H	S	22.81	23.42	24.34	25.29	26.39	27.37	28.41	30.01	31.21
15	B	3629	3727	3892	4052	4210	4382	4545	4819	5010
15	Q	3782	3889	4059	4228	4399	4581	4750	5033	5236
15	S	3854	3961	4135	4303	4477	4659	4826	5113	5317
16	B	3793	3901	4075	4257	4432	4619	4803	5086	5289
16	Q	3959	4071	4257	4449	4634	4825	5019	5318	5531
16	S	4035	4149	4333	4527	4715	4903	5098	5391	5607
16H	B	23.34	24.01	25.08	26.20	27.27	28.42	29.56	31.30	32.55
16H	Q	24.36	25.05	26.20	27.38	28.52	29.69	30.89	32.73	34.04

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

16H	S	24.83	25.53	26.66	27.86	29.02	30.17	31.37	33.18	34.50
17	B	3971	4088	4275	4473	4663	4852	5048	5348	5563
17	Q	4147	4265	4470	4675	4870	5068	5275	5588	5814
17	S	4222	4342	4548	4754	4951	5146	5351	5671	5896
18	B	4176	4302	4509	4720	4934	5134	5341	5659	5886
18	Q	4363	4493	4717	4933	5158	5368	5581	5917	6152
18	S	4443	4569	4790	5010	5235	5446	5662	5991	6232
19	B	4400	4533	4765	4989	5220	5441	5668	6013	6253
19	J	4400	4533	4765	4989	5220	5441	5668	6013	6253
19	Q	4601	4737	4980	5211	5460	5686	5925	6282	6534
19	S	4680	4818	5059	5291	5536	5766	6004	6359	6614
20	B	4652	4789	5032	5266	5516	5757	5995	6358	6613
20	Q	4861	5006	5258	5506	5767	6015	6265	6648	6913
20	S	4939	5085	5336	5581	5843	6092	6343	6723	6991
21	B	4911	5058	5319	5575	5835	6101	6355	6752	7022
21	U	4911	5058	5319	5575	5835	6101	6355	6752	7022
21	Q	5131	5286	5560	5825	6099	6377	6644	7056	7338
21	S	5209	5365	5634	5902	6178	6454	6720	7134	7420
22	B	5194	5347	5626	5900	6180	6466	6734	7154	7440
22	Q	5426	5586	5880	6169	6457	6756	7040	7475	7773
22	S	5505	5668	5955	6246	6534	6835	7121	7555	7857
23	B	5507	5672	5973	6279	6576	6879	7178	7631	7937
23	Q	5756	5931	6244	6564	6872	7190	7503	7972	8290
23	S	5835	6007	6320	6641	6951	7268	7579	8051	8371
24	B	5860	6037	6357	6692	7011	7336	7666	8148	8473
24	J	5860	6037	6357	6692	7011	7336	7666	8148	8473
24	Q	6127	6310	6647	6992	7329	7664	8012	8515	8856

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

24	S	6202	6389	6722	7068	7405	7744	8091	8591	8935
25	B	6247	6435	6786	7144	7501	7857	8215	8742	9092
25	J	6247	6435	6786	7144	7501	7857	8215	8742	9092
25	Q	6526	6723	7092	7463	7841	8214	8585	9136	9502
25	S	6609	6802	7170	7541	7916	8288	8660	9213	9583
26	B	6605	6866	7242	7627	8013	8386	8763	9328	9701
26	U	6605	6866	7242	7627	8013	8386	8763	9328	9701
27	B	6979	7330	7729	8137	8549	8950	9352	9956	10355
27	J	6979	7330	7729	8137	8549	8950	9352	9956	10355
27	U	6979	7330	7729	8137	8549	8950	9352	9956	10355
28	B	7324	7691	8108	8538	8971	9391	9812	10447	10867
29	U	7686	8071	8509	8959	9415	9855	10297	10963	11401

Effective June 1, 2011
Bargaining Unit: RC-062

Pay Grade	Pay Plan Code	STEPS 1a	1	2	3	4	5	6	7	8
09	B	2961	3035	3129	3229	3329	3436	3537	3705	3853
09	Q	3080	3159	3255	3361	3464	3576	3683	3860	4016
09	S	3148	3224	3323	3429	3535	3649	3755	3933	4091
10	B	3058	3132	3248	3343	3454	3563	3673	3861	4017
10	Q	3178	3259	3377	3480	3599	3711	3827	4031	4192
10	S	3247	3326	3445	3551	3668	3781	3905	4106	4270
11	B	3170	3249	3359	3467	3593	3711	3826	4029	4190
11	Q	3296	3379	3500	3614	3743	3869	3990	4206	4374
11	S	3363	3446	3568	3682	3815	3941	4066	4281	4451

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

12	B	3294	3379	3504	3618	3753	3876	4020	4235	4403
12	Q	3427	3518	3648	3769	3914	4046	4193	4423	4599
12	S	3498	3586	3718	3839	3988	4124	4272	4501	4681
12H	B	20.27	20.79	21.56	22.26	23.10	23.85	24.74	26.06	27.10
12H	Q	21.09	21.65	22.45	23.19	24.09	24.90	25.80	27.22	28.30
12H	S	21.53	22.07	22.88	23.62	24.54	25.38	26.29	27.70	28.81
13	B	3414	3507	3635	3774	3915	4057	4210	4443	4621
13	Q	3557	3652	3785	3934	4089	4238	4394	4644	4829
13	S	3627	3722	3859	4011	4167	4313	4474	4724	4913
14	B	3562	3656	3795	3943	4117	4266	4428	4686	4874
14	Q	3710	3812	3957	4119	4296	4458	4628	4898	5092
14	S	3780	3882	4035	4192	4374	4536	4708	4975	5172
14H	B	21.92	22.50	23.35	24.26	25.34	26.25	27.25	28.84	29.99
14H	Q	22.83	23.46	24.35	25.35	26.44	27.43	28.48	30.14	31.34
14H	S	23.26	23.89	24.83	25.80	26.92	27.91	28.97	30.62	31.83
15	B	3702	3802	3970	4133	4294	4470	4636	4915	5110
15	Q	3858	3967	4140	4313	4487	4673	4845	5134	5341
15	S	3931	4040	4218	4389	4567	4752	4923	5215	5423
16	B	3869	3979	4157	4342	4521	4711	4899	5188	5395
16	Q	4038	4152	4342	4538	4727	4922	5119	5424	5642
16	S	4116	4232	4420	4618	4809	5001	5200	5499	5719
16H	B	23.81	24.49	25.58	26.72	27.82	28.99	30.15	31.93	33.20
16H	Q	24.85	25.55	26.72	27.93	29.09	30.29	31.50	33.38	34.72
16H	S	25.33	26.04	27.20	28.42	29.59	30.78	32.00	33.84	35.19
17	B	4050	4170	4361	4562	4756	4949	5149	5455	5674
17	Q	4230	4350	4559	4769	4967	5169	5381	5700	5930

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

17	S	4306	4429	4639	4849	5050	5249	5458	5784	6014
18	B	4260	4388	4599	4814	5033	5237	5448	5772	6004
18	Q	4450	4583	4811	5032	5261	5475	5693	6035	6275
18	S	4532	4660	4886	5110	5340	5555	5775	6111	6357
19	B	4488	4624	4860	5089	5324	5550	5781	6133	6378
19	J	4488	4624	4860	5089	5324	5550	5781	6133	6378
19	Q	4693	4832	5080	5315	5569	5800	6044	6408	6665
19	S	4774	4914	5160	5397	5647	5881	6124	6486	6746
20	B	4745	4885	5133	5371	5626	5872	6115	6485	6745
20	Q	4958	5106	5363	5616	5882	6135	6390	6781	7051
20	S	5038	5187	5443	5693	5960	6214	6470	6857	7131
21	B	5009	5159	5425	5687	5952	6223	6482	6887	7162
21	U	5009	5159	5425	5687	5952	6223	6482	6887	7162
21	Q	5234	5392	5671	5942	6221	6505	6777	7197	7485
21	S	5313	5472	5747	6020	6302	6583	6854	7277	7568
22	B	5298	5454	5739	6018	6304	6595	6869	7297	7589
22	Q	5535	5698	5998	6292	6586	6891	7181	7625	7928
22	S	5615	5781	6074	6371	6665	6972	7263	7706	8014
23	B	5617	5785	6092	6405	6708	7017	7322	7784	8096
23	Q	5871	6050	6369	6695	7009	7334	7653	8131	8456
23	S	5952	6127	6446	6774	7090	7413	7731	8212	8538
24	B	5977	6158	6484	6826	7151	7483	7819	8311	8642
24	J	5977	6158	6484	6826	7151	7483	7819	8311	8642
24	Q	6250	6436	6780	7132	7476	7817	8172	8685	9033
24	S	6326	6517	6856	7209	7553	7899	8253	8763	9114
25	B	6372	6564	6922	7287	7651	8014	8379	8917	9274
25	J	6372	6564	6922	7287	7651	8014	8379	8917	9274

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

25	Q	6657	6857	7234	7612	7998	8378	8757	9319	9692
25	S	6741	6938	7313	7692	8074	8454	8833	9397	9775
26	B	6737	7003	7387	7780	8173	8554	8938	9515	9895
26	U	6737	7003	7387	7780	8173	8554	8938	9515	9895
27	B	7119	7477	7884	8300	8720	9129	9539	10155	10562
27	J	7119	7477	7884	8300	8720	9129	9539	10155	10562
27	U	7119	7477	7884	8300	8720	9129	9539	10155	10562
28	B	7470	7845	8270	8709	9150	9579	10008	10656	11084
29	U	7840	8232	8679	9138	9603	10052	10503	11182	11629

(Source: Amended by peremptory rulemaking at 35 Ill. Reg. 3577, effective February 10, 2011)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO
EMERGENCY RULEMAKING

EXECUTIVE ETHICS COMMISSION

Heading of the Part: Organization, Information, Rulemaking and Hearings

Code Citation: 2 Ill. Adm. Code 1620

Section Numbers: 1620.825

Date Originally Published in the Illinois Register: 1/7/11
35 Ill. Reg. 563

At its meeting on February 9, 2011, the Joint Committee on Administrative Rules objected to the Executive Ethics Commission's use of emergency rulemaking to adopt rules titled Organization, Information, Rulemaking and Hearings (2 Ill. Adm. Code 1620; 35 Ill. Reg. 563) because the agency has not shown any emergency situation that threatens the pubilc interest, safety or welfare.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO
EMERGENCY RULEMAKING

PROCUREMENT POLICY BOARD

Heading of the Part: General Policies

Code Citation: 2 Ill. Adm. Code 3002

Section Numbers: 3002.1400

Date Originally Published in the Illinois Register: 1/14/11
35 Ill. Reg. 1146

At its meeting on February 9, 2011, the Joint Committee on Administrative Rules objected to the Procurement Policy Board's use of emergency rulemaking to adopt rules titled General Policies (2 Ill. Adm. Code 3002; 35 Ill. Reg. 1146) because the agency has not shown any emergency situation that threatens the public interest, safety or welfare.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

WITHDRAWAL OF FILING PROHIBITION OF PROPOSED RULEMAKING

Agency: Illinois Emergency Management Agency

Heading of the Part: Licensing of Radioactive Material

Code Citation: 32 Ill. Adm. Code 330

Section Number: 330.40

Date Originally Published in the Illinois Register: 8/28/09
33 Ill. Reg. 12061

Date Filing Prohibition Published in Illinois Register: 8/27/10
34 Ill. Reg. 12562

Date Filing Prohibition Became Effective: 8/11/10

Date Filing Prohibition Withdrawn: 1/11/11, contingent upon and effective with IEMA's adoption of the modifications submitted to JCAR

The Joint Committee on Administrative Rules certifies that, pursuant to Section 5-115 of the Illinois Administrative Procedure Act, the Joint Committee, at its meeting on January 11, 2011, has withdrawn the prohibition against the filing of the Illinois Emergency Management Agency's rulemaking contingent upon and effective with the Agency's adoption of the modifications submitted to JCAR. The Committee originally issued this Filing Prohibition at its 8/10/10 meeting.

Please take notice that the Agency is no longer prohibited from filing the rulemaking with the Secretary of State, as modified in accordance with agreements between the Agency and the Joint Committee on Administrative Rules and the modifications submitted in response to the Objection and Filing Prohibition, and from enforcing or invoking the rule.

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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 October 1, 2010 through December 31, 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; 34 Ill. Adm. Code 13565, September 17, 2010 and 34 Ill. Adm. Code 17490, November 12, 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

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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 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: Not used during this period.
Chemical: Acenaphthylene CAS # 208-96-8 Acute criterion: 190 ug/L Chronic criterion: 15 ug/L Date criteria derived: March 1, 1998 Applicable waterbodies: Not used during this period.
Chemical: 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

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Acute criterion: 910 ug/l Chronic criterion: 73 ug/l Human health criterion (HNC): 0.21 ug/l Date criteria derived: November 13, 1991 Applicable waterbodies: Not used during this period.
Chemical: 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: Not used during this period.
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: Not used during this period.
Chemical: Benzo(a)pyrene CAS #50-32-8 Human health criterion (HNC): 0.016 ug/l Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period.
Chemical: Benzo(b)fluoranthene CAS # 205-99-2 Human health criterion (HNC): 0.16 ug/l Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period.

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Chemical: Benzo(k)fluoranthene CAS #207-08-9 Human health criterion (HNC): 1.6 ug/l Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period.
Chemical: 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: Bromodichloromethane CAS #75-27-4 **Acute criterion: 10 ug/l Chronic criterion: 1 ug/l** **Human health criterion (HNC): 13 ug/l** **Date criteria derived: February 1, 1999** **Applicable waterbodies: Segment G-39 of Des Plaines River.**
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: Segment G-39 of Des Plaines River.**
Chemical: Chloroethane CAS #75-00-3 **Acute criterion: 13 mg/l Chronic criterion: 1 mg/l** **Date criteria derived: December 11, 1991** **Applicable waterbodies: Segment G-39 of Des Plaines River.**
Chemical: Chloromethane CAS #74-87-3 Acute criterion: 16 mg/l Chronic criterion: 1.3 mg/l

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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: Segment G-39 of Des Plaines River.**
Chemical: Chrysene CAS #218-01-9 Human health criterion (HNC): 16 ug/l Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period.
Chemical: 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: Not used during this period.
Chemical: 1,2-dichlorobenzene CAS #95-50-1 **Acute criterion: 210 ug/l Chronic criterion: 17 ug/l** **Date criteria derived: December 1, 1993** **Applicable waterbodies: Segment G-39 of Des Plaines River.**
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: Segment G-39 of Des Plaines River.**
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.

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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: Segment G-39 of Des Plaines River.**
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: Segment G-39 of Des Plaines River.**
Chemical: trans-1,2-dichloroethylene CAS #156-60-5 **Human health criterion (HTC): 34 mg/l** **Date criteria derived: February 1, 1999; reviewed December 2, 2010** **Applicable waterbodies: Segment G-39 of Des Plaines River.**
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

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Acute criterion: 85 ug/l Chronic criterion: 4.1 ug/l Date criteria derived: December 1, 1993 Applicable waterbodies: Not used during this period.
Chemical: 2,6-dinitrotoluene CAS #606-20-2 Acute criterion: 1,900 ug/l Chronic criterion: 150 ug/l Date criteria derived: February 14, 1992 Applicable waterbodies: Not used during this period.
Chemical: Diquat CAS #85-00-7 Acute criterion: 990 ug/l Chronic criterion: 80 ug/l Date criteria derived: January 30, 1996 Applicable waterbodies: Not used during this period.
Chemical: Ethyl mercaptan (ethanethiol) CAS #75-08-1 Acute criterion: 17 ug/l Chronic criterion: 2 ug/l 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: Not used during this period.
Chemical: Fluorene CAS #86-73-7 Acute criterion: 59 ug/L Chronic Criterion: 16 ug/L Date criteria derived: June 6, 2007 Applicable waterbodies: Not used during this period.
Chemical: Formaldehyde CAS #50-00-0 Acute criterion: 4.9 mg/l Chronic criterion: 0.39 mg/l Date criteria derived: January 19, 1993 Applicable waterbodies: Not used during this period.
Chemical: Hexachlorobenzene CAS #118-74-1 Human health criterion (HNC): 0.00025 ug/l Date criteria derived: November 15, 1991 Applicable waterbodies: Not used during this period.
Chemical: Hexachlorobutadiene CAS #87-68-3 Acute criterion: 35 ug/l Chronic criterion: 2.8 ug/l Date criteria derived: March 23, 1992 Applicable waterbodies: Not used during this period.

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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
Date criteria calculated: February, 1992, reviewed June 2007
Applicable waterbodies: Not used during this period.

Chemical: Isobutyl alcohol = 2-methyl-1-propanol CAS #78-83-1
Acute criterion: 430 mg/l Chronic criterion: 35 mg/l
Date criteria derived: December 1, 1993
Applicable waterbodies: Not used during this period.

Chemical: Methylene chloride CAS #75-09-2
Acute criterion: 17 mg/l Chronic criterion: 1.4 mg/l
Human health criterion (HNC): 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: Segment G-39 of Des Plaines River.

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.

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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 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: Not used during this period.
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: Not used during this period.
Chemical: Propylene CAS #115-07-1 Acute criterion: 4.0 mg/l Chronic criterion 0.40 mg/l Date criteria derived: April 8, 2002

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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: Not used during this period.
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** **Date criteria derived: March 23, 1992** **Applicable waterbodies: Segment G-39 of Des Plaines River.**
Chemical: Tetrahydrofuran CAS #109-99-9 **Acute criterion: 220 mg/l Chronic criterion: 17 mg/l** **Date criteria derived: March 16, 1992** **Applicable waterbodies: Segment G-39 of Des Plaines River.**
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: Segment G-39 of Des Plaines River.**
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

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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: Segment G-39 of Des Plaines River.

Chemical: 1,2,4-trimethylbenzene CAS #95-63-6
Acute criterion: 360 ug/l Chronic criterion: 29 ug/l
Date criteria derived: July 15, 1998; reviewed December 2, 2010
Applicable waterbodies: Segment G-39 of Des Plaines River.

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
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: Segment G-39 of Des Plaines River.

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

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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.

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

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LISTING OF DERIVED WATER QUALITY CRITERIA

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

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

ILLINOIS RACING BOARD

1) Heading of the Part: Medication

2) Code Citation: 11 Ill. Adm. Code 603

3) Register citation of adopted rulemaking: 35 Ill. Adm. Code 2810; February 14, 2011

4) Explanation: In #5 of the emergency rulemaking notice page, an incorrect effective date of January 26, 2011 was published in the February 14, 2011 Illinois Register. The correct date is February 1, 2011. JCAR regrets this error.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

SECRETARY OF STATE

1) Heading of the Part: Lobbyist Registration and Reports

2) Code Citation: 2 Ill. Adm. Code 560

3) Register citation of adopted rulemaking: 35 Ill. Reg. 2424; February 4, 2011

4) Explanation: In #5 of the emergency rulemaking notice page, an incorrect effective date of January 20, 2011 was published in the February 4, 2011 Illinois Register. The correct date is January 21, 2011. JCAR regrets this error.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notice was received by the Joint Committee on Administrative Rules during the period of February 8, 2011 through February 14, 2011 and has been scheduled for review by the Committee at its March 8, 2011 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
3/30/11	Department of Public Health, Swimming Facility Code (77 Ill. Adm. Code 820)	4/16/10 35 Ill. Reg. 5562	3/8/11

2011-9
McLean County Basketball Tournament Day

WHEREAS, the McLean County Basketball Tournament has been an annual highlight since 1911, thrilling spectators with some of the best high school basketball action in Illinois; and,

WHEREAS, the tournament was originated by the McLean County Principals Association and was first managed by Lloyd Eyer of the Bloomington YMCA, where the tournament was initially held; and,

WHEREAS, in that first year, Lexington defeated LeRoy to win the first tournament. Other teams that played that year included Normal, Saybrook, Bellflower and Bloomington's junior varsity team; and,

WHEREAS, today the tournament features all 13 teams from the Heart of Illinois Conference, comprised of schools in the area surrounding Bloomington-Normal; and,

WHEREAS, this year's McLean County Basketball Tournament will be the 17th at Illinois Wesleyan's Shirk Center after 24 years at IWU's Fred Young Fieldhouse. The tournament also has been held at Bloomington High School, Illinois Wesleyan's Memorial Gym, Illinois State's Felmley Gym, ISU's McCormick Gym and ISU's Horton Field House over the years; and,

WHEREAS, the McLean County Basketball Tournament consistently draws central Illinois' finest talents in prep basketball; and,

WHEREAS, 2011 marks the 100th anniversary of the McLean County Basketball Tournament; and,

WHEREAS, to commemorate one hundred years of basketball excellence, organizers will be recognizing former players, coaches, officials, cheerleaders, administrators, media members, and all others who have participated in the storied history of the tournament over the last century; and,

WHEREAS, this milestone anniversary will also be celebrated with the display of memorabilia and photographs spanning the McLean County Basketball Tournament's 100 year history; and,

WHEREAS, once again this year, the McLean County Basketball Tournament returns to delight high school basketball fans in the Land of Lincoln, culminating in the boys' championship game on January 22:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim January 22, 2011 as **MCLEAN COUNTY BASKETBALL TOURNAMENT DAY** in Illinois, in recognition of this time-honored athletic tradition, and congratulate all of the teams competing this year and all those who have played a part in the tournament over the years.

Issued by the Governor January 21, 2011
Filed by the Secretary of State February 9, 2011

2011-10
Hearts A Bluhm Day

WHEREAS, heart disease is the leading cause of death in the United States. More people die of heart disease in America than all cancers combined; and,

WHEREAS, according to the most recent data from the American Heart Association, cardiovascular disease is responsible for 1 of every 2.9 deaths in the United States, meaning that nearly 2300 Americans die of cardiovascular disease each day, an average of 1 death every 23 seconds; and,

WHEREAS, stroke accounts for approximately 1 in every 18 deaths in the United States. On average, one person experiences a stroke every 40 seconds in the U.S. alone; and,

WHEREAS, cardiovascular diseases, including stroke, are also the leading cause of death in Illinois, causing 33,909 deaths (or 33.8 percent of all deaths) each year; and,

WHEREAS, because of these staggering incidence rates, countless people within our state are suffering from heart disease or know someone who is - many more have lost their lives or witnessed loved ones die from this disease; and,

WHEREAS, fiscal expenditures associated with heart disease are estimated to cost the United States $503.2 billion annually, including the cost of health care services, medications, and lost productivity. According to the Illinois Department of Public Health, heart disease and stroke cost the state of Illinois approximately $4 billion each year; and,

WHEREAS, to help raise awareness for this important health issue during February - National Heart Month - Northwestern Memorial Hospital's Bluhm Cardiovascular Institute will launch a much-anticipated public art exhibit called "Hearts a Bluhm," designed to create a conversation about the issue of heart disease and stroke and to educate the many guests and residents of Chicago visiting The Magnificent Mile; and,

WHEREAS, in partnership with Columbia College Chicago artists, "Hearts a Bluhm" will feature 100 giant 5-foot acrylic hearts painted and/or creatively adorned by artists and accompanied by heart health facts and tips; and,

WHEREAS, with support from the Greater North Michigan Avenue Association and the City of Chicago, this unique exhibit will line the city's most prominent street during the entire month of February to raise awareness and educate passers-by; and,

WHEREAS, the giant hearts will be officially unveiled on Tuesday, February 1, 2011 on Michigan Avenue:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 1, 2011 as **HEARTS A BLUHM DAY** in Illinois, in support of this first-of-its-kind effort to raise awareness for cardiovascular disease and heart health awareness in our state.

Issued by the Governor January 21, 2011
Filed by the Secretary of State February 9, 2011

2011-11
Illinois Nurse Anesthetists Week

WHEREAS, Certified Registered Nurse Anesthetists (CRNAs) are essential to America's healthcare system, providing high-quality, cost-effective anesthesia care for more than 125 years; and,

WHEREAS, CRNAs are anesthesia specialists who are the hands-on providers of approximately 30 million anesthetics given to patients each year in the United States; and,

WHEREAS, CRNAs are the sole anesthesia providers in more than two-thirds of all rural hospitals, affording these medical facilities obstetrical, surgical, and trauma stabilization capabilities; and,

WHEREAS, CRNAs practice in every setting in which anesthesia is delivered: traditional hospital surgical suites and obstetrical delivery rooms; ambulatory surgical centers; the offices of dentists, podiatrists, ophthalmologists, and plastic surgeons; U.S. Military, Public Health Services, and Veterans Affairs medical facilities:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim the week of January 23-29, 2011 as **ILLINOIS NURSE ANESTHETISTS WEEK**, and urge all citizens to join me in recognizing these outstanding healthcare professionals for their contributions to the quality of life in our state.

Issued by the Governor January 21, 2011
Filed by the Secretary of State February 9, 2011

PROCLAMATIONS

2011-12
Niedersachsen Club Day

WHEREAS, one of the assets of the great State of Illinois is its enviable cultural heritage, with contributions from every corner of the globe; and,

WHEREAS, among the earliest settlers in Illinois were of German descent, who brought their rich culture to blend with the native and foreign cultures in our Nation, which were established in the last century; and,

WHEREAS, the bountiful German heritage, which has greatly influenced our country, including, but by no means limited to language, business, government, law, science, athletics, religion, literature, music, art and cuisine enriches our lives daily, and our German-American population is one of the most civic-minded, influential and educated among our citizens and has brought diversity to Chicago and throughout the United States of America; and,

WHEREAS, today, there are more than 45 million German-Americans in the United States. Of them, nearly 2.5 million live in the State of Illinois; and,

WHEREAS, there are numerous organizations in the State of Illinois dedicated to preserving and promoting German culture and heritage, and to strengthening the common bonds of German-American citizens of our state through civic and social programs. One such organization is the Niedersachsen Club of Chicago; and,

WHEREAS, for the past fifty years, the Niedersachsen Club has supported their German-American heritage and highlighted the outstanding contributions of our state's German-American citizens; and,

WHEREAS, on Saturday, March 26, 2011, the Niedersachsen Club will celebrate their 50th Anniversary:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 26, 2011 as **NIEDERSACHSEN CLUB DAY** in Illinois, in recognition of the Niedersachsen Club's fifty years of service to our state, and wish them continued success.

Issued by the Governor January 21, 2011
Filed by the Secretary of State February 9, 2011

2011-13
Ronald Reagan Centennial Celebration Day

WHEREAS, Ronald Wilson Reagan was born on February 6, 1911 in Tampico, Illinois and subsequently lived in many locations throughout Illinois during his childhood and adolescence including Galesburg and Dixon, where he graduated from High School; and,

WHEREAS, Ronald Wilson Reagan enrolled in Eureka College in Eureka, Illinois in 1928 and majored in Economics and Sociology. It was here that he discovered an interest in drama while serving as student body president; and,

WHEREAS, Ronald Wilson Reagan enjoyed successful careers in many fields: lifeguard, military officer, spokesman, broadcaster and most notably as a celebrated Hollywood actor; and,

WHEREAS, Ronald Wilson Reagan began a life of public service when he enlisted in the Army Reserves as a Private in 1937. He was eventually promoted to 2nd Lieutenant in the Officers Reserve Corps of the Cavalry before being called into active duty by the United States Air Force in 1942; and,

WHEREAS, Ronald Wilson Reagan began his political career in 1966, defeating incumbent Governor Edmund G. "Pat" Brown to become Governor of the State of California; and,

WHEREAS, Ronald Wilson Reagan began developing his natural leadership skills while serving the student body at Eureka College, further honed them through his military career and through his many acting credits and perfected them while serving the citizens of the State of California; and,

WHEREAS, Ronald Reagan Wilson, native son of Illinois, was elected President of the United States in 1980, becoming our Nation's 40th President; and,

WHEREAS, President Ronald Reagan served the people of the United States of America for two terms with honor, always with the interest of the public good in mind; and,

WHEREAS, the quote "There is no limit to what a man can do or where he can go if he doesn't mind who gets the credit" holds especially true in an era of political partisanship and demonstrates that President Reagan possessed a true servant's heart; and,

WHEREAS, on February 6, 2011, the State of Illinois, along with the United States of America, will celebrate the 100th anniversary of President Reagan's birthday:

THEREFORE, I Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 6, 2011 as **RONALD REAGAN CENTENNIAL CELEBRATION DAY** in Illinois, in honor of the legacy and achievements of our Nation's 40th President.

Issued by the Governor January 21, 2011
Filed by the Secretary of State February 9, 2011

2011-14
African American History Month

WHEREAS, Dr. Carter G. Woodson founded the Association for the Study of Afro-American Life and History (ASALH) in 1915. Eleven years later, in 1926, Dr. Woodson created Negro History Week to celebrate the many contributions of African Americans to American culture and customs; and,

WHEREAS, Dr. Woodson designated the second week of February as Negro History Week to coincide with the birthdays of Abraham Lincoln and Frederick Douglass and in honor of their considerable impact on African American history; and,

WHEREAS, in 1976, the Association for the Study of Afro-American Life and History expanded Negro History Week to Black History Month during the entire month of February, making their primary objectives the collection, study, promotion, and dissemination of historical materials relating to African Americans; and,

WHEREAS, there have been several milestone events in African American history during February, including: passage of the 15th Amendment in 1870, which granted African Americans the right to vote; the inauguration of the first African American Senator, Hiram Revels, also in 1870; and the founding of the National Association for the Advancement of Colored People in 1909; and,

WHEREAS, throughout African American History Month, organizations across the country celebrate African American history with seminars, plays, concerts, art shows, films, dance performances, family workshops, and other expressions of creativity and pride. Here in Illinois, we are proud to join in these spirited commemorations:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 2011 as **AFRICAN AMERICAN HISTORY MONTH** in Illinois, and encourage all citizens to learn about the wonderful contributions that African Americans have made to our state, and to the nation as a whole.

Issued by the Governor January 24, 2011
Filed by the Secretary of State February 9, 2011

2011-15
School Social Work Week

WHEREAS, every day, millions of parents entrust the education of their children to thousands of classroom teachers at hundreds of schools all across the state; and,

WHEREAS, teachers who educate our children have always contended with the personal and family problems that accompany children, and now have to compete with technology such as cell phones, computers, and television; and,

WHEREAS, it is more difficult to engage children in the classroom today than ever before, increasing the role that school social workers play in the lives of these students; and,

WHEREAS, school social workers have the critically important job of helping classroom teachers provide the best education possible. They do this by offering a number of services to children such as academic assistance, conflict resolution, crisis intervention, group counseling, and coordination of school and community health resources; and,

WHEREAS, school social workers also serve as a link between schools and parents when classroom teachers have not been able to reach them through normal channels. In all, there are more than 1,500 school social workers in Illinois; and,

WHEREAS, for the past 25 years, the Governor of the State of Illinois has proclaimed a week in March to commend and honor school social workers in our state. During this week the Illinois Association of School Social Workers and other organizations will hold events to make people aware of the work done by school social workers:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 6-12, 2011 as **SCHOOL SOCIAL WORK WEEK** in Illinois, in recognition of school social workers for their essential and vital support of classroom teachers and their commitment and dedication to the well-being of our state's children.

Issued by the Governor January 24, 2011
Filed by the Secretary of State February 9, 2011

2011-16
USO Day

WHEREAS, the United Service Organizations, Inc. (USO) is chartered by Congress as a non-profit charitable corporation and is recognized by the President of the United States and the Department of Defense; and,

WHEARAS, the mission of the USO is to enhance the morale and quality of life of the U.S. Armed Forces personnel and their families by providing social, recreational and educational

support programs and services; and to create cooperative relationships between military communities and involved or supporting civilian communities; and,

WHEREAS, the USO of Illinois is based in Chicago and annually supports over 300,000 military and military families serving in or traveling through Illinois with over 300 programs and services offered year-round, and at five USO Center facilities located at O'Hare and Midway Airports, Navy Pier and on Great Lakes Naval Base; and,

WHEREAS, over 300 members in the USO of Illinois corps of volunteers provide an estimated 20,000 hours of service annually, welcoming service members to USO centers, supporting USO events and activities and helping provide special 'Home Away From Home' care and comfort to active duty, guard and reserve Soldiers, Sailors, Marines, Airmen and Coast Guardsmen; and,

WHEREAS, February 4, 2011 marks the 70th Anniversary of USO service in Illinois and USO services worldwide:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 4, 2011 as **USO DAY** in Illinois, in recognition of the wonderful services provided by the USO to servicemembers and their families.

Issued by the Governor January 24, 2011
Filed by the Secretary of State February 9, 2011

2011-17
Engineers Week

WHEREAS, according to the Illinois Department of Financial and Professional Regulation, there are approximately 20,700 registered professional engineers and 2,300 registered structural engineers in Illinois; and,

WHEREAS, engineers use their scientific and technical knowledge and skills to provide the people of this state and across the nation with a wealth of innovations in all fields, including agriculture, transportation, construction and education; and,

WHEREAS, engineers are vital to allowing our society to function efficiently, particularly in the areas of public safety, health, welfare, transportation, water, power, communications and structural land environmental engineering; and,

WHEREAS, engineers face the major technological challenges of our time – from rebuilding towns devastated by natural disasters to designing an information superhighway that will speed our country into the twenty-first century; and,

WHEREAS, engineers are encouraging our young math and science students to realize the practical power of their knowledge; and,

WHEREAS, we must depend upon the professional men and women in the field of engineering to find technological solutions to the problems we currently face, and those we might face in the future:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 14-20, 2011 as **ENGINEERS WEEK** in Illinois, and encourage all citizens to recognize and appreciate the countless contributions that engineers make to the state and the country as a whole.

Issued by the Governor January 24, 2011
Filed by the Secretary of State February 9, 2011

2011-18
Flag Honors – Sergeant Michael P. Bartley

WHEREAS, on Saturday, January 15, 2011, United States Army Sergeant Michael P. Bartley of Barnhill, Illinois died at age 23 of injuries sustained from small arms fire in Mosul, Iraq, where Sergeant Bartley was serving in support of Operation New Dawn; and,

WHEREAS, Sergeant Bartley was assigned to A Troop, 1st Squadron, 9th Cavalry Regiment, 1st Cavalry Division, based at Fort Hood, Texas; and,

WHEREAS, Sergeant Bartley was a 2007 graduate of Fairfield Community High School, where he played baseball for all four years; and,

WHEREAS, Sergeant Bartley enlisted in the Army shortly after his graduation from high school, and had just recently reenlisted. This was his second tour of duty in Iraq; and,

WHEREAS, funeral services will be held on Friday, January 28, 2011 for Sergeant Bartley, who is survived by his mother Rebecca Isles of Fairfield:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff from sunrise on January 26, 2011 until sunset on January 28, 2011 in honor and remembrance of Sergeant Bartley, whose selfless service and sacrifice is an inspiration.

Issued by the Governor January 25, 2011

Filed by the Secretary of State February 9, 2011

2011-19
Ernie Banks Day

WHEREAS, Ernest "Ernie"Banks was born on January 31, 1931 in Dallas, Texas; and,

WHEREAS, Ernie Banks began his baseball career when he signed with the Kansas City Monarchs of the Negro League in 1950. Having never played for a minor league team, Ernie Banks joined the Chicago Cubs during the 1953 season, becoming the first black player in the club's history; and,

WHEREAS, Ernie Banks, commonly referred to as "Mr. Cub" quickly became one of the most successful players in the history of the Chicago Cubs as well as the National League. He became the Cubs' starting shortstop in his first full season in 1954 and by the 1955 season he batted in 117 runs and hit 44 homeruns, five of them grand slams, which was then a record for shortstops; and,

WHEREAS, Ernie Banks was named as the National League's Most Valuable Player (MVP) two years in a row, first in 1958 and again in 1959; and,

WHEREAS, Ernie Banks led the National League in runs batted in (RBI's) in 1959, and home runs in 1960. Ernie Banks is the Chicago Cubs all-time leader in at-bats with 9,421, and ranks second in the club's history in hits with 2,583, home runs with 512, and RBI's with 1,636; and,

WHEREAS, Ernie Banks, "Mr. Cub", also leads the Chicago Cubs in games played with 2,528. A lifelong Chicago Cub, he will always be known as the player who said "What a great day for baseball, let's play two!"; and,

WHEREAS, Ernie Banks was inducted into the Baseball Hall of Fame in 1977, the first year he was eligible. Ernie Banks was also the first player in Chicago Cubs history whose number was retired. He remains one of only six players whose number can be seen flying on game day; and,

WHEREAS, Ernie Banks is known not only for his tremendous talent in baseball, but also his sunny personality. His enthusiasm for the sport of baseball and for the City of Chicago remains apparent in his many philanthropic contributions to non-profit organizations throughout the City; and,

WHEREAS, Ernie Banks will celebrate his 80th birthday on January 29th in downtown Chicago at the restaurant of Harry Caray, another Chicago Cubs legend:

THEREFORE, I Pat Quinn, Governor of the State of Illinois, do hereby proclaim January 29, 2011 as **ERNIE BANKS DAY** in Illinois, in honor of one of the City of Chicago's truly great treasures.

Issued by the Governor January 25, 2011
Filed by the Secretary of State February 9, 2011

2011-20
MS Awareness Week

WHEREAS, multiple sclerosis (MS) interrupts the flow of information between the brain and the body and stops people from moving. It is an unpredictable, often disabling disease of the central nervous system; and,

WHEREAS, multiple sclerosis generally strikes young adults between the ages of 20 and 50, attacking them in the prime of their lives. Every hour in the United States someone is newly diagnosed with Multiple Sclerosis; and,

WHEREAS, the National Multiple Sclerosis Society- Greater Illinois Chapter estimates that in our state more than 20,000 people are living with this disease. Nationwide, MS affects more than 400,000 people; and,

WHEREAS, symptoms ranges from numbness and tingling to blindness and paralysis. The progress, severity, and specific symptoms of MS in any one person cannot yet be predicted, but advances in research and treatment are moving us closer to a world free of MS; and,

WHEREAS, the National Multiple Sclerosis Society, Greater Illinois Chapter has been committed throughout the years to mobilize the voices of people statewide who want to do something about MS now, and this dedicated Chapter is currently planning several major statewide fundraisers and educational programs to raise MS awareness; and,

WHEREAS, the National Multiple Sclerosis Society will observe MS Awareness Week from March 14-18 of this year:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 14-18, 2011 as **MS AWARENESS WEEK** in Illinois, to raise awareness about Multiple Sclerosis and the affect that it has on the lives of many citizens of our state.

Issued by the Governor January 27, 2011
Filed by the Secretary of State February 9, 2011

2011-21

National Green Week

WHEREAS, National Green Week 2011 is an annual event to educate children on the importance of sustainability and making eco-friendly choices to help the environment; and,

WHEREAS, this event is an expansion of the National Green Week 2010 program whereby 2 million students participated and eliminated over 100,000 pounds of waste in classrooms nationwide and tens of thousands of dollars in school utility bills; and,

WHEREAS, National Green Week 2011 encourages schools and students to reduce waste by selecting waste-free snacks and drinks for the week; and,

WHEREAS, the objective of National Green Week 2011 is to empower children to become environmental stewards to protect our planet's natural resources; and,

WHEREAS, millions of students and thousands of schools nationwide will participate in National Green Week 2011 events; and,

WHEREAS, working together, students, parents and communities can participate in sustainable practices that will have a measurable impact on our environment:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 7-11, 2011 as **NATIONAL GREEN WEEK** in Illinois, and encourage all citizens to participate in helping sustain our planet's valuable natural resources.

Issued by the Governor January 27, 2011
Filed by the Secretary of State February 9, 2011

2011-22
World Interfaith Harmony Week

WHEREAS, the General Assembly of the United Nations unanimously adopted a resolution on October 20, 2010, designating the first week in February to be an annual World Interfaith Harmony Week; and,

WHEREAS, the United Nations specifically encouraged all member nations to support interfaith harmony and goodwill in the world's churches, mosques, synagogues, temples and other places of worship during the World Interfaith Harmony Week; and,

WHEREAS, the United Nations acknowledged the importance of "the Love of God and Love of One's Neighbor," which is an integral conviction in each major religion; and,

WHEREAS, the Council of Religious Leaders of Metropolitan Chicago consists of the principal faith leaders for over six million followers in eight world religions—Baha'i, Christianity, Hinduism, Islam, Jainism, Judaism, Sikhism, and Zoroastrianism; and,

WHEREAS, for over twenty-five years the Council of Religious Leaders of Metropolitan Chicago has endeavored to build harmonious interfaith relationships, confronted together multiple social injustices, and provided a common advocacy and engagement in service for the suffering and marginalized; and,

WHEREAS, the Council of Religious Leaders of Metropolitan Chicago, a living example that interfaith harmony is achievable, calls all people during this first and following World Interfaith Harmony Weeks to increase mutual understanding of the religious diversity in our communities, to engage together in practicing our constitutionally guaranteed religious freedom, and to build peace and justice between our local neighbors:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 1 - 7, 2011 as **WORLD INTERFAITH HARMONY WEEK** in Illinois, and urge citizens throughout Illinois to increase mutual understanding and harmony of the various faith traditions in our communities, ensure our American rights for the freedom and expression of each person's religious faith and beliefs, and build a fair and just society based on the moral principles of the founders of the United States of America during this week and throughout the year.

Issued by the Governor January 27, 2011
Filed by the Secretary of State February 9, 2011

2011-23
Affordable Housing Month

WHEREAS, housing is a human right, and owning and affording a home is part of the American Dream; and,

WHEREAS, foreclosures continue to rise in Illinois. In 2010 there were 151,304 foreclosure filings in Illinois – a 52.08 percent increase compared to 2008; and,

WHEREAS, workers struggle to afford the rent. A full-time worker in Illinois must earn $17.44 per hour in order to afford the cost of an average two bedroom apartment ($907) without paying more than 30 percent of income on housing; and,

WHEREAS, seniors, people with disabilities, and others with limited incomes need affordable places to live. In Illinois, monthly Supplemental Security Income (SSI) payments for an

individual were $674 in 2010. If SSI represents an individual's sole source of income, $202 in monthly rent is affordable, while the average rent for a one-bedroom apartment is $733; and,

WHEREAS, the supply of affordable rental housing is inadequate. For every 100 extremely low-income renter households, Illinois has only 53 existing affordable rental units. Sixty-three percent of extremely low-income renter households spend more than 50 percent of their income on housing; and,

WHEREAS, the number of people Illinois Homeless Service Providers have had to turn away has greatly increased within recent years. During FY10, Illinois agencies provided comprehensive shelter and transitional housing to 42,068 people, but had to turn away 36,983 requests due to a lack of space. In Chicago, providers had to turn away 4,775 requests for services for homeless youth due to a lack of resources; and,

WHEREAS, there has been a significant increase in homeless school children in Illinois. More than 34,983 homeless Illinois students were identified in 2009 and many districts are still experiencing significant increases – as much as 20 percent in Chicago alone; and,

WHEREAS, lack of affordable housing exposes women and children to violence; fully accessible housing for people with disabilities is in short supply; many more people live in nursing homes and other institutions than necessary; and,

WHEREAS, all citizens require stable and affordable housing in order to achieve individual and family success, and it is essential that we have a full range of quality housing options available and accessible to meet the needs of all income groups and special needs populations in communities across the state; and,

WHEREAS, recognizing that housing is not just about bricks and mortar, it is crucial that grassroots organizations, non-profit housing professionals, financial institutions, elected officials, government and others join forces to guide and promote affordable housing as fundamental to community and economic health:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 2011 as **AFFORDABLE HOUSING MONTH** in Illinois, and encourage all citizens to recognize and appreciate the importance of ensuring that every person in Illinois has access to affordable housing.

Issued by the Governor January 27, 2011
Filed by the Secretary of State February 9, 2011

2011-24

PROCLAMATIONS

FFA Week

WHEREAS, agriculture is Illinois' largest and most productive industry, and is vital to the economic success and future prosperity of the State; and,

WHEREAS, agricultural education helps to prepare students for careers in every aspect of agriculture in order to ensure the continued success of this important industry; and,

WHEREAS, agricultural education prepares over 29,000 Illinois students for careers in agribusiness, agriscience, agricultural technology and production agriculture; and,

WHEREAS, Future Farmers of America (FFA) is an integral part of the agricultural education program at the elementary and secondary level; and,

WHEREAS, the National FFA Organization is the nation's largest career and technical student organization; and,

WHEREAS, Illinois Association FFA reaches over 17,500 FFA members and develops their potential for premier leadership, personal growth and career success; and,

WHEREAS, each member of the Illinois Association FFA has demonstrated their interest in the field of agriculture and developed hands-on training in science, business and technology through agricultural education; and,

WHEREAS, the Illinois Association FFA has positively influenced the lives of rural and urban FFA members, parents, educators, and business and community leaders; and,

WHEREAS, more than ninety years of positive FFA influence have benefited over one million Illinois students; and,

WHEREAS, the 2010-2011 Illinois Association FFA state theme is "FFA in the Spotlight," which signifies the importance of taking a proactive stance to promote the agriculture industry to the public; and,

WHEREAS, the National FFA Organization has designated a week in February as FFA Week, with the theme "Infinite Potential," emphasizing the limitless opportunities that the agricultural industry has to offer:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 19-26, 2011 as **FFA WEEK** in Illinois, and encourage all citizens to recognize and support

agricultural education programs and students in Illinois, and support the ideals of the Illinois Association FFA.

Issued by the Governor January 27, 2011
Filed by the Secretary of State February 9, 2011

2011-25
Teen Dating Violence Prevention and Awareness Month

WHEREAS, females between the ages of 16-24 are more vulnerable to intimate partner violence than any other age group, at a rate almost triple the national average; and,

WHEREAS, one in three adolescent girls in the United States is a victim of physical, emotional, or verbal abuse from a dating partner, a figure that far exceeds victimization rates for other types of violence affecting youth; and,

WHEREAS, high school students who experience physical violence in a dating relationship are more likely to use drugs and alcohol, are at greater risk of suicide, and are much more likely to carry patterns of abuse into future relationships; and,

WHEREAS, young people victimized by a dating partner are more likely to engage in risky sexual behavior and unhealthy dieting behaviors, and the experience may disrupt normal development of self-esteem and body image; and,

WHEREAS, nearly half of teens who experience dating violence report that incidents of abuse took place in a school building or on school grounds; and,

WHEREAS, unfortunately, only 33 percent of teens who are in an abusive relationship ever tell anyone about the abuse, and 81 percent of parents surveyed either believe teen dating violence is not an issue or admit they do not know if it is an issue; and,

WHEREAS, by providing young people with education about healthy relationships, building relationship skills, and by changing attitudes that support violence, we recognize that dating violence can be prevented; and,

WHEREAS, it is essential to raise awareness among communities and to provide training for teachers, counselors, and school staff so that they may recognize when youth are exhibiting signs of dating violence; and,

WHEREAS, the establishment of Teen Dating Violence Prevention and Awareness Month will benefit young people, their families, schools and communities, regardless of socioeconomic status, gender, sexual orientation, religion, or ethnicity:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 2011 as **TEEN DATING VIOLENCE PREVENTION AND AWARENESS MONTH** in Illinois, and urge all citizens to work toward ending teen dating violence by supporting their communities' efforts to empower young people to develop healthier relationships and assist victims in finding and accessing the resources they need.

Issued by the Governor January 27, 2011
Filed by the Secretary of State February 9, 2011

2011-26
Chicago Business Opportunity Days

WHEREAS, the 44th Annual Chicago Business Opportunity Fair (CBOF), which is of special interest to Illinois-based businesses, will be held April 18-20, 2011; and,

WHEREAS, the fair will provide minority suppliers and purchasing personnel from major buying organizations the opportunity to meet and exchange information about mutual buying and selling needs; and,

WHEREAS, Susan Whiting, Vice Chair, Executive Vice President and Chief Diversity Officer of the Nielsen Company, will serve as Honorary Chairperson of the fair's Planning Committee; and,

WHEREAS, the 44th Anniversary of the Chicago Business Opportunity Fair assists in advancing the year-round efforts of the Chicago Minority Business Development Council, Inc. an organization devoted to stimulating minority business development and purchasing in Chicago and throughout the State of Illinois; and,

WHEREAS, Juventino Cano, President and CEO of Cano Container Corporation will serve as Chairperson of the CBOF Minority Business Enterprise Input Committee (MBEIC) Awards Luncheon. This event will recognize the MBE's corporate and government buyers and organizations that have shown exceptional commitment to business development:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim April 18-20, 2011 as **CHICAGO BUSINESS OPPORTUNITY DAYS** in Illinois in recognition of the 44th anniversary of the Chicago Business Opportunity Fair.

Issued by the Governor January 27, 2011
Filed by the Secretary of State February 9, 2011

2011-27
Municipal Clerks Week

WHEREAS, the Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and,

WHEREAS, the Office of the Municipal Clerk is the oldest among public servants, and,

WHEREAS, the Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and,

WHEREAS, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and,

WHEREAS, the Municipal Clerk serves as the information center on functions of local government and community; and,

WHEREAS, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their regional, state and international professional organizations; and,

WHEREAS, it is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 1-7, 2011 as **MUNICIPAL CLERKS WEEK** in Illinois, and further extend appreciation to our Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Issued by the Governor January 27, 2011
Filed by the Secretary of State February 9, 2011

2011-28
Poison Prevention Month

WHEREAS, all citizens of Illinois should be made aware of the ever-present dangers posed by potentially poisonous household substances; and,

WHEREAS, children too often have access to over the counter and prescription medications and potentially toxic household products; and,

WHEREAS, over the past 49 years, the nation has been observing National Poison Prevention Week to help prevent accidental poisonings and tips for promoting community involvement in poison prevention; and,

WHEREAS, the Illinois Poison Center is a mainstay in the emergency medical care system of the State of Illinois and is recognized nationally for its contributions to poison treatment and prevention; and,

WHEREAS, 51 percent of the more than 80,000 poisonings reported last year to the Illinois Poison Center involved children under the age of five and could have been prevented; and,

WHEREAS, more than 90 percent of the calls received from the public are treated over the phone, quickly and safely by experienced, highly qualified staff of the poison center:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 2011 as **POISON PREVENTION MONTH** in Illinois, and encourage all citizens to learn more about the Illinois Poison Center's prevention programs that alert citizens on the continuous problem of accidental poisonings and steps that can be taken to create healthy and safe home, play and work environments.

Issued by the Governor January 27, 2011
Filed by the Secretary of State February 9, 2011

2011-29
Kidney Cancer Awareness Month

WHEREAS, as of January 1, 2003 there were approximately 230,148 men and women living in the United States who had a history of renal cell carcinoma (RCC) also known as kidney cancer; and,

WHEREAS, the exact cause of kidney cancer is still unknown, and for reasons that are not totally clear, the rate of people developing kidney cancer has been rising slowly since the 1970s, at a time when the incidence of other cancers is dropping; and,

WHEREAS, kidney cancer is among the ten most common cancers in both men and women; and,

WHEREAS, The American Cancer Society estimated in 2010 that 58,240 new cases of kidney cancer (35,370 men and 22,870 women) would occur and 13,040 would die from the disease; and,

WHEREAS, kidney cancer occurs nearly twice as often in men as in women and mostly in men over 40 years old; and,

WHEREAS, there are currently no early detection tests that can detect the presence of kidney cancer; and,

WHEREAS, signs and symptoms of kidney cancer may include: blood in the urine; lower back pain on one side (not from an injury); a mass or lump in the belly, tiredness; weight loss (if you are not trying to lose weight); fever that does not go away after a few weeks and that is not from a cold, the flu, or other infection; and swelling of ankles and legs. A doctor should be consulted if any of these problems are occurring; and,

WHEREAS, other than surgery, the most commonly used treatments for kidney cancer are immunotherapy, radiation, and chemotherapy; and,

WHEREAS, breakthroughs in research over the last year have given renewed hope to patients who previously had few treatment options:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 2011 as **KIDNEY CANCER AWARENESS MONTH** in Illinois, in support of this important public information campaign.

Issued by the Governor January 27, 2011
Filed by the Secretary of State February 9, 2011

ILLINOIS ADMINISTRATIVE CODE
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