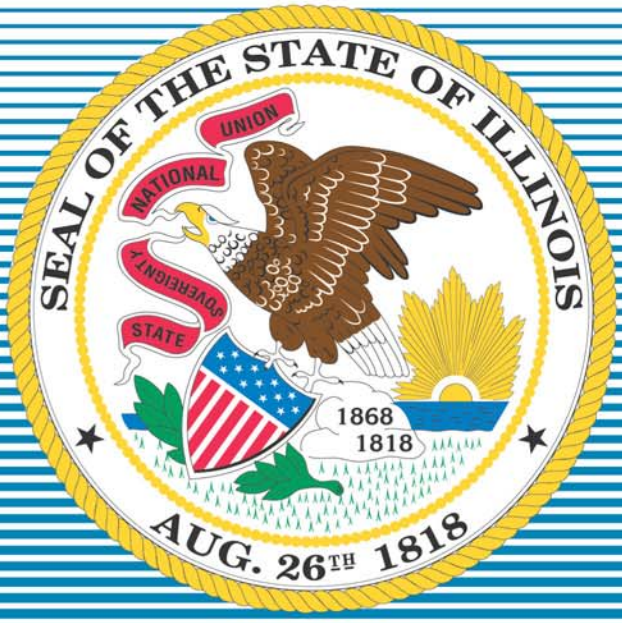
2004 ILLINOIS REGISTER

RULES OF GOVERNMENTAL AGENCIES



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ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Administration of the Illinois Public Community College Act

2) Code Citation: 23 Ill. Adm. Code 1501

3)

Section Numbers:	Proposed Action:
1501.201	Amendment
1501.406	Amendment
1501.501	Amendment
1501.503	Amendment
1501.510	Amendment
1501.602	Amendment
1501.603	Amendment
1501.607	Amendment

4) Statutory Authority: 110 ILCS 805/2-12

5) A Complete Description of the Subjects and Issues Involved:
Sections 1501.201, 406, 501, 503, 510, 602, and 607 – Modifications to existing reporting requirements are proposed to reflect recent changes to help meet external reporting needs and/or limit the reporting burden on college officials.

Section 1501.603 – Modifications to existing references are proposed to ensure construction is in compliance with current construction standards.

6) Will these proposed amendments replace any emergency amendments currently in effect? No

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

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Cherie VanMeter

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

Administrative Aide
Illinois Community College Board
401 East Capitol Avenue
Springfield, Illinois 62701-1711
Telephone: (217) 785-0053
Fax: (217) 524-6195

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis: The Illinois Community College Board has determined that this rulemaking will not affect small businesses.

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

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2003

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

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER VII: ILLINOIS COMMUNITY COLLEGE BOARD

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ADMINISTRATION OF THE ILLINOIS PUBLIC COMMUNITY COLLEGE ACT

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ILLINOIS COMMUNITY COLLEGE BOARD

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AUTHORITY: Implementing and authorized by Articles II and III and Section 6-5.3 of the Public Community College Act [110 ILCS 805/Arts. II and III and 6-5.3].

SOURCE: Adopted at 6 Ill. Reg. 14262, effective November 3, 1982; codified at 7 Ill. Reg. 2332; amended at 7 Ill. Reg. 16118, effective November 22, 1983; Sections 1501.103, 1501.107 and 1501.108 recodified to 2 Ill. Adm. Code 5175 at 8 Ill. Reg. 6032; amended at 8 Ill. Reg. 14262, effective July 25, 1984; amended at 8 Ill. Reg. 19383, effective September 28, 1984;

emergency amendment at 8 Ill. Reg. 22603, effective November 7, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 24299, effective December 5, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3691, effective March 13, 1985; amended at 9 Ill. Reg. 9470, effective June 11, 1985; amended at 9 Ill. Reg. 16813, effective October 21, 1985; amended at 10 Ill. Reg. 3612, effective January 31, 1986; amended at 10 Ill. Reg. 14658, effective August 22, 1986; amended at 11 Ill. Reg. 7606, effective April 8, 1987; amended at 11 Ill. Reg. 18150, effective October 27, 1987; amended at 12 Ill. Reg. 6660, effective March 25, 1988; amended at 12 Ill. Reg. 15973, effective September 23, 1988; amended at 12 Ill. Reg. 16699, effective September 23, 1988; amended at 12 Ill. Reg. 19691, effective November 15, 1988; amended at 13 Ill. Reg. 1182, effective January 13, 1989; amended at 13 Ill. Reg. 14904, effective September 12, 1989; emergency amendment at 14 Ill. Reg. 299, effective November 9, 1989, for a maximum of 150 days; emergency amendment expired on April 9, 1990; amended at 14 Ill. Reg. 4126, effective March 1, 1990; amended at 14 Ill. Reg. 10762, effective June 25, 1990; amended at 14 Ill. Reg. 11771, effective July 9, 1990; amended at 14 Ill. Reg. 13997, effective August 20, 1990; expedited correction at 18 Ill. Reg. 3027, effective August 20, 1990; amended at 15 Ill. Reg. 10929, effective July 11, 1991; amended at 16 Ill. Reg. 12445, effective July 24, 1992; amended at 16 Ill. Reg. 17621, effective November 6, 1992; amended at 17 Ill. Reg. 1853, effective February 2, 1993; amended at 18 Ill. Reg. 4635, effective March 9, 1994; amended at 18 Ill. Reg. 8906, effective June 1, 1994; amended at 19 Ill. Reg. 2299, effective February 14, 1995; amended at 19 Ill. Reg. 2816, effective February 21, 1995; amended at 19 Ill. Reg. 7515, effective May 26, 1995; amended at 21 Ill. Reg. 5891, effective April 22, 1997; amended at 22 Ill. Reg. 2087, effective January 12, 1998; amended at 22 Ill. Reg. 17472, effective July 10, 1998; amended at 24 Ill. Reg. 249, effective December 21, 1999; amended at 24 Ill. Reg. 17522, effective November 20, 2000; amended at 25 Ill. Reg. 7161, effective May 18, 2001; emergency amendment at 25 Ill. Reg. 12863, effective September 28, 2001, for a maximum of 150 days; emergency expired February 24, 2002; amended at 26 Ill. Reg. 646, effective January 7, 2002; amended at 27 Ill. Reg. 17204, effective October 31, 2003; amended at 28 Ill. Reg. _____, effective _____.

SUBPART B: LOCAL DISTRICT ADMINISTRATION

Section 1501.201 Reporting Requirements

Complete and accurate reports shall be submitted by the district/college to the ICCB in accordance with ICCB requirements and on forms provided by the ICCB, where applicable.

Listed below is the schedule of due dates indicating when items from the community colleges are due at the Illinois Community College Board Office:

~~January 1 – construction project status reports (see Section 1501.607(a))~~

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

January 31	–	certificate of tax levy (see Section 1501.510(i))
	–	construction project status reports (see Section 1501.607(a))
	–	fiscal year-to-date unaudited uniform financial reporting system data (see Section 1501.510(h))
February 15	–	spring semester enrollment survey (see Section 1501.406(a))
May 30	–	occupational follow-up study data for specified curricula (FS) (see Section 1501.406(c))
July 1	–	~~annual noncredit course enrollment survey (see Section 1501.406(e))~~
	–	Resource Allocation and Management Plan (RAMP/CC) (see Section 1501.510(b))
	–	application for recognition for specified colleges (see Section 1501.202(d))
July 31	–	fiscal year-to-date unaudited uniform financial reporting system data (see Section 1501.510(a))
August 1	–	program review report (see Section 1501.303(d))
	–	program review listing (see Section 1501.303(d))
	–	annual student enrollment and completion data (see Section 1501.406(a))
	–	square footage and acreage (facility information) (see Section 1501.510(c))
	–	special initiative grants report (see Section 1501.519(d))
	–	annual report of Student Identification information (see Section 1501.406(g))
September 1	–	~~application for recognition for specified colleges (see Section 1501.202(d))~~
	–	~~underrepresented groups report (see Sections 1501.406(d))~~
	–	unit cost data (see Section 1501.510(d))
	–	budget survey (see Section 1501.510(e))
	–	facilities data (see Section 1501.510(f) and 1501.607(c))
October 1	–	fall enrollment survey (see Section 1501.406(b))
	–	fall enrollment data (see Section 1501.406(a))
October 15	–	faculty, staff and salary data (see Section 1501.308(a))
	–	external audit (see Section 1501.503(a))
	–	special initiative grants audit (see Section 1501.503(a))
	–	fiscal year budget (see Section 1501.504)
	–	certificate of chargeback (see Section 1501.503(a))

– annual fiscal year audited uniform financial reporting system data (see Section 1501.510(f))
– audit/fiscal year audited uniform financial reporting system data reconciliation statement (see Section 1501.510(f))
– audit /unit cost reconciliation statement (see Sections ~~Section~~ 1501.503(c) and 1501.510(g))
– unexpended special initiative grant funds (see Section 1501.519(e))

November 1 – annual report on summer graduates (for IPEDS GRS) (see Section 1501.406(f))

December 1 – annual financial statements and notice of publication (see Section 1501.506)
– underrepresented groups/special populations grant report (see Sections 1501.406(d) and 1501.508(d))

30 days after the end of each term – ~~course resource data and~~ credit hour claims (see Section 1501.606(b) and Section 1501.507(a))

~~60 days after the end of the fall term – inventory of facilities (see Section 1501.606(c))~~

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART D: STUDENTS

Section 1501.406 Reporting Requirements

Each college shall submit the items listed below in a format prescribed by the ICCB and according to the schedules indicated.

a) Basic characteristics, including sex, date of birth, ethnic classification, and instructional area of enrollment, of each student enrolled in all courses offered for credit during each term within the following schedule:

1) Students enrolled as of the end of the regular registration during the fall term shall be reported on or before October 1 of that year.

2) Students enrolled and/or completing a certificate or degree program during the fiscal year shall be reported on or before August 1.

b) Student headcount and full-time equivalent enrollments as of the end of regular

registration for fall and spring/winter terms within the following schedule:

1) Fall Term: On or before October 1

2) Winter Quarter: On or before February 15

3) Spring Semester On or before February 15

c) Colleges shall conduct a follow-up study of all students who completed specified occupational/career curricula during the previous fiscal year and shall report the results of this study on or before May 30 of that year in a format prescribed by the ICCB. Curricula to be included in the study will be specified in the ICCB Occupational Follow-up Study Manual.

d) An annual report on underrepresented groups submitted on or before December 1~~September 1~~.

e) An annual ~~report on~~ community education and community service data submission (N1)~~activities submitted~~ on or before July 15~~1~~.

f) An annual report on summer graduates (for the Integrated Postsecondary Educational Data System Graduation Rate Survey) submitted on or before November 1.

g) An annual report of Student Identification information submitted on or before September 1.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART E: FINANCE

Section 1501.501 Definition of Terms

Annual Financial Statement. The "annual financial statement", which is required to be published by a district, consists of two parts:

an annual financial report, which includes a statement of revenues and expenditures along with other basic financial data; and

an annual program report, which provides a narrative description of

programs offered, goals of the district, and student and staff data.

Attendance at Mid-Term. A student is "in attendance at mid-term" in a course if the student is currently enrolled in and actively pursuing completion of the course.

Auditor. An auditor is a person who enrolls in a class without intent to obtain academic credit and whose status as an auditor is declared by the student, approved by college officials, and identified on college records prior to the end-of-registration date of the college for that particular term.

Capital Renewal Grants. Capital renewal grants are State grants allocated proportionally to each community college district based on the latest fall on-campus nonresidential gross square feet of facilities as reported to the ICCB. Such grants are to be utilized for miscellaneous capital improvements such as rehabilitation, remodeling, improvement, and repair; architect/engineer services; supplies, fixed equipment, and materials; and all other expenses required to complete the work.

Lincoln's Challenge Scholarship Grants. The Lincoln's Challenge Program is administered by the Illinois Department of Military Affairs. Upon successful completion of that program, students qualify for a scholarship to a community college. The Lincoln's Challenge Scholarship Grant is a special appropriation received by the ICCB from the Governor and the General Assembly. These scholarships provide an opportunity for graduates of Lincoln's Challenge to transition easily into higher education by enrolling in one of the 39~~48~~ public community colleges. The scholarship grants can be used to cover the cost of education, which includes tuition, books, fees and required educational supplies.

Residency − Applicability − Verification of Status. As part of verification that its credit hours are eligible to receive ICCB grants, each community college district shall submit its ~~adopt a~~ process for verifying the residency status of its students to ~~and shall file a description of this process with~~ the ICCB each year with its certification of credit hours in accordance with 110 ILCS 805/2-16.02 as part of the annual external audit ~~by July 1, 1990~~. The process shall include the methods for verifying residency as defined in the general provisions, special State provisions, and district provisions of this Section. Each district shall file descriptions of any revisions to its process with the ICCB prior to their implementation.

Residency − General Provisions. The following provisions apply both to State

and district residency definitions:

To be classified as a resident of the State of Illinois or of the community college district, each student shall have occupied a dwelling within the State or district for at least 30 days immediately prior to the date established by the district for classes to begin.

The district shall maintain documentation verifying State or district residency of students.

Students occupying a dwelling in the State or district who fail to meet the 30-day residency requirement may not become residents simply by attending classes at a community college for 30 days or more.

Students who move from outside the State or district and who obtain residence in the State or district for reasons other than attending the community college shall be exempt from the 30-day requirement if they demonstrate through documentation a verifiable interest in establishing permanent residency.

Residency − District Provisions. Students shall not be classified as residents of the district where attending even though they may have met the general 30-day residency provision if they are:

federal job corps workers stationed in the district;

inmates of State or federal correctional/rehabilitation institutions located in the district;

full-time students attending a postsecondary educational institution in the district who have not demonstrated through documentation a verifiable interest in establishing permanent residency; and

students attending under the provisions of a chargeback or contractual agreement with another community college.

Residency − Special State Provisions. Students shall be classified as residents of the State without meeting the general 30-day residency provision if they are:

federal job corps workers stationed in Illinois;

members of the armed services stationed in Illinois;

inmates of State correctional/rehabilitation institutions located in Illinois; or

employed full time in Illinois.

Special Initiatives Grants. Special initiatives grants provide funds for conducting special initiatives activities.

Special Initiatives Activities. Special initiatives activities are defined each year in a request for proposal process. All colleges will have the opportunity to apply for funds to conduct such approved special initiatives activities. Special initiatives activities are based upon criteria as specified in terms outlined in a grant agreement between the college and the ICCB.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 1501.503 Audits

a) External Audits.

1) Two~~Three~~ copies of the annual external audit shall be submitted to the ICCB on or before October 15, following the close of the fiscal year. If the audit cannot be completed by this date, the district may submit a request for extension of time to the President/CEO before October 1, following the close of the fiscal year. This request shall be accompanied by an explanation of the circumstances which cause the report to be delayed, along with an estimated date for submission.

2) Each audit report shall contain financial statements composed of the funds established in Section 1501.511, a comment on internal control, a comment on basis of accounting, uniform financial statements prepared using the modified accrual basis of accounting, a certificate of chargeback verification and a State grant compliance section which shall include a schedule of enrollment data, a verification of enrollment data, a description of the process for verifying residency status, a schedule of the district equalized assessed valuation, schedules for the restricted/special initiative grants distributed by the ICCB and received by the district in the

manner and format established by the ICCB, and a schedule of federal financial assistance and related reports as prescribed by the federal Office of Management and Budget.

Each ICCB restricted or special initiatives grant shall verify that grant funds received by the district were expended in the manner designated by the ICCB. The ICCB shall designate allowable expenditures for each of the restricted or special initiatives grants to include, but not be limited to, salary and benefits, contractual services, materials, instructional and office equipment, staff development, and travel. The external audit shall include an auditor's report on compliance with State requirements (available upon request), along with a balance sheet and a statement of revenues and expenditures based upon an understanding of the purpose of the grant, allowable expenditures, expenditure limitations, grant administrative standards, and transfer of funds, if applicable.

b) Confirmation of ICCB Grants. For the purposes of confirming district records, each district shall provide a copy of the ICCB allocation of grants to its ~~request that its~~ external auditor ~~request from the ICCB a report of grants received by the district during the fiscal year~~. Each district shall notify its independent external auditing firm of this information and ~~requirement and will~~ instruct that firm to make any requests for confirmation directly to the ICCB. ~~request the request using the format prescribed by the Board.~~

c) Upon completion of the external audit, the district shall reconcile its audited expenditures to previously submitted unit cost data. The reconciliation shall be submitted on forms provided by the ICCB.

d) Upon completion of the external audit, the district shall reconcile its audited expenditures to the fiscal year audited uniform financial reporting system data. The reconciliation shall be submitted on forms provided by the ICCB.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 1501.510 Reporting Requirements

Each college shall submit the items listed below in a format prescribed by the ICCB and according to the schedules indicated.

a) Fiscal year-to-date unaudited uniform financial reporting system data by July 31

for the period July 1 - June 30 of the previous fiscal year.

b) Resource allocation and management plan (RAMP) data by July 1 of each year.

c) Construction in progress~~Square footage~~ and acreage ~~(facility information)~~ by ~~are due~~ August 1 of each fiscal year.

d) Unit cost data in a format prescribed by the ICCB for the previous fiscal year by September 1 following the end of that fiscal year.

e) A survey of local budget and tax extensions and collections by September 1 of each year.

f) F3, F6, B3, and R3 facilities data submission to report existing space in use for educational purposes at the end of the fiscal year (June 30) by September 1 following the end of the fiscal year.

g~~f~~) Annual fiscal year audited uniform financial reporting system data and an audit/fiscal year audited uniform financial reporting system data reconciliation statement by October 15 following the end of the previous fiscal year.

h~~g~~) ~~An~~ Audit/Unit Cost Reconciliation Statements~~Statement~~ by October 15 of each year.

i~~h~~) Fiscal year-to-date unaudited uniform financial reporting system data by January 31 for the period July 1-December 31.

j~~i~~) Certificate of Tax Levy by January 31 of each year.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART F: CAPITAL PROJECTS

Section 1501.602 Approval of Capital Projects

a) Notwithstanding any provision to the contrary (see subsection (b) and Section 1501.604(b)), requests for approval of capital projects shall be submitted to the ICCB on the forms prescribed by the ICCB.

b) A project requiring the expenditure of state or local funds for purchase,

construction, remodeling, or rehabilitation of physical facilities at a primary or secondary site shall have prior ICCB approval except the following:

1) locally funded projects that meet the definition of a maintenance project as defined in Section 1501.601, or

2) locally funded projects that result in no change in room use, or

3) locally funded projects for which the total estimated cost is less than $250,000.

c) An updated~~A~~ District Site and Construction Master Plan shall be filed with the ICCB by July 1 of the year in which the district undergoes its recognition evaluation ~~January 1, 1991~~. The purpose of the plan is to apprise the ICCB of possible primary site new construction and secondary site acquisition/construction plans for the next five~~three~~ years throughout the district. The plan should be updated, as needed, to ensure that any project submitted for approval has been reflected in the district plan on file with the ICCB at least two months prior to submission of the project. Any primary site new construction or secondary site acquisition/construction projects must be reflected in the plan in order to receive consideration for approval. The plan, at a minimum, shall consist of a map of the district showing the location of all facilities owned by the district or leased for a period exceeding five years and a narrative describing the district's:

1) Current permanent facilities where additions are planned.

2) General plans for future site acquisition or acquisition/construction of permanent facilities either on the primary site or secondary sites. The location may be identified in terms of the general geographic area within the district.

3) Proposed schedule for acquiring additional sites, constructing additions to existing facilities, or acquiring/constructing new permanent facilities.

4) The intended use of all proposed site acquisitions and facility acquisition/construction.

d) The authority to approve locally funded projects is delegated to the President/CEO of the ICCB, who shall in turn report such actions to the ICCB.

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 1501.603 State Funded Capital Projects

a) Projects Eligible to Receive State Funds. State funds may be requested for capital projects, both those to be purchased and those to be constructed, as defined herein. The funds shall be requested prior to construction and may include or consist of architectural and engineering fees associated with the project. Such projects shall consist of:

1) Buildings, Additions, and/or Structures (including fixed equipment). Types of buildings that may be included are:

A) Administration and student personnel services facilities.

B) Central utility facilities.

C) Classrooms.

D) Fine and applied arts classrooms and laboratories.

E) Libraries.

F) Occupational, technical, and semi-technical laboratories, shops, and classrooms.

G) Other structures used for the operation and maintenance of the campus.

H) Physical education instructional facilities.

I) Science laboratories and related science facilities.

J) Student areas appropriate to the needs of a commuter institution, including food services, lounge areas, study areas, storage lockers, child care facilities, and facilities for student activities such as newspaper editing and student government.

2) Land.

3) Movable Equipment.

4) Utilities (those beyond a five foot perimeter of buildings).

5) Remodeling or Rehabilitation of Existing Facilities. Such projects include provision for:

A) Access for handicapped students.

B) Emergency repairs (including construction defects/deficiencies).

C) Energy conservation.

D) Programmatic changes.

6) Site Improvements.

A) Clearance.

B) Drainage.

C) Earth movement.

D) Finish grading, seeding, landscaping.

E) Other work required to make land usable as a building site.

F) Parking.

G) Streets and walkways.

7) Planning. A building project may be divided into sub-projects with planning funds (architect or engineering fees) requested for one fiscal year and construction funds requested in a subsequent year.

b) Application Criteria for New Construction Projects at the Primary Site. In order for capital projects for new construction to be considered for state funding, the following requirements shall be met:

1) The information required under Section 1501.510(a) shall have been

submitted.

2) Certification of local board approval of the projects ~~project(s)~~ requested shall be provided.

3) Certification shall be provided that funds or credits are available to provide the local share of the cost of the projects ~~project(s)~~ in accordance with Articles IIIA and V of the Act.

4) Certification shall be provided that a suitable construction site is available. Suitability is determined through a site feasibility study and a Capital Development Board technical evaluation. The feasibility study shall address, at a minimum, the following:

A) The location of the site in relation to geography and population of the entire district and in relation to sites of the district's other colleges.

B) The impact on the surrounding environment, including the effect of increased traffic flow.

C) Accessibility to the site by existing and planned highways and/or streets.

D) Cost of development of the site in relation to topography, soil condition, and utilities.

E) Size of the proposed site in relation to projected student population (as determined by census data) and land cost.

F) The number, location, and characteristics (type of terrain, geography, roadway access, and suitability of the site for building purposes) of alternative sites considered.

G) The location of the site in relation to existing institutions of higher education.

5) Requests for site acquisition shall include a local board of trustees authorization to purchase the site, a copy of the feasibility study, a local Board of Trustees resolution that local funds are available, a copy of the

Capital Development Board evaluation, three appraisals of the property, and a written request for ICCB approval in addition to the information requested in the Resource Allocation and Management Plan/Community Colleges (RAMP/CC).

6) Evidence of need for the space requested shall be provided either on a general enrollment basis as specified in subsection (e)(4)(C) of this Section or a specific program need basis as specified in subsection (e)(4)(D) of this Section.

7) The project shall be within the mission of a community college as set forth in Section 1-2(e) of the Act.

c) Application Criteria for Remodeling and Rehabilitation Projects. Projects to remodel and rehabilitate a facility shall require submittal of the following:

1) An application on forms prescribed by the ICCB.

2) Certification of local board approval of the projects ~~project(s)~~ requested.

3) Certification that funds or credits are available to provide the local share of the projects ~~project(s)~~ in accordance with Articles IIA and V of the Act.

4) A summary detailing the effects of the remodeling on space usage (classrooms, laboratories, offices...).

5) A justification statement regarding the need to remodel.

d) Application Criteria for Secondary Site Projects. Projects for the acquisition/construction of a new site and/or structure for purposes other than a primary site facility and projects for acquisition of sites and/or structures adjacent to the primary site shall require submittal of the following:

1) A resolution by the local board of trustees stating that:

A) Local funds or credits are available to provide the local share of the projects ~~project(s)~~ in accordance with Articles IIA and V of the Act.

B) The programs offered have been approved by the ICCB and

Illinois Board of Higher Education (IBHE) or approval of these stated programs by those boards is pending.

2) Copies of at least two appraisals of the property.

3) Verification that the condition of the facility is not a threat to public safety. This shall include tests of structural integrity, asbestos, toxic materials, underground storage tanks, and other hazardous conditions. (Findings regarding the existence of these hazards shall not preclude the procurement of the site/structure but the knowledge of the hazardous condition and any costs incurred in correcting the condition shall be incorporated into the total cost of procuring the facility.)

4) Identification of the location of the site and its relationship to the main campus, community college facilities in contiguous districts, and other higher education facilities in contiguous districts.

5) Identification of all estimated costs associated with the purchase and any subsequent construction and/or rehabilitation of the site/structure.

e) Project Priority Criteria. All projects must meet requirements as stated in 110 ILCS 805/5-3 and 5-4. Capital project priorities will be established within the categories named in subsection (a) of this Section according to the following criteria:

1) New Facilities: The acquisition of buildings/ additions/structures through construction of new facilities or purchase of existing facilities. Includes planning, qualifying fixed and moveable equipment as necessary to support the new facility, land acquisition required for the facility, and any site improvements or utility work necessary to support the facility. All requests for new facilities must meet the criteria specified in either subsection (b) of this Section for new construction at a primary site or subsection (d) of this Section for secondary site projects.

Each of the following criteria will be considered in establishing priorities for new facilities:

A) Type of space to be constructed (in priority order):

i) Instructional, study, office and student areas (all weighted

equally):

- Instructional space, including basic classrooms, lecture halls, seminar rooms and other rooms used primarily for scheduled instruction, both credit and noncredit. These rooms may contain multimedia or telecommunications equipment. Space utilized as classroom service, i.e., projection rooms, telecommunication control booths, closets, etc., are included (FICM Codes 110-115). Instructional space also includes laboratory facilities, both class and open, used for instructional purposes and service areas that serve as an extension of the activities of the laboratory (FICM Codes 210-255).

- Study areas, including all library facilities, any rooms or areas used by individuals at their convenience, general learning labs, and any service areas necessary to support the activities of these rooms (FICM Codes 410-455).

- Office facilities that provide work areas to support the academic, administrative, and service functions of the colleges. Also includes rooms such as student counseling rooms and testing areas, staff conference rooms, file rooms, and break rooms (FICM Codes 310-355).

- Student service areas include general use facilities such as child care facilities (FICM Codes 640 and 645), food service facilities (FICM Codes 630 and 635), lounge facilities (FICM Codes 650 and 655), merchandise areas such as bookstores, student supply stores, or ticket outlet services (FICM Codes 660 and 665), and rooms utilized for recreation and amusement (FICM Codes 670 and 675). Meeting rooms used by the institution or the general public for a variety of nonclass meetings also are included (FICM Codes 680 and 685).

ii) Support areas, including central administrative computer and telecommunications rooms, maintenance shops, garages, warehouses, and storage facilities (FICM Codes 710-765).

iii) Assembly areas, including theaters, auditoriums, arenas, exhibition rooms, and concert halls, used primarily for general presentations or performances. Includes areas that serve as an extension of the activities in that facility. (FICM Codes 610-625)

iv) Physical education areas used for physical education instructional programs and intercollegiate and recreational activities. Includes areas such as gymnasia, athletic courts, swimming pools, and other special use athletic facilities. (FICM Codes 520, 523, and 525) (Does not include specific classrooms more appropriately classified under FICM Code series 100.)

v) Special use facilities not included elsewhere, such as armory, armory services, media production services, clinics, etc. (FICM Codes 510, 515, and 530-590).

B) Core Campus Considerations. Priorities will be assigned to colleges that do not have adequate core campus components in place. A core campus generally consists of classrooms, laboratories, student services, day care, learning resources/library, business and industry training services and facilities to support high enrollment programmatic areas.

C) Space Criteria/Considerations.

i) Utilization of Existing Space. Priorities will be assigned so that the higher utilization rate generated by weekly instructional hours for credit and noncredit courses offered at permanent locations owned by the college (college holds title, lease purchase, or purchasing contract for deed), the higher the priority that will be assigned. Instructional hours are defined as those enrollments generated by students taking credit and noncredit courses.

ii) Space per Student. Requests for space will be assigned priorities so that the less existing permanent space per student available at facilities owned by the college (college holds title, lease purchase, or contract for deed), the higher the priority assigned to the project.

D) Program Considerations. Consideration ~~Considerations~~ will be given to the need for special facilities based on the programs to be housed in the requested facilities. Priorities will be assigned so that the greater the need for special facilities, the higher the priority. Criteria evaluated for need will include (not in priority order), but not be limited to:

i) Documented need as evidenced by the college's accountability and productivity reviews.

ii) Labor market demand for completers of the program (as indicated by current manpower data).

iii) Unavailability of special facilities needed for the program.

iv) Other special needs or measures as described in the program justification statement submitted by the college with the project request.

2) Remodeling or Rehabilitation of Existing Facilities. Remodeling or rehabilitation projects will be evaluated on structural considerations ~~consideration~~ and/or programmatic considerations~~,~~ and core campus considerations, if applicable to project. Requests for remodeling or rehabilitation projects must meet the criteria specified in subsection (c) of this Section. The following criteria will establish the order of remodeling/rehabilitation projects:

A) Structural Considerations (in priority order).

i) Those projects that will reduce physical health and safety hazards to the student body and staff (e.g., structural defects/deficiencies, handicapped modifications).

ii) Overall condition of space and/or other structural integrity considerations.

iii) Those projects that will result in financial and/or natural resource savings (e.g., energy conservation).

iv) Those projects that will result in the development of more efficient utilization of existing space.

B) Program Considerations. Consideration will be given to the need for remodeling or rehabilitation of facilities based on the programs to be housed in the facilities. Priorities will be assigned so that the greater the need for remodeling or rehabilitation, the higher the priority. Criteria evaluated for need will include (not in priority order), but not be limited to:

i) Documented need as evidenced by the college's accountability and productivity reviews.

ii) Labor market demand for completers of the program (as indicated by current manpower data).

iii) Unavailability of special facilities needed for the program.

iv) Other special needs or measures as described in the program justification statement submitted by the college with the project request.

C) Core Campus Considerations. Priorities will be assigned to colleges that demonstrate the need for remodeling or rehabilitation of existing core campus components due to either structural integrity issues or increased demand for services. A core campus generally consists of classrooms, laboratories, student services, day care, learning resources/library, business and industry training services and facilities to support high enrollment programmatic areas.

3) Land. Requests ~~Request~~ for State funds for land purchases not related to new facilities acquisition will be evaluated based on the need to support existing campus facilities and services. Requests must meet applicable

criteria specified in subsection (b) of this Section for land purchases at the primary site or subsection (d) of this Section for secondary site projects.

4) Utilities. Utilities projects (beyond a five foot perimeter of buildings) not related to new facility acquisition will be evaluated based on the need to support existing campus facilities and services.

5) Site Improvements. Site improvements not related to new facilities acquisition will be evaluated in conjunction with the facilities to which they relate and other demonstrated need.

6) Additional consideration may be given to the priority ranking of a project if it had previous ICCB approval for planning or construction.

f) Construction Standards. The ~~following~~ standards listed in this subsection shall be applied in the design and construction of facilities. Where capital projects involve the Capital Development Board (CDB), then the CDB Design and Construction Manual shall be applied in the design and construction of facilities.~~:~~

1) Building Efficiency. Campus-wide building efficiency should be at least 70 percent. However, individual buildings may be below this level if they are high-rise (four or more floors), include a large number of small classrooms and/or labs, or if a large portion of the building is designed for custodial or mechanical purposes to serve the entire campus.

2) Facilities Codes. All construction, remodeling, and rehabilitation of facilities shall be in compliance with the most current version of the following standards:

A) Uniform Building Code ~~(International Conference of Building Officials, Whittier, California, 1988)~~ or BOCA Basic/National Building Code~~, 1987 Edition~~ (Building Officials and Code Administrators International, Inc., Country Club Hills, Illinois).

B) BOCA Basic/National Mechanical Code~~, 1987 Edition~~ (Building Officials and Code Administrators International, Inc., Country Club Hills, Illinois).

C) National Electrical Code (National Fire Protection~~ Association, Quincy, Massachusetts, 1988~~).

D) Illinois Plumbing Code (77 Ill. Adm. Code 890).

E) Illinois Accessibility Code (71 Ill. Adm. Code 400).

F) Fire Prevention and Safety (41 Ill. Adm. Code 100).

G) National Fire Protection Association 101 Life Safety Code (National Fire Protection Association~~, Quincy, Massachusetts, 1988~~).

H) ASHRAE ~~90-80~~ Energy Conservation in New Building Design (American Society of Heating, Refrigeration, Air Conditioning Engineers,~~ Atlanta, Georgia, 1980~~).

I) Any local building codes that may be more restrictive than ~~then~~ the codes listed above.

3) Illinois Building Related Requirements. To assist the architect in determining which codes might be applicable to a project, the Illinois Building Commission has assembled a Directory of Illinois Building Related Requirements that lists all the statutory requirements relative to State construction. It also includes a table of primary codes/standards/specifications for State of Illinois building requirements. This directory is available on the Illinois Building Commission website (www.ibc.state.il.us) or by calling (217)557-7500.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 1501.607 Reporting Requirements

Each college shall submit the items listed below in a format prescribed by the ICCB and according to the schedules indicated:~~;~~

a) Progress reports (as of December 31) of all construction projects by January 31 ~~1~~ of each year.

b) Course resource data (S6 and S7) showing the facilities used by each course offered for credit during the fall term within ~~thirty (~~30~~)~~ days after the end of the

term. Facility identifiers, building identifiers, and room identifiers reported in the course resource data should match identifiers that will be reported in the F3, F6, B3, and R3 records at the end of the current fiscal year.

c) An inventory of its facilities and an update of this inventory annually by September 1 immediately following the end of the fiscal year. Such facilities data (F3, F6, B3, and R3 records) shall be submitted in the format designated by the ICCB and shall represent existing facilities in service at June 30 of the fiscal year just ended. ~~as of the fall term within sixty (60) days after the end of the fall term.~~

(Source: Amended at 28 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Background Checks

2) Code Citation: 89 III. Adm. Code 385

3)

Section Numbers:	Proposed Actions
385.20	Amended
385.30	Amended
385.40	Amended
385.50	Amended
385.60	Amended
385.80	Amended
385.APPENDIX A	Amended
385.APPENDIX B	Amended

4) Statutory Authority: 225 ILCS 10

5) A Complete Description of the Subjects and Issues Involved: In addition to formatting and grammatical corrections, the Department is amending Part 385 as follows:

In Section 385.20, the definition of "license entity" and "SACWIS" were added. The name of the "Statewide Child Sex Offender Registry" was corrected to read "Illinois Sex Offender Registry". The definition of "LEADS" was eliminated, and clarifications were made to the definition of "child care facility".

In Section 385.30, the reference to the "effective date of this Part" has been eliminated and the applicability to the Part was clarified. Fingerprints for background checks are to be submitted via a vendor stipulated by the Department. The requirement of Law Enforcement Agency Data System (LEADS) checks for persons 13 through 17 years of age has been eliminated in this Section and throughout the Part because the Department is not authorized by the State Police to do a LEADS soundex of information for licensing purposes.

In Section 385.40, the hiring facility of a transferring employee from another agency licensed by the Department and whose background check has been done, needs to submit a new authorization for a background check but the employee does not need to be re-fingerprinted unless specifically requested by the Department. The requirement stipulating that licensees that have been inactive for 6 months or longer is no longer applicable and has been eliminated.

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NOTICE OF PROPOSED AMENDMENTS

In Section 385.50, the list of allegations of abuse and neglect was corrected to reflect revisions to 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect. Provisions were added for the request of waivers of presumption of unsuitability, indicating that the facility, must request a waiver in writing and within 30 days after notification that the hired employees has a history as a perpetrator of child abuse or neglect.

In Section 385.60, the agency must consider the honesty of the employee or applicant in disclosing criminal background information and the development of an adequate supervisory or monitoring plan prior to employment. A provision was added that the facility when assessing persons to be hired with pending charges, must develop a protective plan for the children until charges have been resolved.

In Section 385.80, the provisions of appeals have been re-written for clarification of what may and may not be appealed, and the address for submitting appeals has been updated.

Section 385.Appendix A, sexual offenses were updated. Appendix A was amended to include additional provisions added in the Child Care Act barring the operation or receipt of a license from the Department to operate a child care facility or be employed by or be an adult residing in a home based child care facility licensed by the Department. Appendix A also provides exceptions applicable to child care facilities other than foster family homes.

Section 385.Appendix B, the requirement of a LEADS check for persons 13 through 17 has been eliminated.

6) Will these proposed amendments replace any emergency amendments currently in effect? Yes

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

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62701-1498
Telephone: (217) 524-1983
TDD: (217) 524-3715
E-Mail: cfpolicy@idcfs.state.il.us
Facsimile (217)557-0692

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking affects childcare facilities subject to licensure by the Department.

B) Reporting, bookkeeping or other procedures required for compliance: Besides making copies of required files, there are no additional costs to small businesses.

C) Types of professional skills necessary for compliance: Clerical

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The amendments to this Part were not anticipated when the 2 most recent Regulatory Agendas were published.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER d: LICENSING ADMINISTRATION

PART 385
BACKGROUND CHECKS

Section

385.10 Purpose
385.20 Definitions
385.30 Applicability of This Part
385.40 Authorization for Background Checks
385.50 Child Abuse or Child Neglect
385.60 Criminal Convictions and Pending Criminal Charges
385.70 Disposition of Background Checks
385.80 Appeal of Decision ~~Decisions~~ to Deny License or Permit Based on Background Check Information
385.90 Records to be Maintained by the Child Care Facility
385.100 Confidentiality of Background Check Information
385.110 Severability of This Part
385.APPENDIX A Criminal Convictions Preventing Licensure, Employment, or Residence in a Family Home in Which a Child Care Facility Operates
385.APPENDIX B Matrix of Persons Subject to Background Checks Under Part 385

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10]; Section 5(a)(3)(A) and (F) and (v) of the Children and Family Services Act [20 ILCS 505/5(a)(3)(A) and (F) and (v)]; and Section 55a(34) of the Civil Administrative Code [20 ILCS 2605/55a(34)].

SOURCE: Emergency rules adopted at 10 Ill. Reg. 19123, effective October 29, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 6398, effective March 31, 1987; amended at 13 Ill. Reg. 5917, effective May 1, 1989; emergency amendment at 20 Ill. Reg. 3930, effective March 1, 1996, for a maximum of 150 days; modified in response to Joint Committee on Administrative Rules objection at 20 Ill. Reg. 5712; emergency expired July 28, 1996; amended at 21 Ill. Reg. 4444, effective April 1, 1997; emergency amendment at 28 Ill. Reg. 1167, effective January 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. _____, effective _____.

Section 385.20 Definitions

"Access to children" means a child care facility employee's ~~job~~ duties require that

the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual and~~or~~ auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

"Adult" means any person who is 18 years of age or older.

"Assistant" or "child care assistant" means a person who assists a licensed home caregiver in the operation of the day care home, group day care home, or foster family home.

"Authorization for background check" means a complete, signed form prescribed by the Department which authorizes a background check as defined in this Part and submission of fingerprints, if required. An authorization for a background check may be used for the initial and all subsequent background checks required to determine compliance with the requirements of this Part.

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate;~~, or via a LEADS check of persons ages 13 through 17;~~ and

- a check of the Child Abuse and Neglect Tracking System (CANTS/SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and

- a check of the Illinois~~Statewide Child~~ Sex Offender Registry.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Illinois Department of Children and Family Services. This system is being replaced by the Statewide Automated Child Welfare Information System (SACWIS).

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

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"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. "Child care facility" includes a relative who is licensed or who applies for a license as a foster family home under Section 4 of the Child Care Act of 1969.~~ (Section 2.05 of the Child Care Act of 1969)~~ A child care facility also means those described in the Child Care Act, including but not limited to~~may consist of distinct unit(s), division(s), or department(s) of a multi-function agency. "Child care facility" is further defined in Section 2.05 of the Child Care Act of 1969. As used in this Part, "child care facility" means~~ any child care institution, maternity center, child welfare agency, day care center, day care agency, group home, foster family home, day care home, group day care home, partially exempt secure child care facility or youth emergency shelter (Section 2.05 of the Child Care Act of 1969)~~as defined by the Child Care Act of 1969~~.

"Conditional employee" means an individual (including any substitute or assistant) who has applied for and been conditionally selected to perform child care functions or administrative, professional, or support functions that allow access to children and who has commenced such duties while awaiting the results of the background check required by this Part.

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

"Date of notice" means the date of the written notice to a license holder that all persons subject to background checks, as defined in this Section, must authorize such checks and submit to fingerprinting, if required.

"Denial of application for license" means the refusal to grant a license or permit to a person, group of persons, agency, association or organization that applied for a license to operate a child care facility.

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Director" means the Director of the Illinois Department of Children and Family

Services.

"Employee" means any staff person employed by a child care facility, and includes any substitute or assistant. This definition includes administrative, professional and other support staff who have access to children.

"Governing body" means the board of directors of a corporation; otherwise, the term means the owners~~owner(s)~~ or other persons~~person(s)~~, agency, association or organization legally responsible for the operation of the child care facility.

"Illinois Sex Offender Registry" means the registry of felony child sex offenders operated and maintained by the Illinois State Police.

~~"Initial background check" means the individual has cleared a check of both the Child Abuse and Neglect Tracking System and the Statewide Child Sex Offender Registry.~~

~~"LEADS" means Law Enforcement Agency Data System.~~

"License" means a document issued by the Department which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant" means, for purposes of background checks, *the operator or person with direct responsibility for daily operation of the facility to be licensed.* (Section 4.4 of the Child Care Act of 1969)

"Licensing entity" means the Department or a supervising agency recommending the license or processing the employment application.

"Licensing representative" means persons authorized by the Department under the Child Care Act of 1969 to examine facilities for licensure.

"Member of the household" means a person who resides in a family home as evidenced by factors, including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority

which is punishable~~publishable~~ solely as a petty offense. (Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601])

"Multi-function agency" means an agency, association, or other organization that~~which~~ operates a child care facility, child welfare agency, or day care agency in addition to other services not subject to licensure under the Child Care Act of 1969. A child care facility, child welfare agency, or day care agency may consist of distinct units~~unit(s)~~, divisions~~division(s)~~, or departments~~department(s)~~ of a multi-function agency. In a multi-function agency, only the persons with direct authority for the operations of the child care facility and those who have access to children, as defined in this Section, are subject to the background check requirements of this Part.

"Operator" means any person responsible for the day-to-day management of the child facility.

"Parental involvement" means parental assistance with a child care program such as participation in field trips, parties, attendance on special days for special events, or parental support and cooperation in the classroom.

"Persons subject to background checks" means:

- the operators~~operator(s)~~ of the child care facility;
- all current and conditional employees of the child care facility;
- any person who is used to replace or supplement staff;
- any person who has access to children, as defined in this Section; and
- any person who provides services that allow unsupervised access to children if the requirement for background checks is a condition of a contract or agreement or is required otherwise under 89 Ill. Adm. Code 357, Purchase of Service.

If the child care facility operates in a family home, the license applicants~~applicant(s)~~ and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Replacement or supplemental staff" means any paid or unpaid individual who is used to perform essential staff duties as evidenced by being counted in the staff-child ratio or being allowed to be alone with children in a licensed child care facility outside the visual or auditory supervision of facility staff.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services, replacing the CANTS system.

"Seasonal child care program" means a child care facility that~~which~~ operates a seasonal program, such as summer-only~~summer~~ or migrant Head Start program, which is subject to licensing by the Department.

"State Central Register" means the child abuse and neglect data system maintained by the Department pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 40].

~~"Statewide Child Sex Offender Registry" means the registry of felony child sex offenders operated and maintained by the Illinois State Police.~~

"Substitute" means a permanent or temporary employee~~employee(s)~~ who is used to replace or supplement regular staff.

"Supervising agency" means a licensed child welfare agency, a licensed day care agency, a license exempt agency, or the Department.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 385.30 Applicability of This Part

a) Applicability~~Effective Date of Amendments~~
All~~These amendments become effective April 1, 1997 for all~~ licensed child care facilities ~~in which any person subject to a background check, as defined in Section 385.20, has not authorized CANTS and criminal history background checks and submitted to fingerprinting, if required. Such facilities~~ shall submit completed, signed authorizations for background checks for all persons subject to background checks as defined in Section 385.20.~~within sixty days after the date of notice from the Department requesting such authorizations.~~

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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b) License Renewals

A child care facility~~In no event may any existing child care facility license be renewed after October 1, 1997 unless all such background checks have been authorized and fingerprints obtained as required by this Part. The~~ license shall not be renewed until the results of the background check (CANTS/SACWIS, Illinois~~Child~~ Sex Offender Registry, and criminal history) have been received for the operator of the child care facility. However, if complete, signed authorizations have been submitted and fingerprints obtained for all persons subject to background checks, as defined in Section 385.20, and a check of the CANTS/SACWIS and Illinois~~Child~~ Sex Offender Registry is completed, renewal of the license shall not be delayed pending receipt of the results of the criminal background check for other persons subject to background checks.

c) Scope of Background Checks

1) All persons subject to background checks pursuant to this Part shall be processed through the CANTS/SACWIS~~Child Abuse and Neglect Tracking System (CANTS)~~ and the Illinois~~Statewide Child~~ Sex Offender Registry. Fingerprints of all persons age 18 and over shall be submitted to the Illinois State Police via the fingerprint vendor stipulated by the Department for a criminal history check. ~~A Law Enforcement Agency Data System (LEADS) check shall be completed for all persons ages 13 through 17 who are subject to background checks, as defined in Section 385.20.~~

2) In addition, foreign nationals who have not resided in Illinois for all of the preceding 3~~three~~ years shall submit to their prospective employer (if seeking employment) or licensing representative (if seeking a license to operate a child care facility) a copy of their valid passport and current visa. A copy of the valid passport and current visa shall be attached to the authorization for background check submitted to:

Department of Children and Family Services~~,~~
Central Office of Licensing~~,~~
406 E. Monroe Street, Station #60~~,~~
Springfield, Illinois 62701~~.~~

All facsimile transmissions shall be sent to the Employment FAX Line at (217)785-6368.

3) In addition, each owner of a for-profit corporation, as a condition of license renewal, must *certify under penalty of perjury that he or she is current or not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license.* [5 ILCS 100/10-65(c)]

4) Fingerprints for the following persons age 18 and over shall be submitted to the Federal Bureau of Investigation (FBI) for a search of its records for evidence of prior criminal activity:

A) persons who have a record of criminal activity which may impact their suitability for licensure/employment by their own acknowledgment or according to the records of the Illinois State Police; and

B) persons who have resided outside the State of Illinois for any part of the preceding three years.

d) A Condition of Employment

1) As a condition of employment ~~and continuing employment~~ in a licensed child care facility in a position which allows access to children, all persons subject to background checks, as defined in Section 385.20, shall complete and sign authorizations for background checks and submit to fingerprinting, if required. This applies to all current and conditional employees subject to background checks, as defined in Section 385.20, and to any individual used as replacement or supplemental staff in the direct care and supervision of children.

2) Complete, signed authorizations for background checks must be submitted~~sent~~ to: ~~the~~

Department of Children and Family Services~~,~~
Central Office of Licensing~~,~~
406 E. Monroe Street, Station #60~~,~~
Springfield, Illinois 62701~~.~~

~~All such authorizations must be postmarked within two business days after the person's employment or use in a role as replacement or supplemental~~

~~staff (for persons hired to begin work on or after March 1, 1996) or within thirty days after the date of notice to the license holder for all persons employed in a child care facility before March 1, 1996.~~ All facsimile transmissions shall be sent to the Employment Fax Line at (217) 785-6368.

e) Child Care Facilities that Operate Within a Family Home
If the child care facility operates in a family home, adult members of the household shall be fingerprinted to be screened for prior criminal convictions and current pending criminal charges in accordance with the requirements of this Part. ~~Members of the household ages 13 through 17 shall be screened for prior criminal activities (if tried and convicted as an adult) via the LEADS system.~~ All household members age 13 and over shall be screened for a history of child abuse or neglect and for inclusion in the Illinois~~Statewide Child~~ Sex Offender Registry. These background checks are required even if members of the household usually are not present in the home during the hours the child care facility is in operation.

f) Programs Operated Under the Auspices of Child Welfare or Day Care Agencies
The background check requirements of this Part apply to:

1) employees of a child welfare agency who are involved in the placement in, licensure of, or supervision of foster family or adoptive homes, relative homes, group homes, child care institutions, youth emergency shelters, or independent living arrangements; and

2) employees of a child welfare agency or day care agency who are involved in the licensure or supervision of licensed day care homes; and

3) persons used as replacement or supplemental staff identified in subsection (f)(1) or (2)~~ above~~.

g) Service Providers
As a condition of a contract or agreement, or as otherwise required under 89 Ill. Adm. Code 357, Purchase of Service, the Department may require a person who provides services that allow unsupervised access to children to authorize a background check under this Part.

h) Issuance of Permits
A permit may be issued when:

1) the facility operator has cleared a complete background check (criminal history, CANTS/SACWIS, and IllinoisStatewide Child Sex Offender Registry); and

2) if a for-profit corporation or other for-profit legal entity, the owner has certified that he or she is current or not more than 30 days delinquent in complying with a child support order; and

3) all other persons subject to background checks have been fingerprinted (if required), as verified by a fingerprint receipt, and have obtained their CANTS/SACWIS, and IllinoisStatewide Child Sex Offender Registry clearances; and

4) the facility is in compliance with all other applicable licensing requirements for issuance of a permit.

i) Work Study Students
No criminal history check is required unless work study students are used as replacement or supplemental staff, as defined in Section 385.20. However, CANTS/SACWIS and IllinoisChild Sex Offender Registry checks must be completed for all work study students.

j) Volunteers
No background checkchecks (CANTS/SACWIS, IllinoisChild Sex Offender Registry, criminal history) is required unless volunteers are used as replacement or supplemental staff, as defined in Section 385.20.

k) Parental Involvement
Parental involvement in a child care facility program does not require a background check unless the parent is used as replacement or supplemental staff, as defined in Section 385.20. Nothing in this Part is intended to prohibit a parent from being left alone unsupervised with only his or her own children.

l) Responsibility for Cooperation
Child care facilities shall be responsible for ensuring that persons subject to criminal background checks make themselves available for fingerprinting when scheduled by the Department or its authorized representativesrepresentative(s). Failure of a person subject to criminal background checks to appear for scheduled fingerprinting may result in the denial of a license application or refusal to renew or revocation of an existing license unless the child care facility can demonstrate

that it took reasonable measures to insure cooperation with the fingerprinting process. Adequate cause for failure to appear for fingerprinting includes, but is not limited to:

1) death in the family of the person; or

2) serious illness of the person or illness in the person's immediate family; or

3) weather or transportation emergencies.

m) Limitations on Criminal Offenders
Persons age 18 and over who have been convicted of committing or attempting to commit the offenses in Section 385.60(a) or (b) (when applicable) ~~and persons age 13 and over who have been tried as an adult and convicted for the crimes identified in Section 385.60(a) or (b) below~~ shall not:

1) receive a license from the Department to operate a child care facility or have such a license renewed; or

2) be employed by a child care facility licensed by the Department in a position which allows access to children; or

3) be a member of the household in a family home in which a child care facility operates; or

4) obtain a contract or agreement from the Department to provide services which allow access to children if the requirement for such background checks is a condition of the contract or agreement.

n) Limitations on Perpetrators of Child Abuse/Neglect
Persons who have been indicated as the perpetrator of any of the child abuse/neglect allegations identified in Section 385.50(a) are presumed to be unfit for service that~~which~~ allows access to children. These indicated perpetrators are limited in the same manner as the criminal offenders in subsection (m) ~~above~~ unless the Director or designee has waived in writing the presumption of unsuitability. Such waivers may be requested in writing in accordance with Section 385.50(b).

o) No Charge for Background Checks
There is no charge to license applicants or licensed child care facilities for the

background checks which are required by this Part.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 385.40 Authorization for Background Checks

a) Persons Required to Authorize Background Checks

1) All persons required to authorize background checks (as defined in Section 385.20) must authorize such checks as a condition of employment and continuing employment, initial license or the renewal of an existing license, continued licensing, or when required for a contract with the Department.

2) Each owner of a ~~for-profit~~ child care facility must certify, under penalty of perjury on forms prescribed by the Department, *that he or she is* current or *not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license.* (Section 10-65(c) of the Illinois Administrative Procedure Act [5 ILCS 100/10-65(c)])

b) Contents of Authorization
The authorization required by this Section shall be on forms prescribed by the Department and shall include:

1) identifying information consisting of name, address, Social Security number, date of birth, height, weight, hair and eye color, previous names and addresses;

2) a certification under penalty of perjury identifying any prior criminal convictions other than a minor traffic violation, as defined by this Part, and of any pending criminal charges; and

3) authorization for the Department to release the results of the background check to the governing body or employer or, in the case of a group home or a child care facility operating in a family home, to the supervising agency for the child care facility.

c) Employees Absent from Active Duty
For purposes of this Part only, employees who have been separated from a child

care facility licensed by the Department ~~of Children and Family Services~~ for six months or longer (for reasons other than vacation, sabbatical leave, sick leave or maternity leave) shall no longer be considered current employees. Upon their return to active duty, such individuals shall be required to again authorize a background check pursuant to this Part.

d) Transfers Between Licensed Facilities
A facility that hires~~After March 1, 1996, facilities which hire~~ an employee who has cleared a complete background check consisting of a criminal history check and a CANTS/SACWIS check and a check of the Illinois~~Statewide Child~~ Sex Offender Registry at a facility licensed by the Department ~~of Children and Family Services~~ shall submit a new signed authorization of~~do not need to complete another~~ background check for the employee.~~if:~~

Such an employee who has cleared a background check as described in this subsection does not need to be fingerprinted again unless the Department specifically requests new prints.

~~1) the employee transfers to another facility licensed by the Department of Children and Family Services; and~~

~~2) there is less than six months between leaving one facility licensed by the Department and beginning employment at another facility licensed by the Department.~~

~~e) License Inactive for Six Months or Longer~~
~~Persons who have been previously licensed, but who have not held a valid license for six months or longer (for reasons other than pending administrative appeals), shall be required to again authorize a background check pursuant to this Part before another license may be issued.~~

e~~f~~) Operation of Seasonal Programs
Child care facilities that operate seasonal programs, such as migrant Head Start or other summer-only programs, hire staff on a seasonal basis for work in the program and then discharge or lay off the staff until the beginning of the next season. When the time period between the end of one seasonal program and the beginning of the next program is more than six months, a check of the CANTS/SACWIS~~Child Abuse and Neglect Tracking System~~ and the Illinois~~Statewide Child~~ Sex Offender Registry must be completed (if the individual has access to children) before the individual begins his or her duties for

the next season. ~~If the individual has cleared a criminal history check within the past three years via the Department's fingerprinting system, no additional criminal history check is required for the employee to be able to resume these duties.~~

f~~g~~) Commingling Not Permitted
If a child care facility operates within the same building as other agencies or organizations or is part of a multi-function agency that offers services which are not subject to Department licensing, the child care facility shall develop a plan to limit ~~and/or supervise~~ access to children receiving care in the licensed facility by individuals who are not subject to the background check requirements of this Part. The plan shall be approved in writing by the governing body and the supervising licensing agency, before a license is recommended ~~by June 30, 1997~~.

g~~h~~) Conditional Employment
Individuals~~An individual~~ hired to begin employment ~~on or after March 1, 1996~~ who have~~has~~ authorized the background check required by this Part may be employed by a child care facility on a conditional basis pending the outcome of the required background check. The form authorizing such a background check shall be submitted~~sent~~ to Department of Children and Family Services as indicated in Section 385.30(b)(2).~~postmarked within two business days after the commencement of such employment or use in a role which replaces or supplements staff. All facsimile transmissions shall be sent to the Employment Fax Line at (217) 785-6368.~~

h~~i~~) Limitations on the Use of Conditional Employees
Conditional employees shall not be left alone with children outside the visual and~~or~~ auditory supervision of staff until they have cleared a check of CANTS/SACWIS and the Illinois Sex Offender Registry.~~the results of the initial background check have been received.~~

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 385.50 Child Abuse or Child Neglect

a) Indicated Reports of Child Abuse/Neglect
The Department makes the presumption that an individual who has been determined to be a perpetrator of child abuse or neglect involving the allegations listed below, as defined in Appendix B, Child Abuse and Neglect Allegations, of 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect, is not suitable for work which allows access to children.

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1) Death

2) Head injuries~~Brain damage or skull fracture~~

~~3) Subdural hematoma~~

34) Internal injuries

45) Wounds (gunshot, knife, or puncture)

56) Torture

67) Sexually transmitted diseases

78) Sexual penetration

89) Sexual molestation

910) Sexual exploitation

1011) Failure to thrive

1112) Malnutrition

1213) Medical neglect of disabled infant

1314) A single indicated report of child abuse or neglect that resulted in serious injury to the child, regardless of the allegations involved

1415) More than one indicated report involving any of the following allegations, regardless of severity. Or one such report if the incident warrants concern because of the severity or particular circumstances~~regardless of severity~~:

A) Burns ~~or scalding~~

B) Poison or noxious substances

C) Bone fractures

D) Cuts, bruises, ~~or~~ welts, abrasions, and oral injuries

E) Human bites

F) Sprains or dislocations

G) Tying or close confinement

H) Substance misuse

I) Mental and emotional impairment ~~injury~~

J) Substantial risk of physical injury/environment injurious to health and welfare

K) Substantial risk of sexual injury

L~~K~~) Inadequate supervision

M~~L~~) Abandonment/~~or~~desertion

N~~M~~) Medical neglect

O~~N~~) Lock-out

P~~O~~) Inadequate food

Q~~P~~) Inadequate shelter

R~~Q~~) Inadequate clothing

S~~R~~) Environmental neglect

b) Assessment of Indicated Reports

1) A person determined to be the perpetrator of an indicated incident of abuse or neglect under Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3] shall not automatically be denied a license or refused license renewal from the Department because that person has been indicated as a perpetrator of the above allegations or shall not

automatically be denied a position which allows access to children in a child care facility licensed by the Department. Rather, the Department or the governing body, as applicable, shall provide the individual an opportunity to present evidence that~~which~~ demonstrates fitness for licensure or employment. Such evidence shall include, but not be limited to:

A) the nature of the abuse or neglect with which the individual was identified, including whether the abuse or neglect resulted in serious injury or death to a child or children;

B) the circumstances surrounding the commission of the abuse or neglect, including the age of the perpetrator and the children~~child(ren)~~, that would demonstrate unlikelihood of repetition;

C) the period of time that has elapsed since the abuse or neglect occurred and whether prior incidents of child abuse or child neglect have been indicated against the individual;

D) whether the abuse or neglect involved ~~a~~ single or multiple child victims;

E) the relationship of the incident of child abuse or neglect to the individual's current or conditional job responsibilities within the child care facility;

F) whether the individual has been convicted of a criminal offense which might have bearing on the individual's ability to function in a child care facility as licensee or employee;

G) evidence of rehabilitation such as employment, education, participation in therapy since the indicated incidents~~incident(s)~~ of abuse or neglect; and

H) character references.

2) When the abuse or neglect includes allegations identified in subsection (a) of this Section, the Department presumes the individual is not suitable to be licensed to operate a child care facility or to reside in a family home in

which such a facility operates or for a position which allows access to children. If the licensing entity (for license applicants and current license holders) or the employer (for current and conditional employees) believes the individual is suitable for licensure, residence in a household in which a child care facility operates, a contract or agreement with the Department which allows access to children, or employment which allows access to children, the licensing entity or the employer may request a review and waiver of the presumption of unsuitability. Such requests shall be in writing and postmarked within 30 days after receipt of information from the Department about the individual's history as a perpetrator of child abuse or neglect.

3) The Director of the Department or the Director's designee shall review any materials submitted on the individual's behalf and may waive the presumption that the individual is unsuitable for licensure or employment which allows access to children or residence in a household in which a child care facility operates if, in the Director or designee's sole judgment~~judgement~~, there is good cause for waiving the presumption of unsuitability. If the Director or designee waives the presumption that the individual is unsuitable, the hiring or licensing decision shall be made in accordance with the totality of the requirements of this Part and the applicable licensing standards.

c) Notification of Hiring Decision
A child care facility shall notify the Department in writing of its decision regarding the employment of a person who has been indicated as a perpetrator of child abuse/neglect. Such notice shall be postmarked within 30 days after receipt of the information from the Department about the individual's history as a perpetrator of child abuse or neglect. If the facility chooses to retain the employee, it must notify the Department of this decision and specify in the notice the operating hours of the facility, the duties of the employee, and the hours the employee will be working. The decision of the employer is final, subject to review under the personnel policies of its governing body. Such hiring decisions may not be appealed to the Department of Children and Family Services.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 385.60 Criminal Convictions and Pending Criminal Charges

a) Convictions Which Serve as Bar to Licensure/Employment that Allows Access to

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Children
Persons who have been convicted of~~with~~ certain serious crimes, identified in Appendix A of this Part,~~criminal convictions~~ shall not receive a license to operate a child care facility or, if such a person has been licensed to operate a child care facility, the licensing entity shall revoke or refuse to renew such license upon learning that the licensee has been convicted of committing or attempting to commit any of the offenses identified below. In addition, no person who has been convicted of committing or attempting to commit any of the offenses listed below shall either be employed in a licensed child care facility in a position that allows access to children or reside in a family home in which a child care facility operates. This includes persons who have been:

1) declared a sexually dangerous person under the Sexually Dangerous Persons Act [725 ILCS 205] or identified as a ~~child~~ sex offender in the Illinois~~Statewide Child~~ Sex Offender Registry operated by the Illinois State Police; or

2) convicted of committing or attempting to commit any of the offenses specified in Appendix A of this Part that~~which~~ are defined by the Criminal Code of 1961 [720 ILCS 5] or any earlier Illinois criminal law or code (See Section 4.2 of the Child Care Act of 1969 [225 ILCS 10/4.2]);or

3) convicted of committing or attempting to commit an offense in another state, the elements of which are similar and bear a substantial relationship to any of the criminal offenses specified in Appendix A of this Part.

b) Special Provisions for Foster Family Homes
In addition to the provisions set forth in subsection (a)~~ above~~, no applicant may be licensed by the Department to operate a foster family home, and no person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the offenses listed in Section 4.2 of the Child Care Act of 1969 [225 ILCS 10/4.2],~~402.Appendix A, Criminal Convictions Which Prevent Licensure of 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes,~~ or who is included in the ~~Statewide Child~~ Illinois Sex Offender Registry (unless the offender is a ward of the State of Illinois placed in the foster home by the Department or its contractual agent).

c) Special Provisions for Service Providers
As a condition of a contract or agreement, or as otherwise required under 89 Ill.

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Adm. Code 357, Purchase of Service, the Department shall~~may~~ require a person who provides services that allow unsupervised access to children to authorize a background check under this Part.

d) Assessment of Criminal Convictions
Except as specified in subsections (a) and (b) of this Section, an individual convicted of a crime will not automatically be prohibited from licensure, renewal of a license, or employment in a child care facility, from residing in a family home in which a child care facility operates, or from obtaining a contract with the Department to provide services which allow access to children as part of their duties. Instead, the following shall be considered:

1) the nature of the crime for which the individual was convicted;

2) the circumstances surrounding the commission of the crime, including the age of the individual, that would demonstrate a low likelihood of repetition;

3) the period of time that has elapsed since the crime was committed;

4) the number of crimes for which the individual was convicted;

5) evidence of rehabilitation such as successful participation in therapy since conviction;

6) commutation of the sentence by the Governor or granting of a pardon;

7) overturn of the conviction upon appeal;

8) character references; ~~and~~

9) the relationship of the crime to the capacity to care for children~~child(ren)~~ or to have access to children~~child(ren)~~ cared for in a child care facility;~~.~~

10) Whether the employee/foster parent was honest in disclosing whether he or she had a criminal background and the circumstances of the conviction; and

11) The development of an adequate supervisory or monitoring plan.

e) Assessment of Pending Criminal Charges
When an employer is informed that an employee has a pending charge for a crime listed as a barred offense in subsection (a), the employer shall develop a protective plan addressing unsupervised access to children until the charge has been resolved. An individual against whom criminal charges are pending shall not be automatically prohibited from licensure, renewal of a license, or employment in a child care facility, residing in a family home in which a child care facility operates, or obtaining a contract with the Department to provide services which allow access to children (as limited by 89 Ill. Adm. Code 357, Purchase of Service) because of the pending criminal charges. In those instances, the following shall be considered:

1) the seriousness and nature of the charges which are pending including a determination of whether the charges are among those listed in Appendix A of this Part that serve as a bar to licensure or employment in a position that allows access to children;

2) the circumstances surrounding the incident that led to the criminal charge;

3) the relationship of the charges to the ability to care for children~~child(ren)~~ or to have access to children and confidential information ~~child(ren)~~ in a child care facility;

4) whether the individual has ever been convicted of or charged with crimes of a similar nature; and

5) character references and other information submitted by or on behalf of the appellant or any other person, especially about the suitability of the individual to care for children~~child(ren)~~.

f) Notification of Hiring Decision
Child care facilities shall notify the Department in writing of their decision regarding the employment of a person with a criminal history. Such notice shall be postmarked within 30 days after receipt of the information from the Department about the individual's criminal history. If the facility chooses to retain the employee, it must notify the Department of this decision and specify in the notice the operating hours of the facility, the duties of the employee, and the hours the employee will be working. The decision of the employer is final, subject to review under the personnel policies of its governing body. Such hiring decisions may not be appealed to the Department of Children and Family

Services.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 385.80 Appeal of Decision to Deny License or Permit Based on Background Check Information

a) What May Be Appealed Under This Part~~Availability of Appeal of Denial Decision~~
~~The Department shall allow appeals, upon a written request, of its decision to deny a license or a permit based upon the background checks conducted in accordance with the requirements of this Part unless the license applicant has the right to appeal the decision under 89 Ill. Adm. Code 338, Appeal of Foster Family Home License Denials by Relative Caregivers (for relative caregivers who applied for a foster family home license) or 89 Ill. Adm. Code 383, Licensing Enforcement (for revocations, refusal to renew a license, and permit holders who are denied a license).~~
A license applicant may appeal:

1) the denial of an initial license based upon a background check conducted in accordance with this Part; or

2) the denial of a permit based upon a background check conducted in accordance with this Part.

b) What May Not Be Appealed Under This Part
The Chief Administrative Law Judge will decide whether an issue is appropriate for a fair hearing pursuant to subsection (a). Issues inappropriate for a fair hearing under this Part include, but are not limited to:

1) a decision based upon a background check conducted pursuant to this Part that revealed that the license applicant has a criminal conviction that bars licensure of, employment or residence in a licensed child care facility pursuant to Section 4(a) and (b) of the Child Care Act of 1969 [225 ILCS 10/4(a) and (b)], unless the licensing applicant can establish that an exception, as provided in Section 4(b)(2) of the Act, may exist (see Appendix A); or

2) a decision based upon a background check conducted pursuant to this Part that revealed that the license applicant has a criminal conviction that bars

licensure of or residence in a foster family home pursuant to Section 4(c) of the Child Care Act of 1969 [225 ILCS 10/4(c)], unless the licensing applicant can establish that an exception, as provided in Section 4(d) of the Child Care Act of 1969 [225 ILCS 10/4(d)], may exist.

b) Appeal Request~~Appeal Process for Denial of License or Permit~~
An individual requesting an opportunity for an appeal pursuant to subsection (a) ~~above~~ shall submit such request, in writing, to the:

Administrative Hearings Unit~~,~~
Department of Children and Family Services~~,~~
406 E. Monroe St., Station #15~~160 N. LaSalle Street,~~
Springfield, Illinois 62701~~Chicago, Illinois 60601.~~

All such requests must be postmarked within ten days after the date of written notice of the denial of an application for license or permit.

c) Review of File

1) After the Administrative Hearings Unit has received the individual's request for an appeal, the Administrator of the Administrative Hearings Unit shall notify the Department that the individual has appealed and the Department shall send to the Administrator a copy of the notice of denial of the application for a license or permit. The notice of denial shall be prima facie evidence that the Department had a basis for refusing to issue the license or permit.

2) The Administrator shall ask both the Department and the individual to submit any documents, records, statements, or other materials pertinent to the Department's denial of the application for licensure to create an appeal file. The Administrator shall further advise the Department and the individual of the intent to examine the appeal file, including all materials submitted for the appeal file, to determine whether a genuine issue of material fact exists. Within ten business days after the date of the Administrator's request for materials, both the Department representative and the individual shall submit to the Administrative Hearings Unit any and all documents, records, statements, materials, or evidence to establish that the Department's decision to deny the license because of the background check was either correct or incorrect.

3) At least ten business days after the Administrator's request for materials, the Administrator shall examine the entire appeal file, including all materials submitted by both parties, and shall determine if a genuine issue of material fact exists.

4) If the Administrator determines that no genuine issue of material fact exists, the Administrator shall dismiss the appeal. The letter dismissing the appeal shall be the final administrative decision of the Department.

d) The Appeal Process

The individual shall be notified, in writing, of the date, time and location of the appeal hearing. The individual may be represented by counsel of his or her choice, and may present evidence and/or witnesses~~witness(es)~~ on his or her own behalf. The individual shall be required to produce evidence that he or she is not the individual identified in the background report, the background check report is inaccurate or, if the issue is delinquency in the payment of child support, that the child support has been paid in full or that a payment schedule has been arranged with the Department of Public Aid (Title IV-D cases) or a court of jurisdiction (all other child support cases). Evidence to be considered shall be limited to:

1) When the appeal involves an indicated CANTS/SACWIS report, written statements from the administrator of the child protection division for the Department that the individual named in the report is not the individual in question or that the record has been expunged or amended; or

2) When the appeal involves a criminal history record, evidence shall be limited to written statements from a law enforcement agency or clerk of the court: that the subject of the criminal history record provided to the Department is not the individual in question, or was never convicted of the crimes as alleged in the criminal history record, or was granted a full pardon by the Governor indicating that the person did not commit the crime; or that the crime was amended or expunged; or that the information in the criminal history record concerning the existence of the conviction was erroneous; or

3) When the appeal involves delinquent child support, written statements from the Department of Public Aid or the clerk of the court, as applicable, that child support has been paid in full or a payment schedule arranged or that the payment record was incorrect.

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e) Final Administrative Decision
The administrative law judge conducting the appeal must conclude that, when all the evidence presented pursuant to this Part and the applicable licensing standards are considered, there is clear and convincing evidence that the individual~~individual(s)~~ is not the person named in the indicated report/criminal history record or that the individual is suitable for service which allows access to children. If the appeal is addressing the issue of delinquent child support, the individual must submit proof that the record was in error or that he or she has paid the delinquency or made arrangements for payment of delinquent child support. A decision of the Department licensing authority is a final administrative decision, subject to review by a court of competent jurisdiction.

f) Record of Appeal
A written record shall be made of any reviews~~review(s)~~ conducted pursuant to this Section, and such record shall contain copies of all documents relied upon in making the determination of fitness or unfitness for licensure.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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Section 385.APPENDIX A Criminal Convictions Preventing Licensure, Employment, or Residence in a Family Home in Which a Child Care Facility Operates

a) Criminal Convictions Preventing Licensure, Employment, or Residence in a Family Home in Which a Child Care Facility Operates

If any person subject to background checks has been included in the Illinois~~Statewide Child~~ Sex Offender Registry or convicted of committing or attempting to commit one or more of the following serious criminal offenses under the Criminal Code of 1961 [720 ILCS 5] or under any earlier Illinois criminal law or code or an offense in another state, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified below, this conviction will serve as a bar to: receiving a license or permit to operate as a child care facility and renewal of an existing license to operate a child care facility; residing in a family home in which a child care facility operates; obtaining employment or continuing in employment in a licensed child care facility which allows access to children as part of the duties; and obtaining a contract or agreement providing services on behalf of the Department that allows unsupervised access to children.

In addition to the list of crimes in this Appendix A, no applicant may receive a license from the Department to operate a foster family home, and no adult person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the offenses listed in Appendix A, Criminal Convictions Which Prevent Licensure, of 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes, which is a more inclusive list of crimes.

The offenses that~~which~~ serve as a bar to licensure, residence in a family home in which a child care facility operates, employment that~~which~~ allows access to children in any child care facility~~facilities~~ subject to licensing, or providing services that allow unsupervised access to children include:

OFFENSES DIRECTED AGAINST THE PERSON

HOMICIDE

- Murder
- Solicitation of murder
- Solicitation of murder for hire

- Intentional homicide of an unborn child
- Voluntary manslaughter of an unborn child
- Involuntary manslaughter
- Reckless homicide
- Concealment of a homicidal death
- Involuntary manslaughter of an unborn child
- Reckless homicide of an unborn child
- Drug induced homicide

KIDNAPPING AND RELATED OFFENSES

- Kidnapping
- Aggravated kidnapping
- Aggravated unlawful restraint
- Forcible detention
- Child abduction
- Aiding and abetting child abduction
- Harboring a runaway

SEX OFFENSES UNDER ARTICLE 11 OF THE CRIMINAL CODE OF 1961, EXCEPT OFFENSES DESCRIBED IN SECTIONS 11-7, 11-8, 11-12 AND 11-13

- Indecent solicitation of a child
- Indecent solicitation of an adult
- Public indecency
- Sexual exploitation of a child
- Custodial sexual misconduct
- Presence within school zone by child sex offenders
- Approaching, contacting, residing, or communicating with a child within a public park zone by child sex offenders
- Sexual relations within families
- Prostitution
- Soliciting for a prostitute
- Soliciting for a juvenile prostitute
- Solicitation of a sexual act
- Pandering
- Keeping a place of prostitution
- Keeping a place of juvenile prostitution
- Patronizing a prostitute

- Patronizing a juvenile prostitute
- Pimping
- Juvenile pimping
- Exploitation of a child
- Obscenity
- Child pornography
- Harmful material
- Tie-in sales of obscene publications to distributors
- Posting of identifying information on a pornographic internet site

BODILY HARM

- Heinous battery
- Aggravated battery with a firearm
- Aggravated battery of a child
- Tampering with food, drugs, or cosmetics
- Hate crime
- Stalking
- Aggravated stalking
- Threatening public officials
- Home invasion
- Vehicular invasion
- Drug induced infliction of great bodily harm
- Criminal sexual assault
- Aggravated criminal sexual assault
- Predatory criminal sexual assault of a child
- Criminal sexual abuse
- Aggravated sexual abuse
- Criminal transmission of HIV
- Criminal neglect of an elderly or disabled person
- Child abandonment
- Endangering the life or health of a child
- Ritual mutilation
- Ritualized abuse of a child

b) Additional Convictions that Bar Licensure of or Employment in a Child Care Facility

In addition to the requirements above, no new applicant and, on the date of licensure renewal, no current licensee may operate or receive a license from the

Department to operate, no person may be employed by, and no adult person may reside in a child care facility licensed by the Department who has been convicted of committing or attempting to commit any of the following offenses or an offense in any other jurisdiction the elements of which are similar to and bear a substantial relationship to any of the following offenses:

OFFENSES DIRECTED AGAINST THE PERSON

BODILY HARM

- Felony aggravated assault
- Vehicular endangerment
- Felony domestic battery
- Aggravated battery
- Heinous battery
- Aggravated battery with a firearm
- Aggravated battery of an unborn child
- Aggravated battery of a senior citizen
- Intimidation
- Compelling organization membership of persons
- Abuse and gross neglect of a long term care facility resident
- Felony violation of an order of protection

OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

Felony unlawful use of weapons
- Aggravated discharge of a firearm
- Reckless discharge of a firearm
- Unlawful use of metal piercing bullets
- Unlawful sale or delivery of firearms on the premises of any school
- Disarming a police officer
- Obstructing justice
- Concealing or aiding a fugitive
- Armed violence
- Felony contributing to the criminal delinquency of a juvenile

DRUG OFFENSES

- Possession of more than 30 grams of cannabis
- Manufacture of more than 10 grams of cannabis

- Cannabis trafficking
- Delivery of cannabis on school grounds
- Unauthorized production of more than 5 cannabis sativa plants
- Calculated criminal cannabis conspiracy
- Unauthorized manufacture or delivery of controlled substances
- Controlled substance trafficking
- Manufacture, distribution or advertisement of look-alike substances
- Calculated criminal drug conspiracy
- Street gang criminal drug conspiracy
- Permitting unlawful use of a building
- Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property
- Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances
- Delivery of controlled substances
- Sale or delivery of drug paraphernalia
- Felony possession, sale, or exchange of instruments adapted for use of a controlled substance or cannabis by subcutaneous injection
- Felony possession of a controlled substance

c) Exception Applicable to Child Care Facilities Other than Foster Family Homes Notwithstanding subsection (a), the Department may issue a new child care facility license or may renew the existing child care facility license of an applicant, or an applicant who has an adult residing in a home child care facility who was convicted of an offense described in subsection (b), or the Department may approve the employment of a person by a child care facility who was convicted of an offense described in subsection (b), provided that all of the following requirements are met:

1) The relevant criminal offense or offenses occurred more than 5 years prior to the date of application or renewal, except for drug offenses. The relevant drug offense must have occurred more than 10 years prior to the date of application or renewal, unless the applicant or prospective employee has passed a drug test, arranged and paid for by the child care facility, no less than 5 years after the offense;

2) The Department must conduct a background check and assess all convictions and recommendations of the child care facility in accordance

with Section 385.60(d), (e) and (f) and determine if a waiver is applicable in accordance with subsection (c)(1);

3) The applicant meets all other requirements and qualifications to obtain a license to operate the pertinent type of child care facility.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 385.APPENDIX B Matrix of Persons Subject to Background Checks Under Part 385

Type of Individual	Criminal Check	Illinois~~Child~~ Sex Offender Registry	Child abuse/ neglect Check	Child Support	Explanation
Operator	Yes	Yes	Yes	Yes	Criminal check via fingerprints. Delinquent child support check applies only to for-profit entities.
Employee – Age 18 and over – Under age 18	Yes ~~Yes~~	Yes Yes	Yes Yes	No No	For persons age 18 and over, the criminal check is done via fingerprints. ~~For persons under age 18, the criminal check consists of a LEADS check.~~
Others in Family Home – Age 18 and over – Ages 13 through 18	Yes ~~Yes~~	Yes Yes	Yes Yes	No No	For persons age 18 and over, the criminal check is done via fingerprints. ~~For persons under age 18, the criminal check consists of a LEADS check.~~
Individual Used to Replace or Supplement Staff – Age 18 and over – Under age 18	Yes ~~Yes~~	Yes Yes	Yes Yes	No No	For persons age 18 and over, the criminal check is done via fingerprints. ~~For persons under age 18, the criminal check consists of a LEADS check.~~
Service provider for the Department who has access to children – Age 18 and over – Under age 18	Yes ~~Yes~~	Yes Yes	Yes Yes	No No	For persons age 18 and over, the criminal check is done via fingerprints. ~~For persons under age 18, the criminal check consists of a LEADS check.~~
Work Study Student	No	Yes	Yes	No	If counted in the staff-child ratio or left alone with

					children outside the visual or auditory supervision of facility staff, the individual is replacing or supplementing staff and a criminal background check is required, also.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Type of Individual	Criminal Check	Child Sex Offender Registry	Child abuse/ neglect Check	Child Support	Explanation
Contractual Staff Hired by the Child Care Facility	No	No	No	No	If counted in the staff-child ratio or left alone with children outside the visual or auditory supervision of facility staff, the individual is replacing or supplementing staff and a criminal background check is required.
Volunteers	No	No	No	No	If counted in the staff-child ratio or left alone with children outside the visual or auditory supervision of facility staff, the individual is replacing or supplementing staff and a criminal background check is required.
Parents	No	No	No	No	If counted in the staff-child ratio or left alone with children outside the visual or auditory supervision of facility staff, the individual is replacing or supplementing staff and a criminal background check is required.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Licensing Standards for Day Care Centers

2) Code Citation: 89 Ill. Adm. Code 407

3) Section Number: 407.370 Proposed Action: Amend

4) Statutory Authority: The Child Care Act of 1969 [225 ILCS 10/5.2].

5) A Complete Description of the Subjects and Issues Involved: Implements changes to Section 5.6 of the Child Care Act that require licensed day care centers to abide by the requirements of Sections 10.2 and 10.3 of the Structural Pest Control Act, which make changes concerning notification requirements before application of pesticides in day care center.

6) Will this proposed amendment replace any emergency rulemaking currently in effect? No

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

8) Does this proposed rulemaking contain incorporations by reference? No

9) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498
Telephone: (217) 524-1983
TTY: (217) 524-3715
Internet address: cfpolicy@idcfs.state.il.us

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis: The Department has determined that this amendment does not have an impact on small business.

13) Regulatory Agenda on which this rulemaking was summarized: None

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 407
LICENSING STANDARDS FOR DAY CARE CENTERS

Section

407.1 Purpose (Repealed)
407.2 Definitions (Repealed)
407.3 Effective Date of Standards (Repealed)
407.4 Application for License (Repealed)
407.5 Application for Renewal of License (Repealed)
407.6 Provisions Pertaining to the License (Repealed)
407.7 Provisions Pertaining to Permits (Repealed)
407.8 Organization and Administration (Repealed)
407.9 Finances (Repealed)
407.10 General Requirements for Personnel (Repealed)
407.11 Child Care Director (Repealed)
407.12 Child Care Workers and Group Workers (Repealed)
407.13 Child Care Assistants (Repealed)
407.14 Use of Students (Repealed)
407.15 Service Staff (Repealed)
407.16 Substitutes and Volunteers (Repealed)
407.17 Background Inquiry (Repealed)
407.18 Admission and Discharge Procedures (Repealed)
407.19 Discipline (Repealed)
407.20 Personal Care and Hygiene (Repealed)
407.21 Program (Repealed)
407.22 Equipment and Materials (Repealed)
407.23 Grouping and Staffing (Repealed)
407.24 Nutrition (Repealed)
407.25 Night Care (Repealed)
407.26 Children with Special Needs (Repealed)
407.27 Infants and Toddlers (Repealed)
407.28 School-Age Children (Repealed)
407.29 Health Requirements for Children (Repealed)
407.30 Transportation (Repealed)
407.31 Plant and Equipment (Repealed)
407.32 Records and Reports (Repealed)
407.33 Confidentiality of Records and Information (Repealed)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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407.34 Records Retention (Repealed)
407.35 Severability of This Part (Renumbered)

SUBPART A: INTRODUCTION, DEFINITIONS, AND APPLICABILITY

Section
407.40 Purpose and Applicability
407.45 Definitions

SUBPART B: PERMITS AND LICENSES

407.50 Application for License
407.55 Application for Renewal of License
407.60 Provisions Pertaining to the License
407.65 Provisions Pertaining to Permits

SUBPART C: ADMINISTRATION

407.70 Organization and Administration
407.80 Confidentiality of Records and Information

SUBPART D: STAFFING

407.90 Staffing Structure
407.100 General Requirements for Personnel
407.110 Background Checks for Personnel
407.120 Personnel Records
407.130 Qualifications for Child Care Director
407.140 Qualifications for Early Childhood Teachers and School-age Workers
407.150 Qualifications for Early Childhood Assistants and School-age Worker Assistants
407.160 Students and Youth Aides
407.170 Substitutes
407.180 Volunteers
407.190 Grouping and Staffing

SUBPART E: PROGRAM REQUIREMENTS

407.200 Program Requirements for All Ages
407.210 Special Requirements for Infants and Toddlers
407.220 Special Requirements for School-Age Children

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

407.230 Intergenerational Programs
407.240 Evening, Night, Weekend and Holiday Care

SUBPART F: STRUCTURE AND SAFETY

407.250 Enrollment and Discharge Procedures
407.260 Daily Arrival and Departure of Children
407.270 Guidance and Discipline
407.280 Transportation
407.290 Swimming and Wading
407.300 Animals

SUBPART G: HEALTH AND HYGIENE

407.310 Health Requirements for Children
407.320 Hand Washing
407.330 Nutrition and Meal Service
407.340 Diapering and Toileting Procedures
407.350 Napping and Sleeping
407.360 Medications

SUBPART H: FACILITY AND EQUIPMENT

407.370 Physical Plant/Indoor Space
307.380 Equipment and Materials
407.390 Outdoor Play Area

SUBPART I: SEVERABILITY OF THIS PART

407.400 Severability of This Part

407.APPENDIX A Equipment for Infants and Toddlers
407.APPENDIX B Equipment for Preschool Children
407.APPENDIX C Equipment for School-Age Children
407.APPENDIX D Infant Daily Food Requirements
407.APPENDIX E Meal Patterns and Serving Sizes for Child Care Programs
407.APPENDIX F Resource Reference List
407.APPENDIX G Early Childhood Teacher Credentialing Programs
407.APPENDIX H Playground Surfacing and Critical Height

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10] and the Children's Product Safety Act [430 ILCS 125].

SOURCE: Adopted and codified at 7 Ill. Reg. 9215, effective August 15, 1983; amended at 8 Ill. Reg. 8713, effective June 15, 1984; amended at 8 Ill. Reg. 24937, effective January 1, 1985; amended at 16 Ill. Reg. 7597, effective April 30, 1992; emergency amendment at 20 Ill. Reg. 11366, effective August 1, 1996, for a maximum of 150 days; emergency expired December 28, 1996; amended at 21 Ill. Reg. 923, effective January 15, 1997; amended at 22 Ill. Reg. 1728, effective January 1, 1998; amended at 24 Ill. Reg. 17036, effective November 1, 2000; amended at 28 Ill. Reg. 3011, effective February 15, 2004; amended at 28 Ill. Reg. _____, effective _____.

SUBPART H: FACILITY AND EQUIPMENT

Section 407.370 Physical Plant/Indoor Space

Partially exempt programs are exempt from these standards.

a) Buildings used for day care center programs shall be in good shape and operable and must comply with all applicable fire safety standards.

1) The building housing a center shall be approved prior to occupancy and license renewal by the Illinois Department of Public Health and the Office of the State Fire Marshal or local agencies authorized by those State agencies to conduct inspections on their behalf. Otherwise, inspection and approval shall be in accordance with the regulations of the proper health and fire authorities.

2) Day care centers that provide day care only for school-age children in a building currently being used as a pre-primary, primary, or secondary school do not need to obtain the fire clearance in subsection (a)(1) above if the day care center provides written documentation that a fire safety clearance has been received from the responsible party of the Illinois State Board of Education and/or the Regional School Superintendent and that all exit doors for the school remain unlocked. An acceptable fire safety clearance from the Illinois State Board of Education must be in writing and must indicate that the school complies with the applicable fire safety regulations adopted by the Illinois State Board of Education (23 Ill. Adm. Code 180).

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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b) The building or portion of the building to which children from the center have access shall be used only for a program of child care during the hours that the center is in operation. The space used for child care may be shared by other groups or persons outside of the hours of operation.

c) Infants and toddlers shall be housed and cared for at ground level unless otherwise approved through the exception process below. Travel distance between any point in a room used for infants and toddlers and an exit discharging directly outside shall not exceed 150 feet. Only a fire inspector from the Office of the State Fire Marshal or the Chicago Fire Department's Fire Prevention Bureau may grant an exception to the requirement that infants and toddlers be housed and cared for at ground level.

d) There shall be sufficient indoor space to conduct the program.

1) There shall be a minimum of 35 square feet of activity area per child in centers for children two years of age and older. This space is exclusive of exit passages and fire escapes, which must be clear. This space is also exclusive of administrative space, storage areas, bathrooms, kitchen, space required for equipment that is not used for direct activities with children, and gymnasiums or other areas used exclusively for large muscle activity or active sports.

2) The amount of space required for infants and toddlers shall be determined according to the use of the space for sleep and play purposes.

A) Regardless of whether infants play and sleep in the same room or in two separate rooms, there shall be a minimum of 25 square feet of play space per child plus a minimum of 30 square feet of sleeping space per child, with at least two feet between each crib and the next crib.

B) When toddlers play and sleep in the same room using cots which can be stacked, there shall be 35 square feet of space per child. When children are in their cots, there must be a minimum of two feet between the cots.

C) When toddlers play and sleep in the same room using cribs, there shall be a minimum of 55 square feet per child. When children are in their cribs, there must be a minimum of two feet between the

cribs.

D) When toddlers play and sleep in separate rooms, there shall be minimum of 35 square feet of play space per child and a minimum of 30 square feet of sleeping space per child, with at least two feet between each cot or crib.

3) Storage space shall be provided for cots, bedding, and other equipment.

4) One room, no matter how large, shall accommodate only one group, except that room dividers or program equipment at least 3'6" in height may be used to define and separate the space for each group of children up to age five. Gymnasiums and similar sized areas may accommodate two groups, without dividers, when used for large muscle activity and active sports.

5) All rooms or spaces accommodating more than one group shall be provided with an acoustical ceiling or its equivalent in carpeting or wall covering. If carpeting is used to control noise, it shall not be required in water play, painting, and similar areas.

e) The building and indoor space shall be maintained in good repair and shall provide a safe, comfortable environment for the children.

1) Adjustable window shades, drapes, or blinds shall be provided in all rooms where children rest or nap or in rooms that receive direct sunlight while children are present.

2) The floors and floor coverings shall be washable and free from drafts, splinters, and dampness.

3) Toxic or lead paints or finishes shall not be used on walls, window sills, beds, toys or any other equipment, materials or furnishings which may be used by children or within their reach. Peeling or damaged paint or plaster shall be repaired promptly to protect children from possible hazards.

4) Any thermal hazards (radiators, hot water pipes, steam pipes, heaters) in the space occupied by children shall be out of the reach of children or be separated from the space by partitions, screens, or other means.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

5) Sharp scissors, plastic bags, knives, cigarettes, matches, lighters, flammable liquids, drugs, sharp instruments, power tools, cleaning supplies and any other such items which might be harmful to children shall be kept in areas inaccessible to children. Hazardous items for infants and toddlers also include coins, balloons, safety pins, marbles, Styrofoam© and similar products, and sponge, rubber or soft plastic toys.

6) All cleaning compounds, pesticides, fertilizers and other potentially hazardous or explosive compounds or agents shall be stored in original containers with legible labels in a locked area which is inaccessible to children.

7) A draft-free temperature of 65º F to 75º F shall be maintained during the winter months or heating season. For infants and toddlers, a temperature of 68º F to 82º F shall be maintained during the summer or air-conditioning months. When the temperature in the center exceeds 78º F, measures shall be taken to cool the children. Temperatures shall be measured at least three feet above the floor.

8) If electric fans are used to control temperature, measures shall be taken to assure the safety of the children in the group:

   A) Stationary fans shall be mounted on the walls (at least five feet above the floor) or on the ceiling.

   B) When portable fans on stands are used, they shall be anchored to prevent tipping.

   C) All portable fans shall have blade guard openings of less than ½ inch and shall be inaccessible to children.

9) Exits shall be kept unlocked and clear of equipment and debris at all times.

10) Electrical outlets within the reach of children shall be covered.

11) The program shall be modified, as needed, when there are adverse conditions caused by weather, heating or cooling difficulties or other problems. When such conditions exceed a 24-hour period, the Department shall be notified regarding program modifications.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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f) Drills for possible emergency situations including fire and tornado shall be conducted.

1) A floor plan shall be posted in every room indicating the following:

A) The building areas that will provide the most structural stability in case of tornado; and

B) The primary and secondary exit routes in case of fire.

2) Drills shall be conducted once a month for fire and twice a year (seasonally) for tornado.

3) Records shall be maintained of the dates and times that fire and tornado drills are conducted.

g) All areas of the center shall receive sufficient light.

1) Areas for reading, painting, puzzles or other close work shall be illuminated to at least 50 to 100 foot candles on the work surface.

2) Areas for general play, such as housekeeping and block building, shall be illuminated to at least 30 to 50 foot candles on the surface.

3) Stairways, walkways, landings, driveways and entrances shall be illuminated to at least 20 foot candles on the surface.

h) A safe and sanitary water supply shall be maintained. If a private water supply is used instead of a public water supply, the center shall supply written records of current test results indicating that the water supply is safe for drinking in accordance with the standards specified for non-community water supplies in the Drinking Water Systems Code (77 Ill. Adm. Code 900). New test results must be provided prior to relicensing. If nitrate content exceeds ten parts per million, bottled water must be used for infants.

i) There shall be no smoking or use of tobacco products in any form in the child care center or in the presence of children while on the playground or engaged in other activity away from the center.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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j) Major cleaning shall not be done while children are present.

k) Basement or cellar windows used or intended to be used for ventilation, and all other openings to a basement or cellar, shall not permit the entry of rodents.

l) Openings to the outside shall be protected against the entrance of flies or other flying insects by doors, windows, screens, or other approved means.

m) Any extensive extermination of pest or rodents shall be conducted by a licensed pest control operator under the direct observation of a staff member to insure that residue is not left in areas accessible to children.

n) Chemicals for insect and rodent control shall be applied in minimum amounts and shall not be used when children are present in the facility. Toys and other items mouthed or handled by the children must be removed from the area before pesticides are applied. Children must not return to the treated area within 2 hours after a pesticide application or as specified on the pesticide label, whichever time is greater. Over-the-counter products may be used only according to package instructions. Commercial chemicals, if used, shall be applied by a licensed pest control operator and shall meet all standards of the Department of Public Health (Structural Pest Control Code, 77 Ill. Adm. Code 830). A record of any pesticides used shall be maintained at the facility.

The center shall notify all parents or guardians before a pesticide application, or maintain a registry of parents or guardians who wish to receive written notification of when the facility will receive a pesticide application and send a written notification to them. Notification of the intended date of the application of the pesticide, which may be in the form of newsletters, bulletins, calendars, or other written communication methods presently used by the center, must be given at least 2, but not more than 30, days before the pesticide application. When economically feasible, the center must adopt an Integrated Pest Management (IPM) program as defined in Section 3.25 of the Structural Pest Control Act [225 ILCS 235/3.25], involving the cooperation between day care staff and pest control personnel or other specialists to use a variety of non-chemical methods as well as pesticides, when needed, to reduce pest infestations to acceptable levels and to minimize children's exposure to pesticides.

Prior notice of pesticide application is not required if the application is due to an immediate threat to health or property, in which case the pesticide must be immediately applied. Children shall not be present during the application and

shall not return to the treated area within 2 hours after a pesticide application or as specified on the pesticide label, whichever time is greater. If such a situation arises, the appropriate day care center personnel must sign a statement describing the circumstances that gave rise to the health threat and ensure that written notice is provided to parents or guardians as soon as practicable.

o) All garbage and refuse shall be collected daily and stored in a manner that will not permit the transmission of disease, create a nuisance or a fire hazard or provide harborage for insects, rodents or other pests.

1) An adequate number of covered, durable, water-tight, insect and rodent-proof garbage and refuse containers shall be provided for use.

2) Garbage and refuse containers used to discard diapering supplies, food products or disposable meal service supplies shall be tightly covered and lined with plastic. Contents shall be covered immediately or removed for discarding.

p) The center shall be cleaned daily and kept in a sanitary condition at all times.

1) The center shall provide necessary cleaning and maintenance equipment.

2) Toys, table tops, furniture and other similar equipment used by children shall be washed and disinfected when soiled or contaminated with matter such as food, body secretions or excrement.

3) Cleaning equipment, cleaning agents, aerosol cans and other hazardous chemical substances shall be labeled and stored in a space designated solely for this purpose. These materials shall be stored in a locked place which is inaccessible to children.

q) Kitchen sinks used for food preparation shall not be used as hand-washing lavatories nor counted in the total number of hand-washing lavatories required.

r) There shall be means for communication in emergencies.

1) An operable non-coin telephone shall be on the premises, easily accessible for use in an emergency and for other communications.

2) A list of emergency telephone numbers, such as the fire department, police

department, poison control and emergency medical treatment, along with the full address of the day care center, shall be posted next to each telephone.

3) In facilities where communication between groups is difficult due to the design of the day care center, operation in multiple buildings on the same site or on multiple floors, an intercom or a written plan for other effective means of communication between groups shall be provided.

4) During hours of operation and at all times that children are present, there shall be a means for parents of enrolled children to have direct telephone contact with a center staff person.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Fees

2) Code Citation: 92 Ill. Adm. Code 1205

3) Section Number: 1205.200 Proposed Action: Amendment

4) Statutory Authority: Implementing and authorized by Sections 18c-1202(9), 18c-1501 and 18c-1502 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202(9), 18c-1501, 18c-1502]. Implementing Sections 18c-1202, 18c-1501 and 18c-1502 and authorized by Section 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202].

5) A Complete Description of the Subjects and Issues Involved: This amendment imposes a annual gross receipts tax on motor carriers of passengers at a rate of 0.1%.

6) Will this proposed amendment replace any emergency amendments currently in effect? No

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

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This proposed amendment neither creates nor expands any State mandate on units of local government, school districts, or community college districts.

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

Steven L. Matrisch
Office of Transportation Counsel
Transportation Division
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701
(217) 782-6447

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

smatrisc@icc.state.il.us

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This amendment will affect small businesses that are currently licensed or will be licensed by the Illinois Commerce Commission as motor carriers of passengers in the State of Illinois and that are small businesses as defined in the Illinois Administrative Procedure Act. This amendment will not affect any small municipalities or not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: No additional procedures will be required for compliance.

C) Types of professional skills necessary for compliance: Accounting and Managerial.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the Commission did not anticipate the need for amendment at that time.

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER III: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER a: COMMERCIAL TRANSPORTATION GENERALLY

PART 1205
FEES

SUBPART A: FILING AND ANNUAL FEES

Section
1205.10 Filing and Annual Fees
1205.20 Late-Filing Fees (Repealed)

SUBPART B: ANNUAL VEHICLE FEES

Section
1205.100 Intrastate Motor Carriers of Property (Repealed)
1205.110 Interstate Motor Carriers of Property (Repealed)
1205.115 Ordering Fees (Repealed)

SUBPART C: GROSS RECEIPTS TAXES

Section
1205.200 Gross Receipts Taxes for Motor Carriers of Passengers ~~(Repealed)~~
1205.210 Gross Receipts Taxes for Rail Carriers (Repealed)
1205.220 Gross Receipts Taxes for Common Carrier Pipelines (Repealed)

SUBPART D: PAYMENT PROCEDURES

Section
1205.300 Payment of Fees (Repealed)

SUBPART E: TEMPORARY FILING AND VEHICLE FEES

Section
1205.400 Temporary Filing Fees, Annual Vehicle Fees and Ordering Fees (Repealed)

AUTHORITY: Implementing and authorized by Sections 18c-1202(9), 18c-1501 and 18c-1502 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202(9), 18c-1501, 18c-1502]. Implementing Sections 18c-1202, 18c-1501 and 18c-1502 and authorized by Section 18c-1202

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202].

SOURCE: Emergency rules adopted at 11 Ill. Reg. 1497, effective January 1, 1987, for a maximum of 150 days; adopted at 11 Ill. Reg. 9853, effective May 8, 1987; amended at 12 Ill. Reg. 15540, effective October 1, 1988; amended at 13 Ill. Reg. 11460, effective July 1, 1989; amended at 18 Ill. Reg. 11155, effective July 1, 1994; emergency amendment at 18 Ill. Reg. 16464, effective October 21, 1994, for a maximum of 150 days; emergency rule expired March 20, 1994; amended at 19 Ill. Reg. 8198, effective June 8, 1995; amended at 21 Ill. Reg. 3831, effective March 13, 1997; amended at 25 Ill. Reg. 14845, effective November 1, 2001; amended at 28 Ill. Reg. _____, effective _____.

SUBPART C: GROSS RECEIPTS TAXES

Section 1205.200 Gross Receipts Taxes for Motor Carriers of Passengers ~~(Repealed)~~

The level of gross receipts tax for motor carriers of passengers is .1% of annual gross receipts.

(Source: Old Section repealed at 18 Ill. Reg. 11155, effective July 1, 1994; new Section adopted at 28 Ill. Reg. _____, effective _____)

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Riverboat Gambling

2) Code Citation: 86 Ill. Adm. Code 3000

3)

Section Numbers:	Proposed Action:
3000.400	Amend
3000.425	Amend
3000.740	Amend

4) Statutory Authority: Riverboat Gambling Act [230 ILCS 10]

5) A Complete Description of the Subjects and Issues Involved: The Illinois Gaming Board's Adopted Rule's mechanism for petitioning for removal from the Board's Exclusion List provides no standards by which the determination to remove is to be made. The proposed amendment provides a standard and procedures.

6) Will this rulemaking replace any emergency amendments current in effect? No

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

8) Do this rulemaking contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit comments in writing concerning this proposed rulemaking by no later than 45 days after publication of this notice to:

Michael Fries
Acting Deputy Chief Counsel
Illinois Gaming Board
160 North LaSalle Street
Suite 300S
Chicago, Illinois 60601
(312) 814-4700 FAX: (312) 814-8798

12) Initial Regulatory Flexibility Analysis:

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

A) Types of small businesses, small municipalities, and for profit corporations affected: None

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the most recent regulatory agenda because: this rulemaking was not anticipated when that agenda was submitted for publication.

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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER IV: ILLINOIS GAMING BOARD

PART 3000
RIVERBOAT GAMBLING

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: LICENSES

Section
3000.200 Classification of Licenses
3000.210 Fees and Bonds
3000.220 Applications
3000.221 Other Required Forms
3000.222 Identification and Requirements of Key Persons
3000.223 Disclosure of Ownership and Control
3000.224 Economic Disassociation

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

3000.225 Business Entity and Personal Disclosure Filings
3000.230 Owner's Licenses
3000.231 Distributions
3000.232 Undue Economic Concentration
3000.234 Acquisition of Ownership Interest By Institutional Investors
3000.235 Transferability of Ownership Interest
3000.236 Owner's License Renewal
3000.237 Renewed Owner's Licenses, Term and Restrictions
3000.238 Appointment of Receiver for an Owner's License
3000.240 Supplier's Licenses
3000.241 Renewal of Supplier's License
3000.242 Amendment to Supplier's Product List
3000.243 Bankruptcy or Change in Ownership of Supplier
3000.245 Occupational Licenses
3000.250 Transferability of Licenses
3000.260 Waiver of Requirements
3000.270 Certification and Registration of Electronic Gaming Devices
3000.271 Analysis of Questioned Electronic Gaming Devices
3000.272 Certification of Voucher Systems
3000.280 Registration of All Gaming Devices
3000.281 Transfer of Registration (Repealed)
3000.282 Seizure of Gaming Devices (Repealed)
3000.283 Analysis of Questioned Electronic Gaming Devices (Repealed)
3000.284 Disposal of Gaming Devices
3000.385 Certification and Registration of Voucher Validation Terminals

SUBPART C: OWNER'S INTERNAL CONTROL SYSTEM

Section

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

SUBPART D: HEARINGS ON NOTICE OF DENIAL,
RESTRICTION OF LICENSE OR PLACEMENT ON EXCLUSION LIST

Section

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

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

SUBPART E: CRUISING

Section
3000.500 Riverboat Cruises
3000.510 Cancelled or Disrupted Cruises

SUBPART F: CONDUCT OF GAMING

Section
3000.600 Wagering Only with Electronic Credits, Approved Chips, Tokens and Electronic Cards
3000.602 Disposition of Unauthorized Winnings
3000.605 Authorized Games
3000.606 Gaming Positions
3000.610 Publication of Rules and Payout Ratio for Live Gaming Devices
3000.614 Tournaments, Enhanced Payouts and Give-aways
3000.615 Payout Percentage for Electronic Gaming Devices
3000.616 Cashing-In
3000.620 Submission of Chips for Review and Approval
3000.625 Chip Specifications
3000.630 Primary, Secondary and Reserve Sets of Gaming Chips
3000.631 Tournament Chips
3000.635 Issuance and Use of Tokens for Gaming
3000.636 Distribution of Coupons for Complimentary Chips, Tokens and Cash
3000.640 Exchange of Chips and Tokens
3000.645 Receipt of Gaming Chips or Tokens from Manufacturer or Distributor
3000.650 Inventory of Chips

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

3000.655 Destruction of Chips, ~~and~~ Tokens, and Vouchers
3000.660 Minimum Standards for Electronic Gaming Devices
3000.661 Minimum Standards for Voucher Systems
3000.665 Integrity of Electronic Gaming Devices
3000.666 Bill Validator Requirements
3000.667 Integrity of Voucher Systems
3000.670 Computer Monitoring Requirements of Electronic Gaming Devices
3000.671 Computer Monitoring Requirements of Voucher Systems

SUBPART G: EXCLUSION OF PERSONS

Section
3000.700 Duty to Exclude
3000.705 Voluntary Self-Exclusion Policy
3000.710 Distribution and Availability of Exclusion Lists
3000.720 Criteria for Exclusion or Ejection and Placement on an Exclusion List
3000.725 Duty of Licensees
3000.730 Procedure for Entry of Names
3000.740 Petition for Removal from Exclusion List
3000.750 Establishment of an Self-Exclusion List
3000.751 Locations to Execute Self-Exclusion Forms
3000.755 Information Required for Placement on the Self-Exclusion List
3000.756 Stipulated Sanctions for Failure to Adhere to Voluntary Self-Exclusion
3000.760 Distribution and Availability of Confidential Self-Exclusion List
3000.770 Duties of Owner Licensees
3000.780 Request for Removal from the IGB Self-Exclusion List
3000.785 Appeal of a Notice of Denial of Removal
3000.790 Duties of the Board

SUBPART H: SURVEILLANCE AND SECURITY

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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART I: LIQUOR LICENSES

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

SUBPART J: OWNERSHIP AND ACCOUNTING RECORDS AND PROCEDURES

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

SUBPART K: SEIZURE AND DISCIPLINARY HEARINGS

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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

3000.1155 Transmittal of Record and Recommendation to the Board

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

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

SUBPART D: HEARINGS ON NOTICE OF DENIAL,
RESTRICTION OF LICENSE OR PLACEMENT ON EXCLUSION LIST

Section 3000.400 Coverage of Subpart

The rules contained in this Subpart shall govern all hearings requested upon issuance of a Notice of Denial or Restriction of licensure, Notice of Denial of an application for transfer of ownership interest, ~~or~~ a Notice of Placement on Exclusion List, or a Petition for Removal from the Board Exclusion List. Hearings under this Subpart are de novo proceedings for the creation of an evidentiary record regarding restriction of license, the placement of an individual on an exclusion list or an applicant's suitability for licensure or transfer. A hearing under this Subpart is not an appeal of Board action.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 3000.425 Proceedings

a) The burden of proof is at all times on the petitioner. The petitioner shall have the affirmative responsibility of establishing by clear and convincing evidence ~~either~~ that the petitioner is suitable for licensing or a transfer of ownership, ~~or~~ that the petitioner should not be excluded under Section 3000.720, or that the petitioner's name should be removed from the Board Exclusion List.

b) Any testimony shall be given under oath or affirmation.

c) Both parties may present an opening statement on the merits. Petitioner proceeds first.

d) The petitioner shall then present its case-in-chief.

e) Upon conclusion of the petitioner's case-in-chief, the respondent may move for a directed finding. The hearing officer may hear arguments on the motion or may grant, deny or reserve decision thereon, without argument.

f) If no motion for directed finding is made, or if such motion is denied or decision reserved thereon, the respondent may present its case.

g) Each party may conduct cross-examination of adverse witnesses.

h) Upon conclusion of the respondent's case, the petitioner may present evidence in rebuttal.

i) Both parties may present closing argument. The petitioner proceeds first, then the respondent and thereafter the petitioner may present rebuttal argument.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART G: EXCLUSION OF PERSONS

Section 3000.740 Petition for Removal from Exclusion List

a) Any person who has been placed on the Board Exclusion List may, after the expiration of one year from the date of placement on the list or from the conclusion of any hearing or appeal associated with placement on the list, whichever is later, petition the Board, in writing, and request that his or her name

be removed from the list. The petition shall be verified and state with specificity facts believed by the petitioner to constitute clear and convincing evidence for removal of his or her name from the list.

b) The Board shall either deny the petition or set the petition for hearing. The Board may deny a petition for removal from the Board Exclusion List if the petition fails to comply with any of the requirements of subsection (a) of this Section or if the facts contained in the petition are the same or substantially the same facts that the petitioner set forth in a prior exclusion action. In the event the Board elects to set the petition for hearing, the procedures specified in Subpart D of this Part, with the exception of Section 3000.405(a), (b), (c) and (d), shall apply.

c) Any information, including the record of evidence and testimony, if any, used by the Board in making its original determination to exclude petitioner may be considered by the Board, provided, however, that the record shall not be reopened.

d) The Board's denial of a petition for removal from the Exclusion List is a final decision of the Board.

~~Any person who has been placed on any Exclusion List may petition the Board in writing and request that his name be removed from this list.~~

(Source: Amended at 28 Ill. Reg. _____, effective _____)

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Police Training Act

2) Code Citation: 20 Ill. Adm. Code 1720

3)

Section Numbers:	Proposed Action:
1720.10	Amended
1720.15	Amended
1720.20	Amended
1720.25	Amended
1720.30	Amended
1720.35	Amended
1720.40	Amended
1720.50	Amended
1720.60	Amended
1720.70	Amended
1720.100	New Section
1720.110	New Section
1720.120	New Section
1720.130	New Section
1720.140	New Section
1720.150	New Section
1720.APPENDIX B	New Section

4) Statutory Authority: The Illinois Police Training Act, 50 ILCS 705/6.1, as amended by Public Act 93-655, effective January 20, 2004.

5) A Complete Description of the Subjects and Issues Involved: These proposed rules are intended to provide the procedural requirements for the filing of a verified complaint alleging that a police officer, while under oath, has knowingly and willfully made false statements as to a material fact going to an element of the offense of murder, resulting in decertification of the police officer.

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

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

8) Does this rulemaking contain incorporation by reference? No

9) Are there any other proposed rulemakings pending on this part? No

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF PROPOSED AMENDMENTS

10) Statement of Statewide Policy Objectives: This proposed rulemaking will not require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place and Matter in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. The Board will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Dr. Thomas Jurkanin
Executive Director
Illinois Law Enforcement Training and Standards Board
600 South Second Street
Suite 300
Springfield, Illinois 62704-2542

12) Initial Regulatory Flexibility Analysis

A) Types of entities affected: None

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: this particular rulemaking was not anticipated at the time of preparation and publication of the latest Regulatory Agendas.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments published in this issue of the *Illinois Register* on page 6479.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Identification and Listing of Hazardous Waste

2) Code citation: 35 Ill. Adm. Code 721

3) Section number: 721.105 — Proposed Action: Amend

4) Statutory authority: 415 ILCS 5/7.2, 22.4, and 27.

5) A complete description of the subjects and issues involved: The following briefly describes the subjects and issues involved in the larger rulemaking of which the amendments to Part 721 are a single segment. Also affected is 35 Ill. Adm. Code 739, which is covered by a separate notice in this issue of the *Illinois Register*. A comprehensive description is contained in the Board's opinion and order of April 1, 2004, proposing amendments in docket R04-16 for public comment, which opinion and order is available from the address below. As is explained in that opinion, the Board will receive public comment on the proposed amendments for 45 days from the date they appear in the *Illinois Register* before proceeding to adopt amendments based on this proposal.

This proceeding would update the Illinois RCRA Subtitle C hazardous waste rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) that appeared in the Federal Register during a single update period. The docket and time period that is involved in this proceeding is the following:

R04-16	Federal RCRA Subtitle C amendments that occurred during the period July 1, 2003 through December 31, 2003.

The R04-16 docket amends rules in Parts 721 and 739. Prior to discussing the specific changes made to this Part, the Board will describe the docket as a whole, since amendments to various Parts may be inter-related. The following table briefly summarizes the federal action in the update period:

July 30, 2003 (68 Fed. Reg. 44659)	USEPA adopted a number of corrective and clarifying amendments to the used oil management standards.

The Board included two federal actions that amended the Clean Water Act analytical methods, which are incorporated by reference in 35 Ill. Adm. Code 720.111.

July 21, 2003 (68 Fed. Reg. 43272)	USEPA approved new methods for microbiological analysis of water and wastewater.
September 19, 2003 (68 Fed. Reg. 54934)	USEPA corrected its July 21, 2003 approval of new methods for microbiological analysis of water and wastewater.

Review of these two federal actions, however, indicates that the Board will not need to update the incorporation of 40 C.F.R. 136 by reference to include them. The methods approved by USEPA relate exclusively to microbiological analysis of water and waste. Such microbiological analysis is not used to implement the RCRA Subtitle C hazardous waste regulations.

Thus, the Board is acting in this consolidated R04-16 docket on the following USEPA amendments:

July 30, 2003 (68 Fed. Reg. 44659)	USEPA adopted a number of corrective and clarifying amendments to the used oil management standards.

Specifically, the amendments to Part 721 implement segments of the federal corrective and clarifying amendments to the used oil rules.

Tables appear in the Board's opinion and order of April 1, 2004 in docket R04-16 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the April 1, 2004 opinion and order in docket R04-16.

Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

6) Will this proposed amendment replace any emergency amendment currently in effect?
No

7) Does this rulemaking contain an automatic repeal date?: No

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

8) Does this proposed amendment contain incorporations by reference? No. The segments of Part 721 that are involved in this proceeding include no incorporations by reference.

9) Are there any other amendments pending on this Part? No

10) 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) (2002)].

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R04-16 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago IL 60601

Please direct inquiries to the following person and reference Docket R04-16:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601
Phone: 312-814-6924
E-mail: mccambm@ipcb.state.il.us

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at http:\\www.ipcb.state.il.us.

12) Initial regulatory flexibility analysis:

A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that generate, transport, treat, store, or dispose of hazardous waste.

B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records.

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.

13) Regulatory agenda on which this rulemaking was summarized: January 2004

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 c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 721
IDENTIFICATION AND LISTING OF
HAZARDOUS WASTE

SUBPART A: GENERAL PROVISIONS

Section
721.101 Purpose and Scope
721.102 Definition of Solid Waste
721.103 Definition of Hazardous Waste
721.104 Exclusions
721.105 Special Requirements for Hazardous Waste Generated by Small Quantity Generators
721.106 Requirements for Recyclable Materials
721.107 Residues of Hazardous Waste in Empty Containers
721.108 PCB Wastes Regulated under TSCA
721.109 Requirements for Universal Waste

SUBPART B: CRITERIA FOR IDENTIFYING THE
CHARACTERISTICS OF HAZARDOUS WASTE
AND FOR LISTING HAZARDOUS WASTES

Section
721.110 Criteria for Identifying the Characteristics of Hazardous Waste
721.111 Criteria for Listing Hazardous Waste

SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

Section
721.120 General
721.121 Characteristic of Ignitability
721.122 Characteristic of Corrosivity
721.123 Characteristic of Reactivity
721.124 Toxicity Characteristic

SUBPART D: LISTS OF HAZARDOUS WASTE

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section
721.130 General
721.131 Hazardous Wastes from Nonspecific Sources
721.132 Hazardous Waste from Specific Sources
721.133 Discarded Commercial Chemical Products, Off-Specification Species, Container Residues, and Spill Residues Thereof
721.135 Wood Preserving Wastes
721.138 Comparable or Syngas Fuel Exclusion

721.APPENDIX A Representative Sampling Methods
721.APPENDIX B Method 1311 Toxicity Characteristic Leaching Procedure (TCLP)
721.APPENDIX C Chemical Analysis Test Methods
721.TABLE A Analytical Characteristics of Organic Chemicals (Repealed)
721.TABLE B Analytical Characteristics of Inorganic Species (Repealed)
721.TABLE C Sample Preparation/Sample Introduction Techniques (Repealed)
721.APPENDIX G Basis for Listing Hazardous Wastes
721.APPENDIX H Hazardous Constituents
721.APPENDIX I Wastes Excluded by Administrative Action
721.TABLE A Wastes Excluded by USEPA under 40 CFR 260.20 and 260.22 from Non-Specific Sources
721.TABLE B Wastes Excluded by USEPA under 40 CFR 260.20 and 260.22 from Specific Sources
721.TABLE C Wastes Excluded by USEPA under 40 CFR 260.20 and 260.22 from Commercial Chemical Products, Off-Specification Species, Container Residues, and Soil Residues Thereof
721.TABLE D Wastes Excluded by the Board by Adjusted Standard
721.APPENDIX J Method of Analysis for Chlorinated Dibenzo-p-Dioxins and Dibenzofurans (Repealed)
721.APPENDIX Y Table to Section 721.138
721.APPENDIX Z Table to Section 721.102

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in

R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July 17, 2003; amended in R04-16 at 28 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 721.105 Special Requirements for Hazardous Waste Generated by Small Quantity Generators

a) A generator is a conditionally exempt small quantity generator in a calendar month if it generates no more than 100 kilograms of hazardous waste in that month.

b) Except for those wastes identified in subsections (e), (f), (g) and (j) of this

Section, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under 35 Ill. Adm. Code 702, 703, 722 through 726, and 728, and the notification requirements of section 3010 of Resource Conservation and Recovery Act, provided the generator complies with the requirements of subsections (f), (g), and (j) of this Section.

c) When making the quantity determinations of this Part and 35 Ill. Adm. Code 722, the generator must include all hazardous waste that it generates, except the following hazardous waste:

1) Hazardous waste that is exempt from regulation under Section 721.104(c) through (f), 721.106(a)(3), 721.107(a)(1), or 721.108;

2) Hazardous waste that is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities, as defined in 35 Ill. Adm. Code 720.110;

3) Hazardous waste that is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under Section 721.106(c)(2);

4) Hazardous waste that is used oil managed under the requirements of Section 721.106(a)(4) and 35 Ill. Adm. Code 739;

5) Hazardous waste that is spent lead-acid batteries managed under the requirements of Subpart G of 35 Ill. Adm. Code 726; and

6) Hazardous waste that is universal waste managed under Section 721.109 and 35 Ill. Adm. Code 733.

d) In determining the quantity of hazardous waste it generates, a generator need not include the following:

1) Hazardous waste when it is removed from on-site storage;

2) Hazardous waste produced by on-site treatment (including reclamation) of its hazardous waste so long as the hazardous waste that is treated was counted once;

3) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.

e) If a generator generates acute hazardous waste in a calendar month in quantities greater than those set forth ~~below~~in subsections (e)(1) and (e)(2) of this Section, all quantities of that acute hazardous waste are subject to full regulation under 35 Ill. Adm. Code 702, 703, 722 through 726, and 728, and the notification requirements of section 3010 of the Resource Conservation and Recovery Act.~~:~~

1) A total of one kilogram of one or more of the acute hazardous wastes listed in Section 721.131, 721.132, or 721.133(e); or

2) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any one or more of the acute hazardous wastes listed in Section 721.131, 721.132, or 721.133(e).

BOARD NOTE: "Full regulation" means those regulations applicable to generators of greater than 1000 kg of non-acute hazardous waste in a calendar month.

f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in subsection (e)(1) or (e)(2) of this Section to be excluded from full regulation under this Section, the generator must comply with the following requirements:

1) 35 Ill. Adm. Code 722.111.

2) The generator may accumulate acute hazardous waste on-site. If the generator accumulates at any time acute hazardous wastes in quantities greater than set forth in subsection (e)(1) or (e)(2) of this Section, all of those accumulated wastes are subject to regulation under 35 Ill. Adm. Code 702, 703, 722 through 726, and 728, and the applicable notification requirements of section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(a), for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit.

3) A conditionally exempt small quantity generator may either treat or dispose of its acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:

A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;

B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;

C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;

D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or 40 CFR 258;

E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to the requirements of 40 CFR 257.5 through 257.30.

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (f)(3)(D) and (f)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

F) The facility is one that fulfills one of the following conditions:

i) It beneficially uses or reuses or legitimately recycles or reclaims its waste; or

ii) It treats its waste prior to beneficial use or reuse or legitimate recycling or reclamation; or

G) For universal waste managed under 35 Ill. Adm. Code 733 or 40 CFR 273, the facility is a universal waste handler or destination facility subject to the requirements of 35 Ill. Adm. Code 733 or 40 CFR 273.

g) In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of less than 100 kilograms of hazardous waste during a calendar month to be excluded from full regulation under this Section, the generator must comply with the following requirements:

1) 35 Ill. Adm. Code 722.111;

2) The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If it accumulates at any time more than a total of 1000 kilograms of the generator's hazardous waste, all of those accumulated wastes are subject to regulation under the special provisions of 35 Ill. Adm. Code 722 applicable to generators of between 100 kg and 1000 kg of hazardous waste in a calendar month, as well as the requirements of 35 Ill. Adm. Code 702, 703, 723 through 726, and 728, and the applicable notification requirements of Section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(d) for accumulation of wastes on-site begins for a small quantity generator when the accumulated wastes exceed 1000 kilograms;

3) A conditionally exempt small quantity generator may either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:

A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;

B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;

C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA under 40 CFR 271 (2002);

D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or 40 CFR 258;

E) The facility is permitted, licensed, or registered by a state to

manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to the requirements of 40 CFR 257.5 through 257.30;

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (g)(3)(D) and (g)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

F) The facility is one that fulfills the following conditions:

i) It beneficially uses or re-uses, or legitimately recycles or reclaims the small quantity generator's waste; or

ii) It treats its waste prior to beneficial use or re-use, or legitimate recycling or reclamation; or

G) For universal waste managed under 35 Ill. Adm. Code 733 or 40 CFR 273, the facility is a universal waste handler or destination facility subject to the requirements of 35 Ill. Adm. Code 733 or 40 CFR 273.

h) Hazardous waste subject to the reduced requirements of this Section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this Section, unless the mixture meets any of the characteristics of hazardous wastes identified in Subpart C of this Part.

i) If a small quantity generator mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this Section, the mixture is subject to full regulation.

j) If a conditionally exempt small quantity generator's hazardous wastes are mixed with used oil, the mixture is subject to 35 Ill. Adm. Code 739 ~~if it is destined to be burned for energy recovery~~. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated ~~if it is destined to be~~

~~burned for energy recovery~~.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Standards for the Management of Used Oil

2) Code citation: 35 Ill. Adm. Code 739

3)

Section numbers:	Proposed Action:
739.100, 739.110, 739.111	Amend
739.112, 739.120, 739.121	Amend
739.122, 739.123, 739.124	Amend
739.130, 739.131, 739.132	Amend
739.140, 739.141, 739.142	Amend
739.143, 739.144, 739.145	Amend
739.146, 739.147, 739.150	Amend
739.151, 739.152, 739.153	Amend
739.154, 739.155, 739.156	Amend
739.157, 739.158, 739.159	Amend
739.160, 739.161, 739.162	Amend
739.163, 739.164, 739.165	Amend
739.166, 739.167, 739.170	Amend
739.171, 739.172, 739.173	Amend
739.174, 739.175, 739.180	Amend
739.181, 739.182	Amend

4) Statutory authority: 415 ILCS 5/7.2, 22.4, and 27.

5) A complete description of the subjects and issues involved: The amendments to Part 739 are a single segment of a larger rulemaking that also affects 35 Ill. Adm. Code 721, which is covered by a separate notice in this issue of the *Illinois Register*. To save space, see a more detailed description of the subjects and issues involved in the larger rulemaking in this *Illinois Register* only in the answer to question 5 in the Notice of Proposed Amendments for 35 Ill. Adm. Code 721. A comprehensive description is contained in the Board's opinion and order of April 1, 2004, proposing amendments in docket R04-16 for public comment, which opinion and order is available from the address below. As is explained in that opinion, the Board will receive public comment on the proposed amendments for 45 days from the date they appear in the *Illinois Register* before proceeding to adopt amendments based on this proposal.

Specifically, the amendments to Part 739 implement segments of the federal corrective and clarifying amendments to the used oil rules.

Tables appear in the Board's opinion and order of April 1, 2004 in docket R04-16 that list numerous corrections and amendments that are not based on current federal

amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the April 1, 2004 opinion and order in docket R04-16.

Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date?: No

8) Do these proposed amendments contain incorporations by reference? Yes. Part 739 includes a number of incorporations by reference. At Sections 739.110(b)(1)(B), 739.144(c), 739.153(c), and 739.163(c), the format of the incorporation was altered to that used throughout all other parts of the hazardous waste regulations. The incorporation at this location was replaced with a reference to the incorporation of SW-846 by reference at 35 Ill. Adm. Code 720.111.

9) Are there any other amendments pending on this Part? No

10) 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) (2002)].

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R04-16 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

Please direct inquiries to the following person and reference Docket R04-16:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601
Phone: 312-814-6924
E-mail: mccambm@ipcb.state.il.us

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at http:\\www.ipcb.state.il.us.

12) Initial regulatory flexibility analysis:

A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that generate, transport, treat, store, or dispose of hazardous waste.

B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records.

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.

13) Regulatory agenda on which this rulemaking was summarized: January 2004

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 c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 739
STANDARDS FOR THE MANAGEMENT OF USED OIL

SUBPART A: DEFINITIONS

Section
739.100 Definitions

SUBPART B: APPLICABILITY

Section
739.110 Applicability
739.111 Used Oil Specifications~~oil specifications~~
739.112 Prohibitions

SUBPART C: STANDARDS FOR USED OIL GENERATORS

Section
739.120 Applicability
739.121 Hazardous Waste Mixing~~waste mixing~~
739.122 Used Oil Storage~~oil storage~~
739.123 On-Site Burning~~On-site burning~~ in Space Heaters~~space heaters~~
739.124 Off-Site Shipments~~Off-site shipments~~

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

Section
739.130 Do-It-Yourselfer Used Oil Collection Centers~~Do-it-yourselfer used oil collection centers~~
739.131 Used Oil Collection Centers ~~oil collection centers~~
739.132 Used Oil Aggregate Points Owned ~~oil aggregate points owned~~ by the Generator~~generator~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER AND TRANSFER FACILITIES

Section
739.140 Applicability
739.141 Restrictions on Transporters~~transporters~~ that Are Not Also Processors ~~are not also processors~~
739.142 Notification
739.143 Used Oil Transportation~~oil transportation~~
739.144 Rebuttable Presumption~~presumption~~ for Used Oil~~used oil~~
739.145 Used Oil Storage~~oil storage~~ at Transfer Facilities~~transfer facilities~~
739.146 Tracking
739.147 Management of Residues~~residues~~

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section
739.150 Applicability
739.151 Notification
739.152 General Facility Standards~~facility standards~~
739.153 Rebuttable Presumption~~presumption~~ for Used Oil~~used oil~~
739.154 Used Oil Management~~oil management~~
739.155 Analysis Plan~~plan~~
739.156 Tracking
739.157 Operating Record and Reporting~~record and reporting~~
739.158 Off-Site Shipments~~Off-site shipments~~ of Used Oil~~used oil~~
739.159 Management of Residues~~residues~~

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

Section
739.160 Applicability
739.161 Restriction on Burning~~burning~~
739.162 Notification
739.163 Rebuttable Presumption~~presumption~~ for Used Oil~~used oil~~
739.164 Used Oil Storage~~oil storage~~
739.165 Tracking
739.166 Notices
739.167 Management of Residues~~residues~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

Section
739.170 Applicability
739.171 Prohibitions
739.172 On-Specification Used Oil Fuel~~On-specification used oil fuel~~
739.173 Notification
739.174 Tracking
739.175 Notices

SUBPART I: STANDARDS FOR USE AS A
DUST SUPPRESSANT DISPOSAL OF USED OIL

Section
739.180 Applicability
739.181 Disposal
739.182 Use As~~as~~ a Dust Suppressant~~dust suppressant~~

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

SOURCE: Adopted in R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6931, effective April 26, 1994; amended in R94-17 at 18 Ill. Reg. 17616, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 10036, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 767, effective December 16, 1997; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2274, effective January 19, 1999; amended in R04-16 at 28 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 739.100 Definitions

Terms that are defined in 35 Ill. Adm. Code 720.110, 721.101, and 731.112 have the same meanings when used in this Part.

"Aboveground tank" means a tank used to store or process used oil that is not an underground storage tank, as defined in 35 Ill. Adm. Code 280.12.
BOARD NOTE: This definition is different from the definition for "aboveground~~Aboveground~~ tank" given in 35 Ill. Adm. Code 720.110. Although

the meanings are similar, the main distinction is that the definition for this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks that contain hazardous wastes. This~~The above~~ definition of aboveground tank is limited to this Part only.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Do-it-yourselfer used oil collection center" means any site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.

"Existing tank" means a tank that is used for the storage or processing of used oil and that is in operation, or for which installation had~~has~~ commenced on or prior to October 4, 1996~~the effective date of the authorized used oil program for the State in which the tank is located~~. Installation will be considered to have commenced if the owner or operator had~~has~~ obtained all federal, state, and local approvals or permits necessary to begin installation of the tank and if either of the following had occurred:

A continuous on-site installation program had~~has~~ begun, or

The owner or operator had~~has~~ entered into contractual obligations that cannot be canceled or modified without substantial loss for installation of the tank to be completed within a reasonable time.

BOARD NOTE: This definition is similar to the definition for "Existing tank system" in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the definition given above for "existing tank" in this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks systems that contain hazardous wastes. This~~The above~~ definition of existing tank is limited to this Part only.

"Household 'do-it-yourselfer' used oil" means oil that is derived from households, such as used oil generated by individuals who generate used oil through the maintenance of their personal vehicles.

BOARD NOTE: Household "'~~-~~do-it-yourselfer"'~~-~~ used oil is not subject to the State's special waste hauling permit requirements under Part 809.

"Household 'do-it-yourselfer' used oil generator" means an individual who generates household "do-it-yourselfer" used oil.

"New tank" means a tank that will be used to store or process used oil and for which installation had~~has~~ commenced after October 4, 1996~~the effective date of the authorized used oil program for the State in which the tank is located~~. BOARD NOTE: This definition is similar to the definition given for "New tank system" given in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the definition given above for "new tank" in this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates new tanks systems that~~which~~ contain hazardous wastes. This~~The above~~ definition of new tank is limited to this Part only.

"Petroleum refining facility" means an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes (i.e., facilities classified as SIC 2911).

"Processing" means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived product. Processing includes, but is not limited to the following: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation, and re-refining.

"Re-refining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition of still bottoms varies with column operation and feedstock.

"Tank" means any stationary device, designed to contain an accumulation of used oil that~~which~~ is constructed primarily of non-earthen materials, (e.g., wood, concrete, steel, plastic) which provide~~provides~~ structural support.

"Used oil" means any oil that has been refined from crude oil~~,~~ or any synthetic oil and~~,~~ that has been used and as a result of such use is contaminated by physical or chemical impurities.

"Used oil aggregation point" means any site or facility that accepts, aggregates, or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons. Used oil aggregation points may also accept used oil from household do-it-

yourselfers.

"Used oil burner" means a facility where used oil not meeting the specification requirements in Section 739.111 is burned for energy recovery in devices identified in Section 739.161(a).

"Used oil collection center" means any site or facility that is registered by the Agency to manage used oil and accepts or aggregates and stores used oil collected from used oil generators regulated under Subpart C of this Part that bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of Section 739.124. Used oil collection centers may also accept used oil from household do-it-yourselfers.

"Used oil fuel marketer" means any person that conducts either of the following activities:

Directs a shipment of off-specification used oil from their facility to a used oil burner; or

First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111.

"Used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

"Used oil processor" means a facility that processes used oil.

"Used oil transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to Section 739.120(b)(2). Transfer facilities that store used oil for more than 35 days are subject to regulation under Subpart F of this Part.

"Used oil transporter" means any person that transports used oil, any person that collects used oil from more than one generator and that transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but, with the following exception, may not process used oil. Transporters may conduct incidental processing operations that occur in the normal course of used oil

transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products or used oil fuel.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART B: APPLICABILITY

Section 739.110 Applicability

This Section identifies those materials that~~which~~ are subject to regulation as used oil under this Part. This Section also identifies some materials that are not subject to regulation as used oil under this Part, and indicates whether these materials may be subject to regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, 720 through 726, and 728.

a) Used oil. Used~~USEPA presumes that used~~ oil is presumed to be recycled, unless a used oil handler disposes of used oil~~,~~ or sends used oil for disposal. Except as provided in Section 739.111, the regulations of this Part apply to used oil~~,~~ and to materials identified in this Section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721~~. Subpart C~~.

b) Mixtures of used oil and hazardous waste.

1) Listed hazardous waste.

A) A mixture of used oil and hazardous waste that is listed in Subpart D of 35 Ill. Adm. Code 721~~. Subpart D~~ is subject to regulation as hazardous waste under 35 Ill. Adm. Code 703, 720 through 726, and 728, rather than as used oil under this Part.

B) Rebuttable presumption for used oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721~~. Subpart D~~. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111~~Edition III~~, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents

listed in Appendix H of 35 Ill. Adm. Code 721~~.Appendix H~~). ~~USEPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954, (202) 783-3238 (document number 955-001-00000-1).~~

i) This~~The~~ rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils or fluids. This~~The~~ presumption does apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner, or disposed.

ii) This~~The~~ rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. This~~The~~ rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

2) Characteristic hazardous waste. A mixture of used oil and hazardous waste that exhibits a hazardous waste characteristic identified in Subpart C of 35 Ill. Adm. Code 721~~.Subpart C~~ and a mixture of used oil and hazardous waste that is listed in Subpart D of this Part solely because it exhibits one or more of the characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721~~.Subpart C~~ is subject to the following:

A) Except as provided in subsection (b)(2)(C) of this Section, regulation as hazardous waste under 35 Ill. Adm. Code 703, 720 through 726, and 728 rather than as used oil under this Part, if the resultant mixture exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721~~.Subpart C~~; or

B) Except as provided in subsection (b)(2)(C) of this Section, regulation as used oil under this Part, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under Subpart C of 35 Ill. Adm. Code 721~~.Subpart C~~.

C) Regulation as used oil under this Part, if the mixture is of used oil

and a waste that~~which~~ is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resultant mixture does not exhibit the characteristic of ignitability under 35 Ill. Adm. Code 721.121.

3) Conditionally exempt small quantity generator hazardous waste. A mixture of used oil and conditionally exempt small quantity generator hazardous waste regulated under 35 Ill. Adm. Code 721.105 is subject to regulation as used oil under this Part.

c) Materials containing or otherwise contaminated with used oil.

1) Except as provided in subsection (c)(2) of this Section, the following is true of a material containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible so~~such~~ that no visible signs of free-flowing oil remain in or on the material:

A) The material is~~Is~~ not used oil~~,~~ and, thus, it is not subject to this Part, and

B) If applicable, the material is subject to the hazardous waste regulations of 35 Ill. Adm. Code 703, 705, 720 through 726, and 728.

2) A material containing or otherwise contaminated with used oil that is burned for energy recovery is subject to regulation as used oil under this Part.

3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this Part.

d) Mixtures of used oil with products.

1) Except as provided in subsection (d)(2) of this Section, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this Part.

2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the

used oil for use in the generator's own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of Subpart C of this Part.

e) Materials derived from used oil.

1) The following is true of materials~~Materials~~ that are reclaimed from used oil, which ~~that~~ are used beneficially, and which are not burned for energy recovery or used in a manner constituting disposal (e.g., re-refined lubricants)~~are~~:

A) The materials are not~~Not~~ used oil and thus are not subject to this Part, and

B) The materials are not~~Not~~ solid wastes and are thus not subject to the hazardous waste regulations of 35 Ill. Adm. Code 703, 720 through 726, and 728, as provided in 35 Ill. Adm. Code 721.103(e)(1).

2) Materials produced from used oil that are burned for energy recovery (e.g., used oil fuels) are subject to regulation as used oil under this Part.

3) Except as provided in subsection (e)(4) of this Section, the following is true of materials derived from used oil that are disposed of or used in a manner constituting disposal~~are~~:

A) The materials are not~~Not~~ used oil and thus are not subject to this Part, and

B) The materials are~~Are~~ solid wastes and thus are subject to the hazardous waste regulations of 35 Ill. Adm. Code 703, 720 through 726, and 728 if the materials are listed or identified as hazardous waste.

4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this Part.

f) Wastewater. Wastewater, the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the federal Clean Water Act (including wastewaters at facilities that~~which~~ have eliminated the discharge of wastewater),

contaminated with de minimis quantities of used oil are not subject to the requirements of this Part. For purposes of this subsection, "de minimis" quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

g) Used oil introduced into crude oil pipelines or a petroleum refining facility.

1) Used oil mixed with crude oil or natural gas liquids (e.g., in a production separator or crude oil stock tank) for insertion into a crude oil pipeline is exempt from the requirements of this Part. The used oil is subject to the requirements of this Part prior to the mixing of used oil with crude oil or natural gas liquids.

2) Mixtures of used oil and crude oil or natural gas liquids containing less than one percent~~1%~~ used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining process at a point prior to crude distillation or catalytic cracking are exempt from the requirements of this Part.

3) Used oil that is inserted into the petroleum refining process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of this Part, provided that the used oil contains less than one percent~~1%~~ of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion into the petroleum refining process, the used oil is subject to the requirements of this Part.

4) Except as provided in subsection (g)(5) of this Section, used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this Part only if the used oil meets the specification of Section 739.111. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this Part.

5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a

petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this Part. This exemption does not extend to used oil that is intentionally introduced into a hydrocarbon recovery system (e.g., by pouring collected used oil into the wastewater treatment system).

6) Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of this Part.

h) Used oil on vessels. Used oil produced on vessels from normal shipboard operations is not subject to this Part until it is transported ashore.

i) Used oil containing PCBs. Used oil containing PCBs, as defined at 40 CFR 761.3, incorporated by reference at 35 Ill. Adm. Code 720.111(b), at any concentration less than 50 ppm is subject to the requirements of this Part unless, because of dilution, it is regulated under federal 40 CFR 761 as a used oil containing PCBs at 50 ppm or greater. PCB-containing used~~Used~~ oil subject to the requirements of this Part may also be subject to the prohibitions and requirements of 40 CFR ~~Part~~ 761, including 40 CFR 761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this Part, but is ~~solely~~ subject to regulation under federal 40 CFR 761. No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this Part or federal 40 CFR 761.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.111 Used Oil Specifications~~oil specifications~~

Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under this Part unless it is shown not to exceed any of the allowable levels of the constituents and properties in the specification shown in the following table~~Table 1~~. Once used oil that is to be burned for energy recovery has been shown not to exceed any specification and the person making that showing complies with Sections 739.172, 739.173, and 739.174(b), the used oil is no longer subject to this Part.

~~Table 1~~ Used Oil ~~Not exceeding Any~~ Specification Levels~~Level Is Not Subject to this Part~~ When Burned for Energy Recovery[1]

Constituent/property	Allowable level

Arsenic	5 ppm maximum~~.~~
Cadmium	2 ppm maximum~~.~~
Chromium	10 ppm maximum~~.~~
Lead	100 ppm maximum~~.~~
Flash point	100 º F minimum~~.~~
Total halogens	4,000 ppm maximum [2]~~.~~

FOOTNOTE: [1] The specification does not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste (see Section 39.110(b)).

FOOTNOTE: [2] Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under Section 739.110(b)(1). Such used oil is subject to Subpart H of 35 Ill. Adm. Code 726,~~. Subpart H~~ rather than this Part, when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

NOTE: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.112 Prohibitions

a) Surface impoundment prohibition. Used oil must~~shall~~ not be managed in surface impoundments or waste piles, unless the units are subject to regulation under 35 Ill. Adm. Code 724 or 725.

b) Use as a dust suppressant. The use of used oil as a dust suppressant is prohibited~~, except when such activity takes place in one of the states listed in Section 739.182(c)~~.

c) Burning in particular units. Off-specification used oil fuel may be burned for energy recovery in only the following devices:

1) Industrial furnaces identified in 35 Ill. Adm. Code 720.110;

2) Boilers, as defined in 35 Ill. Adm. Code 720.110, that are identified as follows:

A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or

C) Used oil-fired space heaters provided that the burner meets the provisions of Section 739.123.

3) Hazardous waste incinerators subject to regulation under Subpart O of 35 Ill. Adm. Code 724~~.Subpart O~~ or 725~~.Subpart O~~.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART C: STANDARDS FOR USED OIL GENERATORS

Section 739.120 Applicability

a) General. This Subpart C ~~subpart~~ applies to all generators of used oil, except the following:

1) Household "do-it-yourselfer" used oil generators. Household "do-it-yourselfer" used oil generators are not subject to regulation under this Part.

2) Vessels. Vessels at sea or at port are not subject to this Subpart C. For purposes of this Subpart C, used oil produced on vessels from normal shipboard operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the persons ~~person(s)~~ removing or accepting used oil from the vessel are co-generators of the used oil and are both responsible for managing the waste in compliance with this Subpart C once the used oil is transported ashore. The co-generators may decide among themselves~~them~~ which party will fulfill the requirements of this Subpart C.

3) Diesel fuel. Mixtures of used oil and diesel fuel mixed by the generator of the used oil for use in the generator's own vehicles are not subject to this

Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil fuel is subject to the requirements of this Subpart C.

4) Farmers. Farmers who generate an average of 25 gallons per month or less of used oil from vehicles or machinery used on the farm in a calendar year are not subject to the requirements of this Part.

b) Other applicable provisions. A used oil generator that conducts any of the following activities is subject to the requirements of other applicable provisions of this Part, as indicated in subsections (b)(1) through (b)(5)~~below~~:

1) A generator that transports used oil, except under the self-transport provisions of Section 739.124(a) and (b), must~~shall~~ also comply with ~~739.~~Subpart E of this Part.

2) A generator that processes or re-refines used oil.

A) Except as provided in subsection (b)(2)(B) of this Section~~below~~, a generator that processes or re-refines used oil must~~shall~~ also comply with ~~739.~~Subpart F of this Part.

B) A generator that performs the following activities is not a used oil processor, provided that the used oil is generated on-site and is not being sent off-site to a burner of on- or off-specification used oil fuel:

i) Filtering, cleaning, or otherwise reconditioning used oil before returning it for reuse by the generator;

ii) Separating used oil from wastewater generated on-site to make the wastewater acceptable for discharge or reuse pursuant to Section 402 or 307(b) for the federal Clean Water Act (33 USC~~U.S.C.~~ 1317 or 1342), 40 CFR 403 through 499, or 35 Ill. Adm. Code 310 or 309, governing the discharge of wastewaters;

iii) Using oil mist collectors to remove small droplets of used oil from in-plant air to make plant air suitable for continued recirculation;

iv) Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove excessive oil to the extent possible pursuant to Section 739.110(c); or

v) Filtering, separating, or otherwise reconditioning used oil before burning it in a space heater pursuant to Section 739.123.

3) A generator that burns off-specification used oil for energy recovery, except under the on-site space heater provisions of Section 739.123, must~~shall~~ also comply with ~~739.~~Subpart G of this Part.

4) A generator that directs shipments of off-specification used oil from their facility to a used oil burner or first claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must~~shall~~ also comply with ~~739.~~Subpart H of this Part.

5) A generator that disposes of used oil, including the use of used oil as a dust suppressant, must~~shall~~ also comply with ~~739.~~Subpart I of this Part.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.121 Hazardous Waste Mixing~~waste mixing~~

a) Mixtures of used oil and hazardous waste must be managed in accordance with Section 739.110(b).

b) The rebuttable presumption for used oil of Section 739.110(b)(1)(B) applies to used oil managed by generators. Under the rebuttable presumption for used oil of Section 739.110(b)(1)(B), used oil containing greater than 1,000 ppm total halogens is presumed to be a hazardous waste and thus must be managed as hazardous waste and not as used oil unless the presumption is rebutted. However, the rebuttable presumption does not apply to certain metalworking oils and fluids and certain used oils removed from refrigeration units.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.122 Used Oil Storage~~oil storage~~

A used oil generator is~~Used oil generators are~~ subject to all applicable federal Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart C. A used oil generator is~~Used oil generators are~~ also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart C.

a) Storage units. A used oil generator may~~Used oil generators shall~~ not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.

b) Condition of units. The following must be true of containers~~Containers~~ and aboveground tanks used to store used oil at a generator facility~~facilities must be~~:

1) The containers must be in~~In~~ good condition (no severe rusting, apparent structural defects or deterioration); and

2) The containers may not be~~Not~~ leaking (no visible leaks).

c) Labels.

1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

2) Fill pipes used to transfer used oil into underground storage tanks at generator facilities must be labeled or marked clearly with the words "Used Oil."

d) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of 40 CFR 280, Subpart F and which has occurred after October 4, 1996, a generator must~~shall~~ perform the following cleanup steps:
BOARD NOTE: Corresponding 40 CFR 279.22(d) applies to releases that "occurred after the effective date of the authorized used oil program for the state~~State~~ in which the release is located." The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of

the used oil program in the authorized state~~State~~ in which the release is located," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

1) Stop the release;

2) Contain the released used oil;

3) Properly clean up and manage the released used oil and other materials; and

4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.123 On-Site Burning~~On-site burning~~ in Space Heaters~~space heaters~~

A generator~~Generators~~ may burn used oil in used oil-fired space heaters provided that the following conditions are fulfilled:

a) The heater burns only used oil that the owner or operator generates or used oil received from household do-it-yourself used oil generators;

b) The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and

c) The combustion gases from the heater are vented to the ambient air.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.124 Off-Site Shipments~~Off-site shipments~~

Except as provided in subsections (a) through (c) of this Section, a generator must~~generators shall~~ ensure that its~~their~~ used oil is transported only by transporters that have obtained a USEPA~~U.S. EPA~~ identification number and an Illinois special waste identification number~~numbers~~ pursuant to 35 Ill. Adm. Code 809.
BOARD NOTE: A generator that qualifies for an exemption under Section 739.124(a) through (c) may still be subject to the State's special waste hauling permit requirements under 35 Ill. Adm. Code 809.

a) Self-transportation of small amounts to registered collection centers. A generator~~Generators~~ may transport, without a USEPA~~U.S. EPA~~ identification number and an Illinois special waste identification number, used oil that is generated at the generator's site and used oil collected from household do-it-yourselfers to a used oil collection center provided that the following conditions are fulfilled:

1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;

2) The generator transports no more than 55 gallons of used oil at any time; and

3) The generator transports the used oil to a used oil collection center that has registered by written notification with the Agency to manage used oil. This notification must~~shall~~ include information sufficient for the Agency to identify, locate and communicate with the facility. The notification must~~shall~~ be submitted on forms provided by the Agency.

b) Self-transportation of small amounts to aggregation points owned by the generator. A generator~~Generators~~ may transport, without a USEPA~~U.S. EPA~~ identification number and an Illinois special waste identification number, used oil that is generated at the generator's site to an aggregation point provided that the following conditions are fulfilled:

1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;

2) The generator transports no more than 55 gallons of used oil at any time; and

3) The generator transports the used oil to an aggregation point that is owned or operated by the same generator.

c) Tolling arrangements. A used oil generator~~Used oil generators~~ may arrange for used oil to be transported by a transporter without a USEPA~~U.S. EPA~~ identification number and an Illinois special waste identification number if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the processor to the generator for use as a lubricant, cutting oil,

or coolant. The contract (known as a "tolling arrangement") must indicate the following information:

1) The type of used oil and the frequency of shipments;

2) That the vehicle used to transport the used oil to the processing facility and to deliver recycled used oil back to the generator is owned and operated by the used oil processor; and

3) That reclaimed oil will be returned to the generator.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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

Section 739.130 Do-It-Yourselfer Used~~Do-it-yourselfer used~~ Oil Collection Centers~~oil collection centers~~

a) Applicability. This Section applies to owners or operators of all do-it-yourselfer (DIY) used oil collection centers. A DIY used oil collection center is any site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.

b) DIY used oil collection center requirements. Owners or operators of all DIY used oil collection centers must comply with the generator standards in Subpart C of this Part.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.131 Used Oil Collection Centers~~oil collection centers~~

a) Applicability. This Section applies to owners or operators of used oil collection centers. A used oil collection center is any site or facility that accepts, aggregates or stores used oil collected from used oil generators regulated under Subpart C of this Part who bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of Section 739.124(a). Used oil collection centers may also accept used oil from household do-it-yourselfers.

BOARD NOTE: A generator who qualifies for an exemption under Section

739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

b) Used oil collection center requirements. Owners or operators of all used oil collection centers must do the following:

1) Comply with the generator standards in Subpart C of this Part; and

2) Be registered by the Agency to manage used oil. The used oil collection center must~~shall~~ register by written notification with the Agency to manage used oil. This notification must~~shall~~ include information sufficient for the Agency to identify, locate and communicate with the facility. The notification must~~shall~~ be submitted on forms provided by the Agency.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.132 Used Oil Aggregation Points Owned~~oil aggregation points owned~~ by the Generator~~generator~~

a) Applicability. This Section applies to owners or operators of all used oil aggregation points. A used oil aggregation point is any site or facility that accepts, aggregates, or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons under the provisions of Section 739.124(b). A used~~Used~~ oil aggregation point~~points~~ may also accept used oil from household do-it-yourselfers.

BOARD NOTE: A generator who qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

b) Used oil aggregation point requirements. Owners or operators of all used oil aggregation points must comply with the generator standards in Subpart C of this Part.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER

Section 739.140 Applicability

a) General. Except as provided in subsections (a)(1) through (a)(4) of this Section, this Subpart E applies to all used oil transporters. A used oil transporter is a person~~Used oil transporters are persons~~ that transports~~transport~~ used oil, a person~~persons~~ that collects~~collect~~ used oil from more than one generator and transports~~transport~~ the collected oil, and an owner or operator~~owners and operators~~ of a used oil transfer facility~~facilities~~.

1) This Subpart E does not apply to on-site transportation.

2) This Subpart E does not apply to a generator~~generators~~ that transports~~transport~~ shipments of used oil totaling~~totalling~~ 55 gallons or less from the generator to a used oil collection center as specified in Section 739.124(a).

3) This Subpart E does not apply to a generator~~generators~~ that transports~~transport~~ shipments of used oil totaling~~totalling~~ 55 gallons or less from the generator to a used oil aggregation point owned or operated by the same generator as specified in Section 739.124(b).

4) This Subpart E does not apply to transportation of used oil from household do-it-yourselfers to a regulated used oil generator, collection center, aggregation point, processor, or burner subject to the requirements of this Part. Except as provided in subsections (a)(1) through (a)(3) of this Section, this Subpart E does, however, apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected.
BOARD NOTE: A generator that qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

b) Imports and exports. A transporter~~Transporters~~ that imports~~import~~ used oil from abroad or export used oil outside of the United States are subject to the requirements of this Subpart E from the time the used oil enters and until the time it exits the United States.

c) Trucks used to transport hazardous waste. Unless trucks previously used to transport hazardous waste are emptied as described in 35 Ill. Adm. Code 721.107 prior to transporting used oil, the used oil is considered to have been mixed with the hazardous waste and must be managed as hazardous waste unless, under the provisions of Section 739.110(b), the hazardous waste and used oil mixture is determined not to be hazardous waste.

d) Other applicable provisions. A used oil transporter~~Used oil transporters~~ that conducts~~conduct~~ the following activities are also subject to other applicable provisions of this Part as indicated in subsections (d)(1) through (d)(5) of this Section:

1) A transporter~~Transporters~~ that generates~~generate~~ used oil must~~shall~~ also comply with Subpart C of this Part;

2) A transporter~~Transporters~~ that processes~~process~~ or re-fines~~re-refine~~ used oil, except as provided in Section 739.141, must~~shall~~ also comply with Subpart F of this Part;

3) A transporter~~Transporters~~ that burns~~burn~~ off-specification used oil for energy recovery must~~shall~~ also comply with Subpart G of this Part;

4) A transporter~~Transporters~~ that directs~~direct~~ shipments of off-specification used oil from its~~their~~ facility to a used oil burner or first claims~~claim~~ that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must~~shall~~ also comply with Subpart H of this Part; and

5) A transporter~~Transporters~~ that disposes~~dispose~~ of used oil, including the use of used oil as a dust suppressant, must~~shall~~ also comply with Subpart I of this Part.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.141 Restrictions on Transporters~~transporters~~ that Are Not Also Processors~~are not also processors~~

a) A used oil transporter~~Used oil transporters~~ may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in subsection (b) of this Section, a used oil transporter~~used oil transporters~~ may not

process used oil unless they also comply with the requirements for processors in Subpart F of this Part.

b) A transporter~~Transporters~~ may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products unless it~~they~~ also complies~~comply~~ with the processor requirements in Subpart F of this Part.

c) A transporter~~Transporters~~ of used oil that is removed from oil-bearing electrical transformers and turbines and which is filtered by the transporter or at a transfer facility prior to being returned to its original use is~~are~~ not subject to the processor and re-refiner requirements in Subpart F of this Part~~739.Subpart F~~.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.142 Notification

a) Identification numbers. A used oil transporter that has not previously complied with the notification requirements of RCRA Section 3010 must~~shall~~ comply with these requirements and obtain a USEPA~~U.S. EPA~~ identification number pursuant to RCRA Section 3010 and an Illinois special waste identification number.

b) Mechanics of notification.

1) A used oil transporter that has not received a USEPA~~U.S. EPA~~ identification number may obtain one by notifying USEPA~~U.S. EPA~~ Region 5~~V~~ of its used oil activity by submitting either of the following:

A) A completed USEPA~~U.S. EPA~~ Form 8700-12 (To obtain ordering information for USEPA~~U.S. EPA~~ Form 8700-12 call the RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or

B) A letter requesting a USEPA~~U.S. EPA~~ identification number. (Call the RCRA/Superfund Hotline to determine where to send a letter requesting a USEPA~~U.S. EPA~~ identification number.) The letter should include the following information:

i) The transporter company name;

ii) The owner of the transporter company;

iii) The mailing address for the transporter;

iv) The name and telephone number for the transporter point of contact;

v) The type of transport activity (i.e., transport only, transport and transfer facility, or transfer facility only);

vi) The location of all transfer facilities at which used oil is stored;

vii) The name and telephone number for a contact at each transfer facility.

2) A used oil transporter that has not received an Illinois special waste identification number may obtain one pursuant to 35 Ill. Adm. Code 809 by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, 1021 North Grand Avenue,~~2200 Churchill Road,~~ Springfield, Illinois 62794-9276~~62706~~ (telephone: 217-782-6761).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.143 Used Oil Transportation~~oil transportation~~

a) Deliveries. A used oil transporter must~~shall~~ deliver all used oil received to one of the following:

1) Another used oil transporter, provided that the transporter has obtained a USEPA~~U.S. EPA~~ identification number and an Illinois special waste identification number;

2) A used oil processing facility that has obtained a USEPA~~U.S. EPA~~ identification number and an Illinois special waste identification number;

3) An off-specification used oil burner facility that has obtained a USEPA~~U.S. EPA~~ identification number and an Illinois special waste identification number; or

4) An on-specification used oil burner facility.

b) U.S. DOT requirements. A used oil transporter must~~shall~~ comply with all applicable requirements under the U.S. Department of Transportation in 49 CFR ~~parts~~ 171 through 180. A person transporting used oil that meets the definition of a hazardous material in 49 CFR 171.8 must~~shall~~ comply with all applicable U.S. Department of Transportation Hazardous Materials Regulations in 49 CFR ~~Parts~~ 171 through 180.

c) Used oil discharges.

1) In the event of a discharge of used oil during transportation, the transporter must~~shall~~ take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge area).

2) If a discharge of used oil occurs during transportation and an official (State or local government or a Federal Agency) acting within the scope of official responsibilities determines that immediate removal of the used oil is necessary to protect human health or the environment, that official may authorize the removal of the used oil by a transporter that does not have a USEPA~~U.S. EPA~~ identification number and an Illinois special waste identification number.

3) An air, rail, highway, or water transporter that has discharged used oil must do the following~~shall~~:

A) Give notice, if required by federal 49 CFR 171.15 to the National Response Center (800-424-8802 or 202-426-2675); and

B) Report in writing as required by federal 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590.

4) A water transporter that has discharged used oil must~~shall~~ give notice as required by federal 33 CFR 153.203.

5) A transporter must~~shall~~ clean up any used oil discharged that occurs during transportation or take such action as may be required or approved

by federal, state, or local officials so that the used oil discharge no longer presents a hazard to human health or the environment.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.144 Rebuttable Presumption~~presumption~~ for Used Oil~~used oil~~

a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(ii), the used oil transporter must~~shall~~ determine whether the total halogen content of used oil being transporter or stored at a transfer facility is above or below 1,000 ppm.

b) The transporter must~~shall~~ make this determination by the following means:

1) Testing the used oil; or

2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.

c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721~~.Subpart D~~. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111~~Edition III~~, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721~~.Appendix H)~~. ~~U.S. EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, PO Box 371954, Pittsburgh, PA 15250-7954. (202) 783-3238 (document number 955-001-00000-1).~~

1) The rebuttable presumption does not apply to metalworking oils and fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils and fluids. The presumption does apply to metalworking oils and fluids if such oils and fluids are recycled in any other manner, or disposed.

2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFC

are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

d) Record retention. Records of analyses conducted or information used to comply with subsections (a), (b), and (c) of this Section must be maintained by the transporter for at least three~~3~~ years.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.145 Used Oil Storage~~oil storage~~ at Transfer Facilities~~transfer facilities~~

A used oil transporter is subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart E. A used oil transporter is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart.

a) Applicability. This Section applies to used oil transfer facilities. Used oil transfer facilities are transportation-related~~transportation related~~ facilities including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. A transfer facility~~Transfer facilities~~ that store used oil for more than 35 days are subject to regulation under Subpart F.

b) Storage units. An owner or operator~~Owners or operators~~ of a used oil transfer facility~~facilities~~ may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.

c) Condition of units. The following must be true of containers~~Containers~~ and aboveground tanks used to store used oil at a transfer facility~~facilities must be~~:

1) The containers must be in~~In~~ good condition (no severe rusting, apparent structural defects or deterioration); and

2) The containers may not be~~Not~~ leaking (no visible leaks).

d) Secondary containment for containers. Containers used to store used oil at transfer facility~~facilities~~ must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dikes, berms, or retaining walls; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

e) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store used oil at a transfer facility~~facilities~~ must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

f) Secondary containment for new aboveground tanks. New aboveground tanks used to store used oil at a transfer facility~~facilities~~ must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

g) Labels.

1) Containers and aboveground tanks used to store used oil at transfer facilities must be labeled or marked clearly with the words "Used Oil."

2) Fill pipes used to transfer used oil into underground storage tanks at transfer facilities must be labeled or marked clearly with the words "Used Oil."

h) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of 40 CFR 280, Subpart F and which has occurred after October 4, 1996, an owner or operator of a transfer facility must~~shall~~ perform the following cleanup steps:
BOARD NOTE: Corresponding 40 CFR 279.45(h) applies to releases that "occurred after the effective date of the authorized used oil program for the state~~State~~ in which the release is located." The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the

authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized state~~State~~ in which the release is located," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

1) Stop the release;

2) Contain the released used oil;

3) Properly clean up and manage the released used oil and other materials; and

4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.146 Tracking

a) Acceptance. A used oil transporter must~~Used oil transporters shall~~ keep a record of each used oil shipment accepted for transport. Records for each shipment must include the following:

1) The name and address of the generator, transporter, or processor that provided the used oil for transport;

2) The USEPA~~U.S. EPA~~ identification number and Illinois special waste identification number (if applicable) of the generator, transporter, or processor that provided the used oil for transport;

3) The quantity of used oil accepted;

4) The date of acceptance; and

5) The signature.

A) Except as provided in subsection (a)(5)(B) of this Section~~below~~, the signature, dated upon receipt of the used oil, of a representative

of the generator, transporter, or processor or re-refiner that provided the used oil for transport.

B) An intermediate rail transporter is not required to sign the record of acceptance.

b) Deliveries. A used oil transporter must~~Used oil transporters shall~~ keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor, or disposal facility. Records of each delivery must include the following:

1) The name and address of the receiving facility or transporter;

2) The USEPA~~U.S. EPA~~ identification number and Illinois special waste identification number of the receiving facility or transporter;

3) The quantity of used oil delivered;

4) The date of delivery;

5) The signature.

A) Except as provided in subsection (b)(5)(B) of this Section~~below~~, the signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter.

B) An intermediate rail transporter is not required to sign the record of acceptance.

c) Exports of used oil. A used oil transporter must~~Used oil transporters shall~~ maintain the records described in subsections (b)(1) through (b)(4) of this Section for each shipment of used oil exported to any foreign country.

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

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.147 Management of Residues~~residues~~

Transporters who generate residues from the storage or transport of used oil must manage the residues as specified in Section 739.110(e).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section 739.150 Applicability

a) The requirements of this Subpart F apply to owners and operators of facilities that process used oil. Processing means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes, but is not limited to the following: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation, and re-refining. The requirements of this Subpart F do not apply to the following:

1) A transporter~~Transporters~~ that conducts~~conduct~~ incidental processing operations that occur during the normal course of transportation, as provided in Section 739.141; or

2) A burner~~Burners~~ that conducts~~conduct~~ incidental processing operations that occur during the normal course of used oil management prior to burning, as provided in Section 739.161(b).

b) Other applicable provisions. A used~~Used~~ oil processor that conducts~~processors who conduct~~ the following activities are also subject to the requirements of other applicable provisions of this Part, as indicated in subsections (b)(1) through (b)(5) of this Section.

1) A processor that generates~~Processors who generate~~ used oil must also comply with Subpart C of this Part;

2) A processor that transports~~Processors who transport~~ used oil must also comply with Subpart E of this Part;

3) Except as provided in subsections (b)(3)(A) and (b)(3)(B) of this Section, a processor that burns ~~processors who burn~~ off-specification used oil for energy recovery must also comply with Subpart G of this Part. Processors

burning used oil for energy recovery under the following conditions are not subject to Subpart G of this Part:

A) The used oil is burned in an on-site space heater that meets the requirements of Section 739.123; or

B) The used oil is burned for purposes of processing used oil, which is considered burning incidentally to used oil processing;

4) A processor that directsProcessors who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H of this Part; and

5) A processors that disposesProcessors who dispose of used oil, including the use of used oil as a dust suppressant, also must comply with Subpart I of this Part.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.151 Notification

a) Identification numbers. A used oil processor or re-refiner that has not previously complied with the notification requirements of RCRA Section 3010 mustshall and obtain a USEPAU.S. EPA identification number pursuant to RCRA Section 3010 and an Illinois special waste identification number.

b) Mechanics of notification.

1) A used oil processor or re-refiner that has not received a USEPAU.S. EPA identification number may obtain one by notifying USEPAU.S. EPA Region 5V of its used oil activity by submitting either of the following:

A) A completed USEPAU.S. EPA Form 8700-12 (To obtain ordering information for USEPAU.S. EPA Form 8700-12 call the RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or

B) A letter requesting a USEPAU.S. EPA identification number. (Call the RCRA/Superfund Hotline to determine where to send a

letter requesting a USEPA~~U.S. EPA~~ identification number.) The letter should include the following information:

i) The processor or re-refiner company name;

ii) The owner of the processor or re-refiner company;

iii) The mailing address for the processor or re-refiner;

iv) The name and telephone number for the processor or re-refiner point of contact;

v) The type of transport activity (i.e., transport only, transport and transfer facility, or transfer facility only);

vi) The location of all transfer facilities at which used oil is stored;

vii) The name and telephone number for a contact at each transfer facility.

2) A used oil processor or re-refiner that has not received an Illinois special waste identification number may obtain one by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, 1021 North Grand Avenue,~~2200 Churchill Road,~~ Springfield, Illinois 62794-9276~~62706~~ (telephone: 217-782-6761).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.152 General Facility Standards ~~facility standards~~

a) Preparedness and prevention. An owner or operator~~Owners and operators~~ of a used oil processing or re-refining facility must~~processors and re-refiners facilities shall~~ comply with the following requirements:

1) Maintenance and operation of a facility. All facilities~~Facilities~~ must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water that~~which~~ could threaten human health or the environment.

2) Required equipment. All facilities must be equipped with the following, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified in subsections (a)(2)(A) through (a)(2)(D) of this Section:

A) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

B) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;

C) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

D) Water at adequate volume and pressure to supply water hose streams, ~~or~~ foam producing equipment, ~~or~~ automatic sprinklers, or water spray systems.

3) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

4) Access to communications or alarm system.

A) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in subsection (a)(2) of this Section.

B) If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device,

such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required in subsection (a)(2) of this Section.

5) Required aisle space. The owner or operator must~~shall~~ maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

6) Arrangements with local authorities.

A) The owner or operator must~~shall~~ attempt to make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:

i) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

ii) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

iii) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and

iv) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses that~~which~~ could result from fires, explosions, or releases at the facility.

B) Where State or local authorities decline to enter into such arrangements, the owner or operator must~~shall~~ document the refusal in the operating record.

b) Contingency plan and emergency procedures. An owner or operator~~Owners and operators~~ of a used oil processing or refining facility must~~processors and re-refiners facilities shall~~ comply with the following requirements:

1) Purpose and implementation of contingency plan.

A) Each owner or operator must~~shall~~ have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water.

B) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of used oil that~~which~~ could threaten human health or the environment.

2) Content of contingency plan.

A) The contingency plan must describe the actions facility personnel must~~shall~~ take to comply with subsections (b)(1) and (b)(6) of this Section in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water at the facility.

B) If the owner or operator has already prepared a Spill Prevention Control and Countermeasures (SPCC) Plan in accordance with federal 40 CFR 112~~,~~ or 40 CFR 300, or some other emergency or contingency plan, the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this Part.

C) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to subsection (a)(6) of this Section.

D) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subsection (b)(5) of this Section), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

E) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

F) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signals~~signal(s)~~ to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of used oil or fires).

3) Copies of contingency plan. Copies~~A copy~~ of the contingency plan and all revisions to the plan must be disposed of as follows:

A) Maintained at the facility; and

B) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

4) Amendment of contingency plan. The contingency plan must be reviewed, and immediately amended, if necessary, whenever one of the following occurs:

A) Applicable regulations are revised;

B) The plan fails in an emergency;

C) The facility changes − in its design, construction, operation,

maintenance, or other circumstances − in a way that materially increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;

D) The list of emergency coordinators changes; or

E) The list of emergency equipment changes.

5) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must~~shall~~ be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

BOARD NOTE: USEPA~~U.S. EPA~~ cited the following as guidance: "The emergency coordinator's responsibilities are more fully spelled out in (subsection (b)(6) of this Section~~below~~). Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of used oil handled by the facility, and type and complexity of the facility."

6) Emergency procedures.

A) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) must~~shall~~ immediately do the following:

i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

ii) Notify appropriate State or local agencies with designated response roles if their help is needed.

B) Whenever there is a release, fire, or explosion, the emergency coordinator must~~shall~~ immediately identify the character, exact

source, amount, and a real extent of any released materials. He or she may do this by observation or review of facility records of manifests and, if necessary, by chemical analysts.

C) Concurrently, the emergency coordinator must~~shall~~ assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water of chemical agents used to control fire and heat-induced explosions).

D) If the emergency coordinator determines that the facility has had a release, fire, or explosion that~~which~~ could threaten human health, or the environment, outside the facility, he or she must~~shall~~ report his findings as follows:

i) If his assessment indicated that evacuation of local areas may be advisable, he or she must~~shall~~ immediately notify appropriate local authorities. He or she must~~shall~~ be available to help appropriate officials decide whether local areas should be evacuated; and

ii) He must~~shall~~ immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under federal 40 CFR 300), or the National Response Center (using their 24-hour toll free number (800) 424-8802). The report must include the following information: name~~Name~~ and telephone number of reporter; name~~Name~~ and address of facility; time~~Time~~ and type of incident (e.g., release, fire); name~~Name~~ and quantity of materials~~material(s)~~ involved, to the extent known; the~~The~~ extent of injuries, if any; and the possible hazards to human health, or the environment, outside the facility.

E) During an emergency, the emergency coordinator must~~shall~~ take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or

hazardous waste at the facility. These measures must include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.

F) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator must~~shall~~ monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

G) Immediately after an emergency, the emergency coordinator must~~shall~~ provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

H) The emergency coordinator must~~shall~~ ensure that the following occur, in the affected areas~~area(s)~~ of the facility:

i) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and

ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

~~iii)~~The owner or operator must~~shall~~ notify the Agency, and all other appropriate State and local authorities that the facility is in compliance with subsections (b)(6)(H)(i) and (b)(6)(H)(ii) of this Section before operations are resumed in the affected areas~~area(s)~~ of the facility.

I) The owner or operator must~~shall~~ note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, it must~~shall~~ submit a written report on the incident to USEPA Region 5~~the Regional Administrator~~. The report must include the following:

i) The name, address, and telephone number of the owner or operator;

ii) The name, address, and telephone number of the facility;

iii) The date, time, and type of incident (e.g., fire, explosion);

iv) The name and quantity of materials~~material(s)~~ involved;

v) The extent of injuries, if any;

vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

vii) The estimated quantity and disposition of recovered material that resulted from the incident.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.153 Rebuttable Presumption~~presumption~~ for Used Oil~~used oil~~

a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(ii), the owner or operator of a used oil processing facility must~~shall~~ determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.

b) The owner or operator must~~shall~~ make this determination by the following means:

1) Testing the used oil; or

2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.

c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721~~.Subpart D~~. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111~~Edition III~~, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721~~.Appendix H)~~. ~~U.S. EPA Publication SW-846, Third Edition, is available~~

~~from the Government Printing Office, Superintendent of Documents, PO Box 371954, Pittsburgh, PA 15250-7954. (202) 783-3238 (document number 955-001-00000-1).~~

1) The rebuttable presumption does not apply to metalworking oils and fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils and fluids. The presumption does apply to metalworking oils and fluids if such oils and fluids are recycled in any other manner, or disposed.

2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFC are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.154 Used Oil Management~~oil management~~

A used oil processor is subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart F. A used oil processor or re-refiner is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart F.

a) Management units. A used ~~Used~~ oil processor may~~processors shall~~ not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.

b) Condition of units. The following must be true of containers~~Containers~~ and aboveground tanks used to store or process used oil at a processing facility~~facilities must be~~:

1) The containers must be in~~In~~ good condition (no severe rusting, apparent structural defects or deterioration); and

2) The containers may not be~~Not~~ leaking (no visible leaks).

c) Secondary containment for containers. Containers used to store or process used

oil at processing and re-refining facilities must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

d) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil,

groundwater, or surface water.

e) Secondary containment for new aboveground tanks. New aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

f) Labels.

1) Containers and aboveground tanks used to store used oil at processing facilities must be labeled or marked clearly with the words "Used Oil."

2) Fill pipes used to transfer used oil into underground storage tanks at processing facilities must be labeled or marked clearly with the words "Used Oil."

g) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of 40 CFR 280, Subpart F and which has occurred after October 4, 1996, a processor must~~shall~~ perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.54(g) applies to releases that "occurred after the effective date of the authorized used oil program for the state~~State~~ in which the release is located." The Board adopted the used oil

standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized state~~State~~ in which the release is located," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

1) Stop the release;

2) Contain the released used oil;

3) Properly clean up and manage the released used oil and other materials; and

4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

h) Closure.

1) Aboveground tanks. An owner or operator~~Owners and operators~~ that stores ~~store~~ or processes~~process~~ used oil in aboveground tanks must~~shall~~ comply with the following requirements:

A) At closure of a tank system, the owner or operator must~~shall~~ remove or decontaminate used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under this chapter.

B) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in subsection (h)(1)(A) of this Section, then the owner or operator must~~shall~~ close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills (35 Ill. Adm. Code 725.410).

2) Containers. An owner or operator~~Owners and operators~~ that stores~~store~~ used oil in containers must~~shall~~ comply with the following requirements:

A) At closure, containers holding used oils or residues of used oil must be removed from the site;

B) The owner or operator must~~shall~~ remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste 35 Ill. Adm. Code 721.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.155 Analysis plan

An owner or operator~~Owners or operators~~ of a used oil processing or~~and~~ re-refining facility~~facilities~~ must develop and follow a written analysis plan describing the procedures that will be used to comply with the analysis requirements of Section 739.153 and, if applicable, Section 739.172. The owner or operator must keep the plan at the facility.

a) Rebuttable presumption for used oil in Section 739.153. At minimum, the plan must specify the following:

1) Whether sample analyses or knowledge of the halogen content of the used oil will be used to make this determination.~~.~~

2) If sample analyses are used to make this determination, the following requirements must be fulfilled:

A) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either of the following:

i) One of the sampling methods in Appendix I of 35 Ill. Adm. Code 721~~. Appendix I~~; or

ii) A method shown to be equivalent under 35 Ill. Adm. Code 720.120 and 720.121;

B) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

C) The methods used to analyze used oil for the parameters specified in Section 739.153; and

3) The type of information that will be used to determine the halogen content of the used oil.

b) On-specification used oil fuel in Section 739.172. At a minimum, the plan must specify the following if Section 739.172 is applicable:

1) Whether sample analyses or other information will be used to make this determination;

2) If sample analyses are used to make this determination, the following requirements must be fulfilled:

A) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either of the following:

i) One of the sampling methods in Appendix I of 35 Ill. Adm. Code 721~~. Appendix I~~; or

ii) A method shown to be equivalent under 35 Ill. Adm. Code 720.120 and 720.121;

B) Whether used oil will be sampled and analyzed prior to or after any processing;

C) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

D) The methods used to analyze used oil for the parameters specified in Section 739.172; and

3) The type of information that will be used to make the on-specification used oil fuel determination.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.156 Tracking

a) Acceptance. A used~~Used~~ oil processor must~~processors shall~~ keep a record of each used oil shipment accepted for processing. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:

1) The name and address of the transporter that delivered the used oil to the processor;

2) The name and address of the generator or processor from whom the used oil was sent for processing;

3) The USEPA~~U.S. EPA~~ identification number and Illinois special waste identification number of the transporter that delivered the used oil to the processor;

4) The USEPA~~U.S. EPA~~ identification number and Illinois special waste identification number (if applicable) of the generator or processor from whom the used oil was sent for processing;

5) The quantity of used oil accepted; and

6) The date of acceptance.

b) Deliveries. A used~~Used~~ oil processor must~~processors shall~~ keep a record of each shipment of used oil that is delivered to another used oil burner, processor, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records of each delivery must include the following information:

1) The name and address of the transporter that delivers the used oil to the burner, processor, or disposal facility;

2) The name and address of the burner, processor or disposal facility that will receive the used oil;

3) The USEPA~~U.S. EPA~~ identification number and Illinois special waste identification number of the transporter that delivers the used oil to the burner, processor or disposal facility;

4) The USEPA~~U.S. EPA~~ identification number and Illinois special waste identification number of the burner, processor, or disposal facility that will receive the used oil;

5) The quantity of used oil shipped;

6) The date of shipment.

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

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.157 Operating Record and Reporting~~record and reporting~~

a) Operating record.

1) The owner or operator must~~shall~~ keep a written operating record at the facility.

2) The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility;

A) Records and results of used oil analyses performed as described in the analysis plan required under Section 739.155; and

B) Summary reports and details of all incidents that require implementation of the contingency plan, as~~an~~ specified in Section 739.152(b).

b) Reporting. A used oil processor must~~shall~~ report to USEPA Region 5~~the Regional Administrator~~, in the form of a letter, on a biennial basis (by March 1 of each even numbered year), the following information concerning used oil activities during the previous calendar year;

1) The USEPA~~U.S. EPA~~ identification number and Illinois special waste

identification number, name, and address of the processor;

2) The calendar year covered by the report; and

3) The quantities of used oil accepted for processing and the manner in which the used oil is processed, including the specific processes employed.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.158 Off-Site Shipments of Used Oil~~Off-site shipments of used oil~~

A used~~Used~~ oil processor~~processors~~ that initiates a shipment ~~initiate shipments~~ of used oil off-site must~~shall~~ ship the used oil using a used oil transporter that has obtained a~~an~~ USEPA~~U.S. EPA~~ identification number and Illinois special waste identification number.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.159 Management of Residues~~residues~~

An owner or operator that generates~~Owners and operators who generate~~ residues from the storage, processing, or re-fining of used oil must manage the residues as specified in Section 739.110(e).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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

Section 739.160 Applicability

a) General. The requirements of this Subpart G apply to used oil burners except as specified in subsections (a)(1) and (a)(2)~~(a)2)~~ of this Section. A used oil burner is a facility where used oil not meeting the specification requirements in Section 739.111 is burned for energy recovery in devices identified in Section 739.161(a). Facilities burning used oil for energy recovery under the following conditions are not subject to this Subpart G:

1) The used oil is burned by the generator in an on-site space heater under the provisions of Section 739.123; or

2) The used oil is burned by a processor for purposes of processing used oil, which is considered burning incidentally to used oil processing.

b) Other applicable provisions. A used~~Used~~ oil burner~~burners~~ that conducts~~conduct~~ the following activities is~~are~~ also subject to the requirements of other applicable provisions of this Part as indicated below.

1) A burner~~Burners~~ that generates~~generate~~ used oil must~~shall~~ also comply with Subpart C of this Part;

2) A burner~~Burners~~ that transports~~transport~~ used oil must~~shall~~ also comply with Subpart E of this Part;

3) Except as provided in Section 739.161(b), a burner~~burners~~ that processes~~process~~ or re-refines~~re-refine~~ used oil must~~shall~~ also comply with Subpart F of this Part;

4) A burner~~Burners~~ that directs~~direct~~ shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must~~shall~~ also comply with Subpart H of this Part; and

5) A burner~~Burners~~ that disposes~~dispose~~ of used oil, including the use of used oil as a dust suppressant, must~~shall~~ comply with Subpart I of this Part.

c) Specification fuel. This Subpart does not apply to a person~~persons~~ burning used oil that meets the used oil fuel specification of Section 739.111, provided that the burner complies with the requirements of Subpart H of this Part.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.161 Restriction on Burning~~burning~~

a) Off-specification used oil fuel may only be burned for energy recovery in ~~only~~ the following devices:

1) Industrial furnaces identified in 35 Ill. Adm. Code 720.110;

2) Boilers, as defined in 35 Ill. Adm. Code 720.110, that are identified as follows:

A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or

C) Used oil-fired space heaters provided that the burner meets the provisions of Section 739.123; or

3) Hazardous waste incinerators subject to regulation under Subpart O of 35 Ill. Adm. Code 724~~.Subpart O~~ or ~~35 Ill. Adm. Code~~ 725~~.Subpart O~~.

b) Restrictions.

1) With the following exception, a used oil burner~~burners~~ may not process used oil unless it ~~they~~ also complies~~comply~~ with the requirements of Subpart F of this Part.

2) A used~~Used~~ oil burner~~burners~~ may aggregate off-specification used oil with virgin oil or on-specification used oil for purposes of burning, but may not aggregate for purposes of producing on-specification used oil.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.162 Notification

a) Identification numbers. A used oil burner that has not previously complied with the notification requirements of RCRA Section 3010 must~~shall~~ comply with these requirements and obtain a USEPA~~U.S. EPA~~ identification number pursuant to RCRA Section 3010 and an Illinois special waste identification number.

b) Mechanics of notification. A used oil burner that has not received a USEPA ~~U.S. EPA~~ identification number may obtain one by notifying USEPA Region 5 ~~the Regional Administrator~~ of its~~their~~ used oil activity by submitting either of the following:

1) A completed USEPA~~EPA~~ Form 8700-12 (to ~~To~~ obtain USEPA~~EPA~~ Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or

2) A letter requesting a~~an~~ USEPA~~EPA~~ identification number. Call the RCRA/Superfund Hotline to determine where to send a letter requesting a~~an~~ USEPA~~EPA~~ identification number. The letter should include the following information:

A) The burner company name;

B) The owner of the burner company;

C) The mailing address for the burner;

D) The name and telephone number for the burner point of contact;

E) The type of used oil activity; and

F) The location of the burner facility.

c) A used oil burner that has not previously obtained an Illinois special waste identification number may obtain one by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, 1021 North Grand Avenue,~~2200 Churchill Road,~~ Springfield, Illinois 62794-927~~62706~~ (telephone: 217-782-6761).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.163 Rebuttable Presumption~~presumption~~ for Used Oil~~used oil~~

a) To ensure that used oil managed at a used oil burner facility is not hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(ii), a used oil burner must~~shall~~ determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.

b) The used oil burner must~~shall~~ determine if the used oil contains above or below 1,000 ppm total halogens by the following means:

1) Testing the used oil;

2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used; or

3) If the used oil has been received from a processor subject to regulation under Subpart F of this Part, using information provided by the processor.

c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721~~.Subpart D~~. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111~~ Edition III~~, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721~~.Appendix H)~~. ~~U.S. EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, PO Box 371954, Pittsburgh, PA 15250-7954. 202-783-3238 (document number 955-001-00000-1).~~

1) The rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils or fluids. The presumption does apply to metalworking oils or fluids if such oils and fluids are recycled in any other manner, or disposed.

2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

d) Record retention. Records of analyses conducted or information used to comply with subsections (a), (b), and (c) of this Section~~above~~ must be maintained by the burner for at least three~~3~~ years.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.164 Used Oil Storage~~oil storage~~

A used oil burner is subject to all applicable Spill Prevention, Control and Countermeasures (federal 40 CFR 112) in addition to the requirements of this Subpart G. A used oil burner is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart G.

a) Storage units. A used~~Used~~ oil burner~~burners~~ may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.

b) Condition of units. The following must be true of containers~~Containers~~ and aboveground tanks used to store oil at a burner facility~~facilities must be~~:

1) The containers must be in~~In~~ good condition (no severe rusting, apparent structural defects or deterioration); and

2) The containers may not be~~Not~~ leaking (no visible leaks).

c) Secondary containment for containers. Containers used to store used oil at a burner facility~~facilities~~ must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Dikes, berms, or retaining walls; and

B) A floor. The floor must cover the entire area within the dike, berm, or retaining wall.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

d) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store used oil at burner facilities must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a

minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

e) Secondary containment for existing aboveground tanks. A new~~New~~ aboveground tank~~tanks~~ used to store used oil at burner facilities must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

f) Labels.

1) A container or~~Containers and~~ aboveground tank~~tanks~~ used to store used oil at a burner facility~~facilities~~ must be labeled or marked clearly with the words "Used Oil."

2) Fill pipes used to transfer used oil into underground storage tanks at burner facilities must be labeled or marked clearly with the words "Used Oil."

g) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of 40 CFR 280, Subpart F and which has occurred after October 4, 1996, a burner must~~shall~~ perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.64(g) applies to releases that "occurred after the effective date of the authorized used oil program for the state ~~Stat~~e in which the release is located." The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized state~~State~~ in which the release is located," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

1) Stop the release;

2) Contain the released used oil;

3) Properly clean up and manage the released used oil and other materials; and

4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.165 Tracking

a) Acceptance. A used~~Used~~ oil burner must~~burners shall~~ keep a record of each used oil shipment accepted for burning. These records may take the form of a log, invoice, manifest, bill of lading, or other shipping documents. Records for each shipment must include the following information:

1) The name and address of the transporter that delivered the used oil to the burner;

2) The name and address of the generator or processor from whom the used oil was sent to the burner;

3) The USEPA~~U.S. EPA~~ identification number and Illinois special waste identification number of the transporter that delivered the used oil to the burner;

4) The USEPA~~U.S. EPA~~ identification number and Illinois special waste identification number (if applicable) of the generator or processor from whom the used oil was sent to the burner;

5) The quantity of used oil accepted; and

6) The date of acceptance.

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

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.166 Notices

a) Certification. Before a burner accepts the first shipment of off-specification used oil fuel from a generator, transporter, or processor, the burner must provide to the generator, transporter, or processor a one-time written and signed notice certifying the following~~that~~:

1) That the~~The~~ burner has notified USEPA~~EPA~~ stating the location and general description of his used oil management activities; and

2) That the~~The~~ burner will burn the used oil only in an industrial furnace or boiler identified in Section 739.161(a).

b) Certification retention. The certification described in subsection (a) of this Section must be maintained for three years from the date the burner last receives shipment of off-specification used oil from that generator, transporter, or processor.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.167 Management of Residues~~residues~~

A burner that generates~~Burners who generate~~ residues from the storage or burning of used oil must manage the residues as specified in Section 739.110(e).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

Section 739.170 Applicability

a) Any person that conducts either of the following activities is subject to the requirements of this Subpart H:

1) Directs a shipment of off-specification used oil from their facility to a used oil burner; or

2) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111.

b) The following persons are not marketers subject to this Subpart H:

1) A used~~Used~~ oil generator~~generators~~, or a transporter~~and transporters~~ that transports~~transport~~ used oil received only from generators, unless the generator or transporter directs a shipment of off-specification used oil from its~~their~~ facility to a used oil burner. However, a processor~~processors~~ that burns~~burn~~ some used oil fuel for purposes of processing is~~are~~ considered to be burning incidentally to processing. Thus, a generator or transporter~~generators and transporters~~ that directs~~direct~~ shipments of off-specification used oil to a processor~~processors~~ that incidentally~~incidently~~ burns~~burn~~ used oil is~~are~~ not a marketer~~marketers~~ subject to this Subpart H;

2) A person~~Persons~~ that directs~~direct~~ shipments of on-specification used oil and which is~~that are~~ not the first person to claim the oil meets the used oil fuel specifications of Section 739.111.

c) Any person subject to the requirements of this Subpart H must~~shall~~ also comply with one of the following:

1) Subpart C of this Part − Standards for Used Oil Generators;

2) Subpart E of this Part − Standards for Used Oil Transporters and Transfer Facilities;

3) Subpart F of this Part − Standards for Used Oil Processors and Re-refiners; or

4) Subpart G of this Part − Standards for Used Oil Burners that Burn Off-Specification Used Oil for Energy Recovery.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.171 Prohibitions

A used oil fuel marketer may initiate a shipment of off-specification used oil only to a used oil burner that fulfills the following conditions:

a) Has a USEPA~~U.S. EPA~~ identification number and Illinois special waste identification number; and

b) Burns the used oil in an industrial furnace or boiler identified in Section 739.161(a).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.172 On-Specification Used Oil Fuel~~On-specification used oil fuel~~

a) Analysis of used oil fuel. A generator, transporter, processor, or burner may determine that used oil that is to be burned for energy recovery meets the fuel specifications of Section 739.111 by performing analyses or obtaining copies of analyses or other information documenting that the used oil fuel meets the specifications.

b) Record retention. A generator, transporter, processor, or burner that first claims that used oil that is to be burned for energy recovery meets the specifications for used oil fuel under this Part must~~shall~~ keep copies of analyses of the used oil (or other information used to make the determination) for three years.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.173 Notification

a) A used oil fuel marketer subject to the requirements of this Section that has not previously complied with the notification requirements of RCRA Section 3010 must~~shall~~ comply with these requirements and obtain a USEPA~~U.S. EPA~~ identification number pursuant to RCRA Section 3010 and an Illinois special waste identification number.

b) A used oil marketer that has not received a USEPA~~U.S. EPA~~ identification number may obtain one by notifying USEPA Region 5~~the Regional Administrator~~ of its used oil activity by submitting either of the following:

1) A completed USEPA~~EPA~~ Form 8700-12; or

2) A letter requesting a USEPA~~an EPA~~ identification number. The letter should include the following information:

A) The marketer company name;

B) The owner of the marketer;

C) The mailing address for the marketer;

D) The name and telephone number for the marketer point of contact; and

E) The type of used oil activity (i.e., generator directing shipments of off-specification used oil to a burner).

c) A used oil burner that has not previously obtained an Illinois special waste identification number may obtain one by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, 1021 North Grand

Avenue, ~~2200 Churchill Road,~~ Springfield, Illinois 62794-927~~62706~~ (telephone: 217-782-6761).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.174 Tracking

a) Off-specification used oil delivery. Any used oil fuel marketer that directs a shipment of off-specification used oil to a burner must~~shall~~ keep a record of each shipment of used oil to a used oil burner. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:

1) The name and address of the transporter that delivers the used oil to the burner;

2) The name and address of the burner that will receive the used oil;

3) The USEPA identification number and Illinois special waste identification number of the transporter that delivers the used oil to the burner;

4) The USEPA identification number and Illinois special waste identification number of the burner;

5) The quantity of used oil shipped; and

6) The date of shipment.

b) On-specification used oil delivery. A generator, transporter, processor or re-refiner, or burner that first claims that used oil that is to be burned for energy recovery meets the fuel specifications under Section 739.111 must~~shall~~ keep a record of each shipment of used oil to the facility to which it delivers the used oil~~an on-specification used oil burner~~. Records for each shipment must include the following information:

1) The name and address of the facility receiving the shipment;

2) The quantity of used oil fuel delivered;

3) The date of shipment or delivery; and

4) A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under Section 739.172(a).

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

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.175 Notices

a) Certification. Before a used oil generator, transporter, or processor directs the first shipment of off-specification used oil fuel to a burner, it~~the~~ must obtain a one-time written and signed notice from the burner certifying the following~~that~~:

1) That the~~The~~ burner has notified USEPA~~EPA~~ stating the location and general description of used oil management activities; and

2) That the~~The~~ burner will burn the off-specification used oil only in an industrial furnace or boiler identified in Section 739.161(a).

b) Certification retention. The certification described in subsection (a) of this Section~~above~~ must be maintained for three years from the date the last shipment of off-specification used oil is shipped to the burner.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART I: STANDARDS FOR USE AS A
DUST SUPPRESSANT DISPOSAL OF USED OIL

Section 739.180 Applicability

The requirements of this Subpart I apply to all used oils that cannot be recycled and are therefore being disposed.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.181 Disposal

a) Disposal of hazardous used oils. Used oil~~oils~~ that is~~are~~ identified as a hazardous waste and cannot be recycled in accordance with this Part must be managed in accordance with the hazardous waste management requirements of 35 Ill. Adm. Code 703, 720 through 726, and 728.

b) Disposal of nonhazardous used oils. Used oil ~~oils~~ that is~~are~~ not a hazardous waste~~wastes~~ and cannot be recycled under this Part must be disposed of in accordance with the requirements of 35 Ill. Adm. Code 807 through 815 and 40 CFR 257 and 258.

Section 739.182 Use As~~as~~ a Dust Suppressant~~dust suppressant~~

The use of used oil as a dust suppressant is prohibited.

~~a) The use of used oil as a dust suppressant is prohibited, except when such activity takes place in one of the states listed in subsection (c) of this Section.~~

~~b) A State may petition (e.g., as part of its authorization petition submitted to EPA under 35 Ill. Adm. Code 721.105 or by a separate submission) EPA to allow the use of used oil (that is not mixed with hazardous waste and does not exhibit a characteristic other than ignitability) as a dust suppressant. The State must show that it has a program in place to prevent the use of used oil and hazardous waste mixtures or used oil exhibiting a characteristic other than ignitability as a dust suppressant. In addition, such programs must minimize the impacts of use as a dust suppressant on the environment.~~

~~c) This subsection corresponds to 40 CFR 268.182(c) which lists the States with an authorized program for use of used oil as a dust suppressant. This subsection is adopted to retain correlation with the Federal rules.~~

(Source: Amended at 28 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Architecture Practice Act of 1989

2) Code Citation: 68 Ill. Adm. Code 1150

3)

Section Numbers:	Proposed Action:
1150.10	Amendment
1150.40	Amendment
1150.60	Amendment

4) Statutory Authority: The Illinois Architecture Practice Act of 1989 [225 ILCS 305].

5) A Complete Description of the Subjects and Issues Involved: Section 1150.10 adds clarification on education in relation to requirements for training units (TUs). Section 1150.60 clarifies when submission of a work history is necessary for licensure by endorsement. Obsolete language has been removed and other technical changes are also being made.

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

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

8) Does this rulemaking contain incorporations by reference? No

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

10) Statement of Statewide Policy Objectives: This rulemaking has no impact on local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield IL 62786
217/785-0813
Fax #: 217/782-7645

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those employing licensed architects

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

C) Types of professional skills necessary for compliance: Architectural education and training is required for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: January 2004

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

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1150
ILLINOIS ARCHITECTURE PRACTICE ACT OF 1989

Section

1150.10 Education Requirements and Diversified Professional Training Requirements
1150.20 Category II – Education Requirements and Diversified Professional Training Requirements for Individuals Whose Education Was Initiated Prior to January 1, 1990 (Repealed)
1150.30 Application for Licensure by Examination/Acceptance of Examination
1150.40 Examination
1150.50 Approved Architecture Programs
1150.60 Licensure by Endorsement
1150.65 Inactive Status
1150.70 Restoration
1150.75 Fees
1150.80 Professional Design Firm
1150.85 Acts Constituting the Practice of Architecture Pursuant to Section 5 of the Act
1150.90 Standards of Professional Conduct
1150.95 Architecture Complaint Committee
1150.100 Renewals
1150.105 Continuing Education Requirements
1150.110 Granting Variances
1150.APPENDIX A Categories of Diversified Professional Training (Repealed)
1150.APPENDIX B Historical Summary of Minimum Requirements to Qualify for Examination for Licensure as an Architect in Illinois
1150.APPENDIX C Historical Summary of Examination Requirements
1150.ILLUSTRATION A Architect Seal Requirements

AUTHORITY: Implementing the Illinois Architecture Practice Act of 1989 [225 ILCS 305] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Architecture Act, effective May 29, 1975; amended May 12, 1977; codified at 5 Ill. Reg. 11019; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 7 Ill. Reg. 7658, effective June

15, 1983; amended at 9 Ill. Reg. 5691, effective April 16, 1985; amended at 11 Ill. Reg. 14077, effective August 5, 1987; transferred from Chapter I, 68 Ill. Adm. Code 150 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1150 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2933; amended at 16 Ill. Reg. 3143, effective February 14, 1992; amended at 17 Ill. Reg. 1554, effective January 25, 1993; amended at 18 Ill. Reg. 10736, effective June 27, 1994; amended at 19 Ill. Reg. 16066, effective November 17, 1995; amended at 20 Ill. Reg. 7873, effective May 30, 1996; amended at 21 Ill. Reg. 5928, effective April 24, 1997; amended at 22 Ill. Reg. 15324, effective August 10, 1998; amended at 24 Ill. Reg. 559, effective December 31, 1999; amended at 24 Ill. Reg. 13710, effective August 28, 2000; amended at 25 Ill. Reg. 1754, effective January 8, 2001; amended at 26 Ill. Reg. 4667, effective March 11, 2002; amended at 26 Ill. Reg. 16954, effective November 12, 2002; amended at 27 Ill. Reg. 15468, effective September 19, 2003; amended at 28 Ill. Reg. _____, effective _____.

Section 1150.10 Education Requirements and Diversified Professional Training Requirements

The education and diversified professional training required for examination for licensure under the Illinois Architecture Practice Act [225 ILCS 305] (the Act) are set forth in this Section. Applicants shall meet the requirements set forth in this Section.

a) Education Requirements

1) Applicants with a professional degree from a program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB) not later than 2 years after termination of an applicant's enrollment, or with a professional degree in architecture from a Canadian university certified as accredited by CACB:

A) Bachelor of Architecture degree; or

B) Master of Architecture degree.

2) Applicants with a degree from a program not accredited by the NAAB or CACB:

A) A pre-professional 4 year baccalaureate degree program in architecture approved by the Board in accordance with Section 1150.50 of this Part, which is accepted for direct entry into a professional Master of Architecture degree program accredited by

the NAAB or the CACB; or

B) Completion of the education requirements as specified in the National Council of Architectural Registration Boards (NCARB) Education Standard. This includes the requirement that applicants with a degree from a program not accredited by the NAAB or the CACB must obtain an EESA-NCARB Evaluation Report prepared by the Education Evaluation Services for Architects (EESA), which is administered by NAAB. Applicants may request the report from the National Architectural Accrediting Board, 1735 New York Avenue, NW, 3rd Floor, Washington, D.C. 20006; phone (202) 783-2007; or www.naab.org.

b) Diversified Professional Training Requirements

1) An applicant must complete the Intern Development Program (IDP) of the National Council of Architectural Registration Boards (NCARB), 1801 K Street, NW, Suite 1100, Washington, D.C. 20006-1310, as set forth in the NCARB IDP Guidelines (July 1, 2003 to June 30, 2004, no later additions or amendments included). (A copy of these Guidelines is available from the Department or NCARB.)

2) To satisfy diversified professional training requirements, each applicant must acquire a minimum number of training units (TUs) based on the education requirements set forth in subsection (b)(3) ~~below~~. One TU equals eight hours of acceptable activity. Acceptable activities and conditions affecting training are set forth in the IDP Guidelines.

3) TUs shall be acquired in prescribed categories and areas and under requirements set forth in the NCARB IDP Training Requirements included in the IDP Guidelines. The required number of TUs will vary according to the following educational requirements:

A) Applicants who meet the educational requirements set forth in subsections (a)(1) and (a)(2)(B) shall complete 700 TUs pursuant to the IDP Training Requirement.

B) Applicants with a pre-professional 4 year baccalaureate degree set forth in subsection (a)(2)(A) shall complete 1170 TUs pursuant to the IDP Training Requirements where twice the listed minimum

TUs required for each training category and area shall be acquired.

4) The required minimums in IDP Training Categories A, B, C and D total 465 TUs for the education requirements set forth in subsections (a)(1) and (a)(2)(B) and 930 TUs for the education requirements set forth in subsection (a)(2)(A), allowing for the additional TUs to be acquired in any of the listed categories.

5) To satisfy the Illinois Diversified Professional Training requirements, an applicant must have satisfied the training requirements in accordance with the NCARB IDP Training Requirements and subsection (b)(3)(A) or (B). An applicant who has satisfied the training requirements is expected to have been exposed to the comprehensive practice of architecture. Accordingly, each applicant must demonstrate that his or her training has been sufficiently diversified as to include exposure to each of the training areas set forth in the IDP Training Requirement. (An applicant with the required number of TUs may nonetheless be denied approval of training if that training is not diversified.)

6) The training settings in which TUs may be acquired, and the maximum TUs allowed to be acquired in each training setting, are set forth in the NCARB IDP Guidelines and shall apply to all applicants.

7) Program Requirements

A) No TUs may be earned prior to satisfactory completion of:

i) Three years in an NAAB-accredited professional degree program; or

ii) The third year of a 4 year pre-professional degree program in architecture accepted for direct entry to an NAAB-accredited professional master's degree program; or

iii) One year in an NAAB-accredited professional master's degree program following receipt of a non-professional undergraduate degree; or

iv) 96 semester credit hours as evaluated by Education Evaluation Services for Architects (EESA) in accordance

with NCARB Education Standard of which no more than 60 hours can be in the general education category.

B) No experience used to meet education requirements described in subsection (a) of this Section may be used to earn TUs.

C) To earn TUs in IDP Training Settings A, B, C, D and E, an applicant must work at least 35 hours per week for a minimum period of 10 consecutive weeks or at least 20 hours per week for a minimum period of 6 consecutive months.

D) To earn TUs in IDP Training Setting F, the applicant must be employed on a full-time basis.

E) A "licensed architect" is a person licensed to practice architecture in the jurisdiction in which he or she practices.

F) A person practices as a "principal" by being:

i) A licensed architect; and

ii) The person in charge of the organization's architectural practice, either alone or with other licensed architects.

G) A person who has completed the education requirements, is actively participating in the diversified professional training and maintains in good standing a training record as required by this Section may use the title "architectural intern", but may not engage in the practice of architecture~~ except to the extent that such practice is exempted from the requirement for licensure~~.

8) Explanation of Requirements

A) TUs may be acquired only if the applicant meets the time requirements of Section 1150.10(b)(7)(C). Full TU credit is earned for acceptable full-time and part-time employment in the training settings described in Section 1150.10(b)(5).

B) No TUs may be acquired prior to meeting the requirements of Section 1150.10(b)(7)(A).

C) Applicants with a post-professional degree in architecture may qualify for TU credit as set forth in the IDP Guidelines.

D) An applicant may earn TUs by completing Board-approved supplementary education programs. Supplementary education cannot be used to satisfy the minimum TU requirements. No TUs may be earned for supplementary education unless the applicant is employed in a recognized training setting (refer to IDP Guidelines). Credit for supplementary education activities may not exceed 235 TUs.

E) To satisfy Category A of the IDP Training Requirements, TUs (including TUs earned from supplementary education) in those categories must be acquired when employed in the training settings described in Section 1150.10(b)(6). A minimum of 235 TUs must be acquired in Training Setting A.

F) For a detailed description of the IDP training categories, settings and conditions and supplementary education requirements, see IDP Guidelines.

c) All applicants shall utilize NCARB to collect, evaluate and certify all training data and records required for compliance with this Part.

d) The verification of training shall be submitted to the Department at the time of application.

e) If the accuracy of any submitted documentation or the relevance or sufficiency of the training is questioned by the Department or the Architecture Licensing Board (the Board) because of discrepancies or conflicts in information, a need for additional information or clarification, the applicant will be requested to provide such information as is necessary.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 1150.40 Examination

a) The examination for licensure as an architect is a computer based examination prepared by the National Council of Architectural Registration Boards (NCARB).

b) The examination shall consist of the following divisions:

1) Pre-Design;

2) Site Planning;

3) Building Planning;

4) Building Technology;

5) General Structures;

6) Lateral Forces;

7) Mechanical and Electrical Systems;

8) Building Design/Materials and Methods; and

9) Construction Documents and Services.

c) Site Planning, Building Planning and Building Technology are graphic design problems, with all other divisions being a multiple-choice format. All divisions are graded with a score of pass or fail. To pass the examination, the applicant must achieve a passing grade on each division of the examination.

d) An applicant failing a division may repeat that division test 6 months after his or her unsuccessful attempt.

e) All applicants who are in the process of taking the examination formerly administered by the Department shall receive credit for previous NCARB examinations passed with transfer credit to the Architect Registration Examination (ARE) divisions in Appendix C.

f) If an applicant fails to pass an examination for licensure under the Act within 3 years after filing an application, the application shall expire and be denied. The applicant may, however, make a new application for examination accompanied by the required fee, and must furnish proof of meeting the qualifications for examination in effect at the time of new application. Scores from divisions of the examination already passed under a previous application shall be carried over and

applied to subsequent applications.

g) Applicants who fail to achieve the required passing score in any division of the examination will be afforded unlimited opportunities to repeat the failed parts of the examination.

h) The provisions of this Section shall be waived for an applicant for licensure as an architect who makes application in form and substance satisfactory to the Department pursuant to the standards set forth in Section 1150.30 and causes to be filed with the Department, in addition to his/her application, proof of successful completion of the NCARB examination administered pursuant to the standards outlined above in another jurisdiction. Such proof of successful completion must be forwarded directly to the Department from the jurisdiction in which the examination was taken.

i) Divisions of the examination passed in another jurisdiction will be accepted toward licensure in this State if the division was not subsequently failed.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 1150.60 Licensure by Endorsement

a) An applicant who holds an active license or registration to practice architecture under the laws of another state or territory and who desires to become licensed by endorsement shall file an application with the Department together with:

1) Either:

A) Council Certification, issued by and forwarded directly to the Department by the NCARB; or

B) Other Proof of Qualifications and Licensure

i) Proof that the applicant has met requirements substantially equivalent to those in force in this State at the time of original or subsequent licensure by written examination in the other state or territory, including certification of education, and affidavits of training;~~.~~

ii) A certification by the state or territory of original licensure

and any other jurisdiction in which the applicant is or has ever been licensed, including the date of issuance of the applicant's license and the current status of each license; the basis of licensure and a description of all examinations by which the applicant was licensed in that state or territory and the date of passage of any such examinations; and whether the records of the licensing authority contain any record of disciplinary action taken or pending against the applicant;

iii) A compete work history since graduation from an architecture program;

2) The required fee as set forth in Section 1150.75;

~~3) A complete work history since graduation from an architecture program;~~

3)~~4)~~ A signed and dated affidavit attesting the applicant has read and understands the Act and this Part;

b) Applicants filing an application under subsection (a)(1)(B) are subject to the following requirements and provisions:

1) Applicants who received their education in a foreign country shall have the education comprehensively evaluated, at their expense. Applicants shall obtain an EESA-NCARB Evaluation Report prepared by the Education Evaluation Services for Architects (EESA), which is administered by NAAB. Applicants may request the report from the National Architectural Accrediting Board, 1735 New York Avenue, NW, 3rd Floor, Washington, D.C. 20006; phone (202) 783-2007; or www.naab.org. The Board will review all transcripts and the evaluation submitted to the Department to determine if the education meets the requirements set forth in Sections 1150.10 and 1150.20; and

2) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 or 213 for the computer-based test and the Test of Spoken English (TSE) with a minimum score of 50, for applicants who apply after January 1, 1997, who graduated from an architectural program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first

language is English, the applicant shall submit verification from the school that the architectural program from which the applicant graduated was taught in English.

3) The Department shall examine each endorsement application to determine whether the requirements in the state or territory of original or subsequent licensure were substantially equivalent to the requirements then in force in this State. The Department shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reason for the denial of the application.

4) The Department shall, in individual cases, upon recommendation of the Board, waive passage of one or more parts of the examination upon proof that the applicant has been lawfully engaged in the practice of architecture in another jurisdiction for a minimum of five years and has provided evidence demonstrating competence in the area or areas of the examination being considered for waiver (i.e., architectural education, training and experience). If an applicant has previously failed to pass a part or parts of the examination, the applicant shall not be granted a waiver for that part or parts pursuant to this provision.

c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of a lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant shall be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Physical Therapy Act

2) Code Citation: 68 Ill. Adm. Code 1340

3)

Section Numbers:	Proposed Action:
1340.20	Amendment
1340.30	Amendment
1340.50	Amendment
1340.57	Amendment
1340.61	Amendment
1340.65	Amendment

4) Statutory Authority: Illinois Physical Therapy Act [225 ILCS 90].

5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking implements changes that have been adopted nationally by the accreditation entity for physical therapy programs. Section 1340.20 includes curriculum changes for physical therapists and physical therapist assistants and clarifies the evaluation process for graduates of programs outside the United States. Section 1340.61 adds additional means for satisfying the continuing education requirement. Various other technical and cleanup changes have also been made.

6) Will these proposed amendments replace any emergency amendments currently in effect? No

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

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking has no impact on local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Springfield, IL 62786
217/785-0813
Fax #: 217/782-7645

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing physical therapy services

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

C) Types of professional skills necessary for compliance: Physical therapy skills are necessary for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: July 2003

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

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1340
ILLINOIS PHYSICAL THERAPY ACT

Section
1340.15 Application for Licensure Under Section 8.1 of the Act (Grandfather) (Repealed)
1340.20 Approved Curriculum
1340.30 Application for Licensure on the Basis of Examination
1340.40 Examination
1340.50 Endorsement
1340.55 Renewals
1340.57 Fees
1340.60 Restoration
1340.61 Continuing Education
1340.65 Unprofessional Conduct
1340.66 Advertising
1340.70 Granting Variances

AUTHORITY: Implementing the Illinois Physical Therapy Act [225 ILCS 90] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 5 Ill. Reg. 6500, effective June 3, 1981; codified at 5 Ill. Reg. 11048; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 9 Ill. Reg. 1906, effective January 28, 1985; recodified from Chapter I, 68 Ill. Adm. Code 340 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1340 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2959; amended at 12 Ill. Reg. 8030, effective April 25, 1988; amended at 15 Ill. Reg. 5254, effective March 29, 1991; emergency amendment at 15 Ill. Reg. 11503, effective July 30, 1991, for a maximum of 150 days; emergency expired December 27, 1991; amended at 16 Ill. Reg. 3175, effective February 18, 1992; amended at 17 Ill. Reg. 14606, effective August 27, 1993; amended at 20 Ill. Reg. 10678, effective July 26, 1996; amended at 23 Ill. Reg. 11970, effective September 17, 1999; amended at 24 Ill. Reg. 567, effective December 31, 1999; amended at 26 Ill. Reg. 11953, effective July 18, 2002; amended at 28 Ill. Reg. _____, effective _____.

Section 1340.20 Approved Curriculum

a) The Department shall, upon the recommendation of the Physical Therapy

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Licensing and Disciplinary Committee (the Committee), approve an applicant's physical therapist~~therapy~~ curriculum if it meets the following minimum criteria:

1) The school from which the applicant was graduated:

A) Is legally recognized and authorized by the jurisdiction in which it is located to confer a physical therapy degree; and

B) Has a faculty that comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their areas~~area(s)~~ of teaching from professional colleges or institutions; and

C) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.

2) Prior to January 1, 2002, the~~The~~ applicant's curriculum shall have a minimum of 120 semester hours which shall include a minimum of 50 semester hours credit in general education and at least the following subject areas in professional education (a minimum of 57~~-61~~ semester hours required):

A) Basic Health Sciences

i) Anatomy

ii) Physiology

iii) Pathology

iv) Kinesiology

v) Neurology

vi) Psychology

B) Clinical Sciences to include, but not limited to the major areas of:

i) Medicine

ii) Surgery

iii) Physical therapy theory and application, including therapeutic exercise, evaluation procedures, physical agents, mechanical modalities, electrotherapy, massage, orthotics and prosthetics, and professional issues

C) Clinical Education – a minimum of 800 clock hours.

3) Applicants graduating after January 1, 2002 must have a minimum of a master's degree in physical therapy.

4) No course in which the applicant received a grade lower than a C will be accepted for ~~professional~~ coursework.

b) The Department shall, upon the recommendation of the Committee, approve an applicant's physical therapist assistant curriculum if it meets the following minimum criteria:

1) The school from which the applicant was graduated:

A) Is legally recognized and authorized by the jurisdiction in which it is located to offer a ~~2 year~~ physical therapist assistant curriculum that leads to an associate degree;

B) Has a faculty that comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their areas~~area(s)~~ of teaching from professional colleges or institutions;

C) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.

2) The applicant's curriculum includes at least the following subject areas in professional education (a minimum of 29~~-31~~ semester hours required):

A) Basic Health Sciences

i) Anatomy and physiology

ii) Pathology

iii) Psychology

iv) Kinesiology

B) Clinical Sciences to include, but not be limited to, the major areas of:

i) Medicine and surgery

ii) Physical therapy~~therapist~~ assistant theory and application, including gross evaluation techniques, physical agents, mechanical modalities, therapeutic exercise, electrotherapy, massage, and professional issues

C) Clinical Education - a minimum of 600 clock hours.

3) No course in which the applicant received lower than a C will be accepted for ~~professional~~ coursework.

c) In determining whether an applicant's curriculum should be approved, the Department shall take into consideration, but not be bound by, accreditation of the applicant's school by the Commission on Accreditation in Physical Therapy Education.

d) Recommendation of Approval

1) The Department, upon the recommendation of the Committee, has determined that the curricula of all physical therapist~~therapy~~ and physical therapist assistant programs accredited by the Commission on Accreditation in Physical Therapy Education as of January 1, 1996, meet the minimum criteria set forth in subsections (a) and (b) ~~above~~ and are, therefore, approved.

2) In the event of a decision by the above accrediting body to suspend, withdraw or revoke accreditation of any physical therapist~~therapy~~ or physical therapist assistant program, the Committee shall proceed to evaluate the curriculum and either approve or disapprove it in accordance with subsections (a) and (b)~~ above~~.

e) Graduates from Outside the United States

1) A graduate of a physical therapist~~therapy or physical therapist assistant~~ program outside the United States or its territories shall have his or her credentials evaluated, by a credentialing service acceptable to the Committee, to determine equivalence of education to a physical therapist degree conferred by a regionally accredited college or university in the United States. The credentialing service must have a physical therapist consultant on its staff. The Committee recognizes the Foreign Credentialing Commission of Physical Therapy, Inc. (FCCPT), P.O. Box 25827, Alexandria, Virginia 22313 as a service determined by the Committee to be acceptable. The Committee may make its own review of an applicant's educational program and is not bound by the findings of the credentialing service. A person who graduated from a physical therapist program outside the United States or its territories and whose first language is not English shall submit certification of passage of the Test of English as a Foreign Language (TOEFL) and the Test of Spoken English (TSE).~~his/her degree validated, by the Foreign Credentialing Commission on Physical Therapy (FCCPT), P.O. Box 25827, Alexandria, Virginia 22313, at the applicant's expense, as equivalent to a physical therapy degree conferred by a regionally accredited college or university in the United States.~~

2) A graduate of a physical therapist assistant program outside the United States or its territories shall have his or her degree evaluated by a credentialing service to determine equivalence of education to a physical therapist assistant degree conferred by a regionally accredited college or university in the United States or its territories pursuant to Section 1340.20(b). A person who graduated from a physical therapist assistant program outside the United States or its territories and whose first language is not English shall submit certification of passage of the Test of English as a Foreign Language (TOEFL) and the Test of Spoken English (TSE).

3)~~f)~~ An individual who is deficient in course work may complete the required courses~~course(s)~~ at a regionally accredited college or university within the United States or its territories. The individual will be required to submit an official~~a~~ transcript from the program indicating successful completion of the course and a course description. A passing CLEP (College Level Examination Program) test score is also acceptable in satisfying a deficiency requirement.

~~g) On or after August 1, 1996, any person applying for licensure shall have his/her curriculum reviewed on an individual basis as set forth in this Section. All programs previously approved by the Department will no longer be considered approved.~~

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 1340.30 Application for Licensure on the Basis of Examination

a) An applicant for a physical therapist license by examination shall file an application on forms supplied by the Department. The application shall include:

1) A complete work history indicating all employment since graduation from a physical therapist~~therapy~~ program;

2) Certification of successful completion of a physical therapist~~therapy~~ program, signed by the Director of the Physical Therapy Program or other authorized university official and bearing the seal of the university, which meets the requirements set forth in Section 1340.20 of this Part;

~~3) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a score of 550 and the Test of Spoken English (TSE) with a score of 50 for applicants who apply after January 1, 1996, who graduated from a physical therapy program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the physical therapy program from which the applicant graduated was taught in English; and~~

3)~~4)~~ The required fee specified in Section 1340.57 of this Part.

b) An applicant for a physical therapist assistant license by examination shall file an

application on forms supplied by the Department. The application shall include:

1) A complete work history indicating all employment since graduation from a physical therapist assistant program;

~~2) Either:~~

2)~~A)~~ Certification of graduation from a ~~2 year college-level~~ physical therapist assistant program and attainment of a minimum of an associate's degree signed by the director of the Physical Therapist~~Therapy~~ Program or other authorized school official and bearing the seal of a~~the~~ school that~~which~~ meets the requirements set forth in Section 1340.20 of this Part; and~~or~~

~~B) Certification that the applicant is a full-time student in his/her final term of a 2 year college-level physical therapist assistant program with a curriculum that meets the requirements set forth in Section 1340.20 of this Part (certification of graduation shall be received by the Department prior to the applicant's being issued a license);~~

~~3) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 and the Test of Spoken English (TSE) with a score of 50 for applicants who apply after January 1, 1996, who graduated from a physical therapy program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the physical therapy program from which the applicant graduated was taught in English; and~~

3)~~4)~~ The required fee specified in Section 1340.57.

c) If supporting documentation for the application is not in English, a certified translation must be included.

d) Graduates from Outside the United States

1) A graduate of a physical therapist~~therapy or physical therapist assistant~~ program outside the United States or its territories shall have his or her credentials evaluated, by a credentialing service acceptable to the Committee, to determine equivalence of education to a physical therapist degree conferred by a regionally accredited college or university in the

United States or its territories pursuant to Section 1340.20(b). The credentialing service must have a physical therapist consultant on its staff. The Committee recognizes the Foreign Credentialing Commission of Physical Therapy, Inc. (FCCPT), P.O. Box 25827, Alexandria, Virginia 22313 as a service determined by the Committee to be acceptable. The Committee may make its own review of an applicant's educational program and is not bound by the findings of the credentialing service.~~his/her degree validated, by a credentialing agency at the applicant's expense, as equivalent to a physical therapy degree conferred by a regionally accredited college or university in the United States.~~

2) A graduate of a physical therapist assistant program outside the United States or its territories shall have his or her degree evaluated by a credentialing service to determine equivalence of education to a physical therapist assistant degree conferred by a regionally accredited college or university in the United States or its territories pursuant to Section 1340.20(b). A person who graduated from a physical therapist assistant program outside the United States or its territories and whose first language is not English shall submit certification of passage of the Test of English as a Foreign Language (TOEFL) and the Test of Spoken English (TSE).

e) An applicant shall have 60 days after approval of the application to take the examination. If the examination is not taken within those 60 days, the examination fee is forfeited and the applicant shall resubmit the required examination fee to Continental Testing Services, Inc. An applicant who fails to take the examination within 60 days shall forfeit his/her right to work as a physical therapist or physical therapist assistant until the examination is passed.

f) If the applicant has ever been licensed/registered in another state or territory of the United States, he/she shall also submit a certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, stating:

1) The time during which the applicant was registered in that jurisdiction, including the date of the original issuance of the license;

2) A description of the examination in that jurisdiction;

3) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

g) An applicant for a license, who has successfully completed the examination recognized by the Department in another jurisdiction but who has not been licensed in that jurisdiction, shall file an application in accordance with subsection (a) or (b) ~~above~~ and have the examination scores submitted to the Department by the reporting entity.

h) If the Department has questions or doubts with respect to the documentation or accuracy of any of the matters set forth in the application, the applicant will be required to appear before the Committee and/or provide such additional information as necessary.

i) If the applicant has been determined eligible for licensure except for passing of the examination, the applicant shall be issued a letter of authorization which allows him/her to practice under supervision in accordance with Section 2 of the Act. Supervision shall constitute the presence of the licensed physical therapist on site to provide supervision. The applicant shall not begin practice as a physical therapist or physical therapist assistant, license pending, until the letter of authorization is received from the Department.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 1340.50 Endorsement

a) An applicant who is currently licensed under the laws of another state or territory of the United States and who wishes to be licensed as a physical therapist or physical therapist assistant by endorsement, shall file an application with the Department, on forms provided by the Department, which shall include:

1) Certification, on forms provided by the Department, of successful completion of an approved physical therapist~~therapy~~ or physical therapist assistant program in accordance with Section 1340.20;

2) Certification from the state or territory of original licensure and the state in which the applicant is currently licensed and practicing, if other than original, stating the time during which the applicant was licensed in that state, whether the file on the applicant contains record of any disciplinary actions taken or pending, and the applicant's license number;

3) ~~Proof of passage of the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 and the Test of Spoken English (TSE) with a score 50 for applicants who apply after January 1, 1996, who graduated from a physical therapy program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the physical therapy program from which the applicant graduated was taught in English.~~ The Department may waive the TOEFL and TSE examination for individuals who are licensed and have been actively practicing in another jurisdiction for 3 years prior to the date of application for licensure in Illinois;

4) A report of the applicant's examination record forwarded directly from the test reporting service;

5) Complete work history since graduation from the physical therapist~~therapy~~ or physical therapist assistant program; and

6) The required fee specified in Section 1340.57.

b) Graduates from Outside the United States

1) A graduate of a physical therapist~~therapy or physical therapy assistant~~ program outside the United States or its territories shall have his or her credentials evaluated, by a credentialing service acceptable to the Committee, to determine equivalence of education to a physical therapist degree conferred by a regionally accredited college or university in the United States or its territories. The credentialing service must have a physical therapist consultant on its staff. The Committee recognizes the Foreign Credentialing Commission of Physical Therapy, Inc. (FCCPT), P.O. Box 25827, Alexandria, Virginia 22313 as a service determined by the Committee to be acceptable. The Committee may make its own review of an applicant's educational program and is not bound by the findings of the credentialing service. A person who graduated from a physical therapist program outside the United States or its territories and whose first language is not English shall submit certification of passage of the Test of English as a Foreign Language (TOEFL) and the Test of Spoken English (TSE).~~his/her degree validated, by a credentialing agency at the applicant's expense, as equivalent to a physical therapy degree conferred~~

~~by a regionally accredited college or university in the United States.~~

2) A graduate of a physical therapist assistant program outside the United States or its territories shall have his or her degree evaluated by a credentialing service to determine equivalence of education to a physical therapist assistant degree conferred by a regionally accredited college or university in the United States or its territories pursuant to Section 1340.20(b). A person who graduated from a physical therapist assistant program outside the United States or its territories and whose first language is not English shall submit certification of passage of the Test of English as a Foreign Language (TOEFL) and the Test of Spoken English (TSE).

c) The Department shall examine each endorsement application to determine whether the requirements in the jurisdiction at the date of licensing were substantially equivalent to the requirements then in force in this State and whether the applicant has otherwise complied with the Act.

d) Applicants who were licensed in another state between August 1, 1996 and September 1, 1999 will have their curriculum reviewed on an individual basis. All programs previously approved by the Department will no longer be considered approved.

e) The Department shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reasons for the denial of the application.

f)~~e)~~ When an applicant for licensure by endorsement as a physical therapist or physical therapist assistant is notified in writing by the Department that the application is complete, the applicant may practice in Illinois for one year or until licensure has been granted or denied, whichever period of time is lesser, as provided in Section 2(4) of the Act.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 1340.57 Fees

The following fees shall be paid to the Department and are not refundable:

a) Application Fees

1) The fee for application for a license as a physical therapist or physical therapist assistant is $100. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

2) The fee for application as a continuing education sponsor is $500. Illinois State colleges and universities and Illinois State agencies are exempt from payment of this fee.

b) Renewal Fees

1) The fee for the renewal of a license shall be calculated at the rate of $30 per year.

2) The fee for renewal of continuing education sponsor approval is $250 for the renewal period.

c) General Fees

1) The fee for the restoration of a license other than from inactive status is $20 plus payment of all lapsed renewal fees, but not to exceed $200.

2) The fee for restoration of a license from inactive status is the current renewal fee.

3) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed or for the issuance of a license with a change of name or address, other than during the renewal period, is $20. No fee is required for name and address changes on Department records when no duplicate license is issued.

4)~~3)~~ The fee for a certification of a licensee's record for any purpose is $20.

5)~~4)~~ The fee to have the scoring of an examination authorized by the Department reviewed and verified is $20 plus any fees charged by the

applicable testing service.

6)~~5)~~ The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.

7)~~6)~~ The fee for a roster of persons licensed as physical therapists or physical therapist assistants in this State shall be the actual cost of producing the roster.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 1340.61 Continuing Education

a) Continuing Education Hour Requirements

1) Beginning with the September 30, 2004 renewal and every renewal thereafter, every physical therapist shall complete 40 hours of continuing education (CE) relevant to the practice of physical therapy during each prerenewal period as a condition of renewal.

2) Beginning with the September 30, 2005 renewal and every renewal thereafter, every physical therapist assistant shall complete 20 hours of CE relevant to the practice of physical therapy during each prerenewal period as a condition of renewal.

3) A prerenewal period is the 24 months preceding September 30 in the year of the renewal.

4) A CE hour equals 50 minutes. After completion of the initial CE hour, credit may be given in one-half hour increments.

5) Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of academic credit awarded.

6) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license.

7) Physical therapists and physical therapist assistants licensed in Illinois but

residing and practicing in other states must comply with the CE requirements set forth in this Section. CE credit hours used to satisfy the CE requirements of another state may be submitted for approval for fulfillment of the CE requirements of the State of Illinois if the CE requirements in the other state are equivalent to the CE requirements in this Section.

b) Approved Continuing Education

1) All CE activities shall be relevant to the advancement, extension and enhancement of providing patient/client management, including but not limited to physical therapy examination, evaluation, intervention, and prevention and providing physical therapy services or fulfilling the other professional roles of a physical therapist or physical therapist assistant. Courses not acceptable for the purpose of this definition include, but are not limited to, estate planning, financial planning, investments, and personal health.

2) CE hours may be earned by verified attendance at or participation in a program that is offered by an approved continuing education sponsor who meets the requirements set forth in subsection (c). Credit shall not be given for courses taken in Illinois from unapproved sponsors.

3) CE may also be earned from the following activities:

A) Teaching a course for an approved CE sponsor. An applicant will receive 2 hours of credit for each CE hour awarded to course attendees the first time the course is taught and 1 hour of credit for each CE hour the second time the same course is taught; no credit will be given for teaching the same course 3 or more times. A maximum of 50% of the total CE requirements may be earned through CE instruction. The applicant must be able to provide verification of unique content for each CE course taught via course goals, objectives, and outline.

B) American Board of Physical Therapy Specialties (ABPTS) Clinical Specialist Certification. An applicant will receive 40 hours of CE credit for the prerenewal period in which the initial certification is awarded.

C) APTA-approved post-professional clinical residency or fellowship. An applicant will receive 1 hour of CE credit for every 2 hours spent in clinical residency, up to a maximum of 20 hours. Clinical residency hours may not be used for CE credit if the applicant is also seeking credit for hours earned for post-professional academic coursework in the same prerenewal period.

D) Professional research/writing. An applicant may receive CE credit for publication of scientific papers, abstracts, or review articles in peer-reviewed and other professional journals; publication of textbook chapters; and poster or platform presentations at conferences sponsored by any entity that has pre-approved status, up to a maximum of 50% of the total CE requirements:

i) 15 hours for each refereed article.

ii) 3 hours for each non-refereed article, abstract of published literature or book review.

iii) 5 hours for each textbook chapter.

iv) 5 hours for each poster or platform presentation or review article.

E) Self-study. A maximum of 50% of the total CE requirements may be earned through the following self-study activities:

i) An applicant may obtain up to 20 hours of CE credit by taking correspondence or web-based courses from an approved CE sponsor. These courses shall include a test that must be passed in order to obtain credit.

ii) An applicant can receive up to 5 hours of CE credit for utilizing moderated teleconferences or audiocassettes/videos of professional presentations offered by approved sponsors. The applicant will be responsible for verifying purchase/registration for teleconferences or audio presentations.

iii) An applicant can receive up to 5 hours of CE credit for

completion of published tests/quizzes based on APTA publications. The applicant will be responsible for verifying successful completion. (These publication-based tests/quizzes, typically offered for less than 1 hour of CE credit, are the only exception to the requirement that all approved CE activities must be at least 1 hour.)

F) Journal clubs. Up to 5 hours of CE credit may be obtained for participation in a journal club. Credit will be earned based on actual hours of participation and must be verified with an attendance list and list of articles from peer-reviewed journals discussed at each meeting.

G) Educational programs at Illinois Physical Therapy Association (IPTA) district meetings. Up to 5 hours of CE credit may be obtained for attendance at these programs. Credit will be earned based on actual hours of participation and must be verified with an attendance list and referenced presentation materials.

H) Departmental inservices. Up to 5 hours of CE credit may be obtained for attendance at inservices at healthcare facilities or organizations. Credit will be earned based on actual hours of participation and must be verified with an attendance list and referenced presentation materials.

I) Professional Leadership. Up to 5 hours of CE credit may be obtained for being a member of the Physical Therapy Licensing and Disciplinary Committee, an officer of the American Physical Therapy Association, Illinois Physical Therapy Association or the Federation of State Boards of Physical Therapy. Credit will be earned based on months of service with one hour of CE credit earned per 3 months of service.

4) CE will not be awarded for the following types of activities:

A) Entry-level physical therapist ~~therapy~~ or physical therapist assistant academic coursework.

B) Employee orientation programs or training completed as a condition of employment.

C) Professional meetings or conventions, other than educational programming by approved sponsors.

D) Committee meetings.

E) Work experience.

F) Individual scholarship, mass media programs or self-study activities not identified in subsection (b)(2)(E).

c) Continuing Education Sponsors and Programs

1) Approved sponsor, as used in this Section, shall mean:

A) American Physical Therapy Association and its components, including the Illinois Physical Therapy Association;

B) Colleges, universities, or community colleges or institutions with ~~accredited~~ physical therapist or physical therapist assistant education programs accredited by the Commission on Accreditation in Physical Therapy Education; for post-professional academic coursework, all regionally accredited colleges and universities would be approved sponsors; and

C) Any other person, firm, association, corporation, or group that has been approved and authorized by the Department pursuant to subsection (c)(2) of this Section upon the recommendation of the Board to coordinate and present continuing education courses or programs.

2) Entities seeking a license as a CE sponsor pursuant to subsection (c)(1)(C) shall file a sponsor application, along with the required fee set forth in Section 1340.57. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The applicant shall certify to the following:

A) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in subsection (b) and all other criteria in this Section. The applicant shall be required to submit a sample

3 hour CE program with course materials, presenter qualifications and course outline for review prior to being approved as a CE sponsor;

B) That the sponsor will be responsible for verifying attendance at each course or program, and provide a certification of attendance as set forth in subsection (c)(7)(A); and

C) That, upon request by the Department, the sponsor will submit evidence as is necessary to establish compliance with this Section. Evidence shall be required when the Department has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance.

3) Each licensed sponsor shall submit by September 30 of each even numbered year a sponsor application along with the renewal fee set forth in Section 1340.57. With the application the sponsor shall be required to submit to the Department a list of all courses and programs offered within the past 24 months, which includes a description, location, date and time the course was offered.

4) Each CE program by a licensed sponsor shall provide a mechanism for written evaluation of the program and instructor by the participants. Such evaluation forms shall be kept for 5 years and shall be made available to the Department upon written request.

5) All courses and programs shall:

A) Contribute to the advancement, extension and enhancement of professional clinical skills and scientific knowledge in the practice of physical therapy;

B) Provide experiences that contain scientific integrity, relevant subject matter and course materials;

C) Be developed and presented by persons with education and/or experience in the subject matter of the program; and

D) Provide for a mechanism for the evaluation of the program by the participants.

6) All programs shall be open to all licensed physical therapists and physical therapist assistants and not be limited to the members of a single organization or a group and shall specify the number of CE hours that may be applied toward Illinois CE requirements for licensure renewal.

7) Certificate of Attendance by a Licensed Sponsor

A) It shall be the responsibility of the sponsor to provide each participant in a program with a certificate of attendance signed by the sponsor. The sponsor's certificate of attendance shall contain:

i) The name and address of the sponsor;

ii) The name and address of the participant;

iii) A detailed statement of the subject matter;

iv) The number of hours actually attended in each topic;

v) The date of the program;

vi) Signature of the sponsor.

B) The sponsor shall maintain these records for not less than 5 years.

8) The licensed sponsor shall be responsible for assuring verified continued attendance at each program. No renewal applicant shall receive credit for time not actually spent attending the program.

9) Upon the failure of a licensed sponsor to comply with any of the foregoing requirements, the Department, after notice to the sponsor and hearing before and recommendation by the Board pursuant to the Administrative Hearing Rules (see 68 Ill. Adm. Code 1110) shall thereafter refuse to accept CE credit for attendance at or participation in any of that sponsor's CE programs until such time as the Department receives reasonably satisfactory assurances of compliance with this Section.

d) Continuing Education Earned in Other Jurisdictions

1) If a licensee has earned CE hours in another jurisdiction from a nonapproved sponsor for which he/she will be claiming credit toward full compliance in Illinois, that applicant shall submit an application along with a $20 processing fee prior to taking the program or 90 days prior to the expiration date of the license. The Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.

2) If a licensee fails to submit an out of state CE approval form within the required time, late approval may be obtained by submitting the application with the $20 processing fee plus a $10 per hour late fee not to exceed $150. The Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.

e) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on the renewal application, full compliance with CE requirements set forth in subsection (a).

2) The Department may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance for a minimum of 5 years.

3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified and may request an interview with the Board, at which time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

f) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of his/her license without having fully complied with these CE requirements shall file with the Department a renewal application, the renewal fee set forth in Section 1340.57, a statement setting forth the facts concerning such non-compliance, and a request for waiver of the CE requirements on the basis of such facts. If the Department, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted that good cause has been shown for granting a waiver, the Department shall waive enforcement of

such requirements for the renewal period for which the applicant has applied.

2) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

A) Full-time service in the armed forces of the United States of America during a substantial part of such period; or

B) Extreme hardship, which shall be determined on an individual basis by the Board and shall be limited to documentation of:

i) An incapacitating illness documented by a currently licensed physician;

ii) A physical inability to travel to the sites of approved programs; or

iii) Any other similar extenuating circumstances.

3) If an interview with the Board is requested at the time the request for such waiver is filed with the Department, the renewal applicant shall be given at least 20 days written notice of the date, time and place of such interview by certified mail, return receipt requested.

4) Any renewal applicant who submits a request for waiver pursuant to subsection (f)(1) of this Section shall be deemed to be in good standing until the Department's final decision on the application has been made.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 1340.65 Unprofessional Conduct

a) Pursuant to Section 17(l)(H) of the Act, unprofessional conduct in the practice of physical therapy shall include but not be limited to:

1) The promotion of the sale of services, goods, appliances or drugs in such manner as to exploit the patient or client for the financial gain of the practitioner or of a third party.

2) Directly or indirectly offering, giving, soliciting, or receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient or client.

3) Revealing of personally identifiable facts, data or information about a patient or client obtained in a professional capacity without the prior consent of the patient or client, except as authorized or required by law.

4) Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

5) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that the person to whom the responsibilities were delegated is not qualified by training, experience, or licensure to perform them.

6) Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed physical therapist.

7) Overutilizing services by providing excessive evaluation or treatment procedures not warranted by the condition of the patient or by continuing treatment beyond the point of possible benefit.

8) Making gross or deliberate misrepresentations or misleading claims as to professional qualifications or of the efficacy or value of the treatments or remedies given or recommended, or those of another practitioner.

9) Gross and willful and continued overcharging for professional services, including filing false statements~~statement~~ for collection of fees for which services are not rendered.

10) Failing to maintain a record for each patient that~~which~~ accurately reflects the evaluation and treatment of the patient.

11) Advertising or soliciting for patronage in a manner that is fraudulent or misleading. Examples of advertising or soliciting which is considered fraudulent or misleading shall include, but not be limited to:

A) Advertising by means of testimonials, anecdotal reports of physical therapy practice successes or claims of superior quality of care to entice the public; or

B) Advertising which contains false, fraudulent, deceptive or misleading materials, warranties or guarantees of success, statements which play upon vanities or fears of the public or statements which promote or produce unfair competition.

b) The Department hereby incorporates by reference the "Code of Ethics", June 2000~~1991~~, approved by the American Physical Therapy Association, 1111 North Fairfax Street, Alexandria VA 22314, with no later amendments or editions.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Slow-Moving Vehicle Identification Emblem

2) Code Citation: 92 Ill. Adm. Code 564

3)

Section Numbers:	Proposed Action:
564.10	Repeal
564.20	Repeal
APPENDIX A	Repeal

4) Statutory Authority: Implementing and authorized by Section 12-709 of the Illinois Rules of the Road (Ill. Rev. Stat. 1983, ch. 95½, par. 12-709)

5) A complete description of the subjects and issues involved: The Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to replace it with a new Part that establishes revised standards to update the specifications and mounting requirements for slow-moving vehicle emblems as mandated by 625 ILCS 5/12-709.

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

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

8) Does this proposed repealer contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Since the Department is simultaneously proposing a new Part to replace the repealed Part upon adoption, this proposed repealer will have no effect on local municipalities.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

(217) 785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, Illinois

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

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
(217) 782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This proposed repealer will not affect small businesses for the same reason stated above.

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: The Department only recently became aware of the need to revise this Part through an industry spokesperson. Therefore, it was not included in either of the Department's two most recent regulatory agendas.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYS

PART 564
SLOW-MOVING VEHICLE IDENTIFICATION EMBLEM (REPEALED)

Section
564.10 Purpose
564.20 Slow-Moving Vehicle Identification Standard
564.APPENDIX A ASAE Standard: ASAE S276.2

AUTHORITY: Implementing and authorized by Section 12-709 of the Illinois Rules of the Road (Ill. Rev. Stat. 1983, ch. 95½, par. 12-709).

SOURCE: Adopted June 6, 1974; rescinded by operation of law October 1, 1984; new rules adopted at 9 Ill. Reg. 11657, effective July 12, 1985; repealed at 28 Ill. Reg. _____, effective _____.

Section 564.10 Purpose

The purpose of this Part is to provide specifications and mounting requirements for slow-moving vehicle emblems as prescribed by state law. (Ill. Rev. Stat., 1983, ch. 95½, par. 12-709)

Section 564.20 Slow-Moving Vehicle Identification Standard

The identification emblem for slow-moving vehicles shall be in accordance with the American Society of Agricultural Engineers Standard 276.2 (ASAE S276.2, March 1968 version), found in Appendix A, except that the emblem shall be mounted 4 to 12 feet above the ground rather than 2 to 6 feet above the ground as provided in Section 7 of the ASAE S276.2. All standards cited within Appendix A are as of March 1968 and include no later amendments or editions.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 564.APPENDIX A ASAE Standard: ASAE S276.2

SLOW-MOVING VEHICLE IDENTIFICATION EMBLEM

Developed cooperatively by the ASAE Farm Safety Committee and the National Safety Council's Farm Conference Studies and Research Committee. Approved by ASAE's Power and Machinery Division Technical Committee and adopted as ASAE Recommendation R276 in December, 1964. Corresponds to Society of Automotive Engineers SAE J943. Revised and adopted as ASAE Standard, S276.1 in December, 1966; revised March 1968.

SECTION 1-PURPOSE

1.1 The purpose of this standard is to establish specifications which define a unique identification emblem for use on slow-moving vehicles when operated or transported on public roads.

SECTION 2-SCOPE

2.1 This standard establishes emblem dimensional specifications, performance requirements, and related test procedures.

SECTION 3-DEFINITION

3.1 Slow-moving vehicles are defined as vehicles which normally travel at rates of speed slower than regular vehicular traffic (vehicles which have a maximum travel speed of less than 25 miles per hour or 40.2 kilometers per hour).

SECTION 4-DESCRIPTION

4.1 The identification emblem (Illustration 1) consists of a fluorescent yellow-orange triangle with a dark, red reflective border. The yellow-orange fluorescent triangle is for daylight identification. The reflective border defines the shape of the fluorescent color in daylight and becomes a hollow red triangle in the path of motor vehicle headlights at night.

SECTION 5-PERFORMANCE REQUIREMENTS

5.1 Visibility. The emblem shall be entirely visible in daylight and at night from all distances between 600 ft. and 100 ft. (182.88 meters to 30.48 meters) from the rear when directly in front of lawful upper beam of headlamps.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

5.2 Dimensional requirements. The size shall be as shown in Illustration 1.

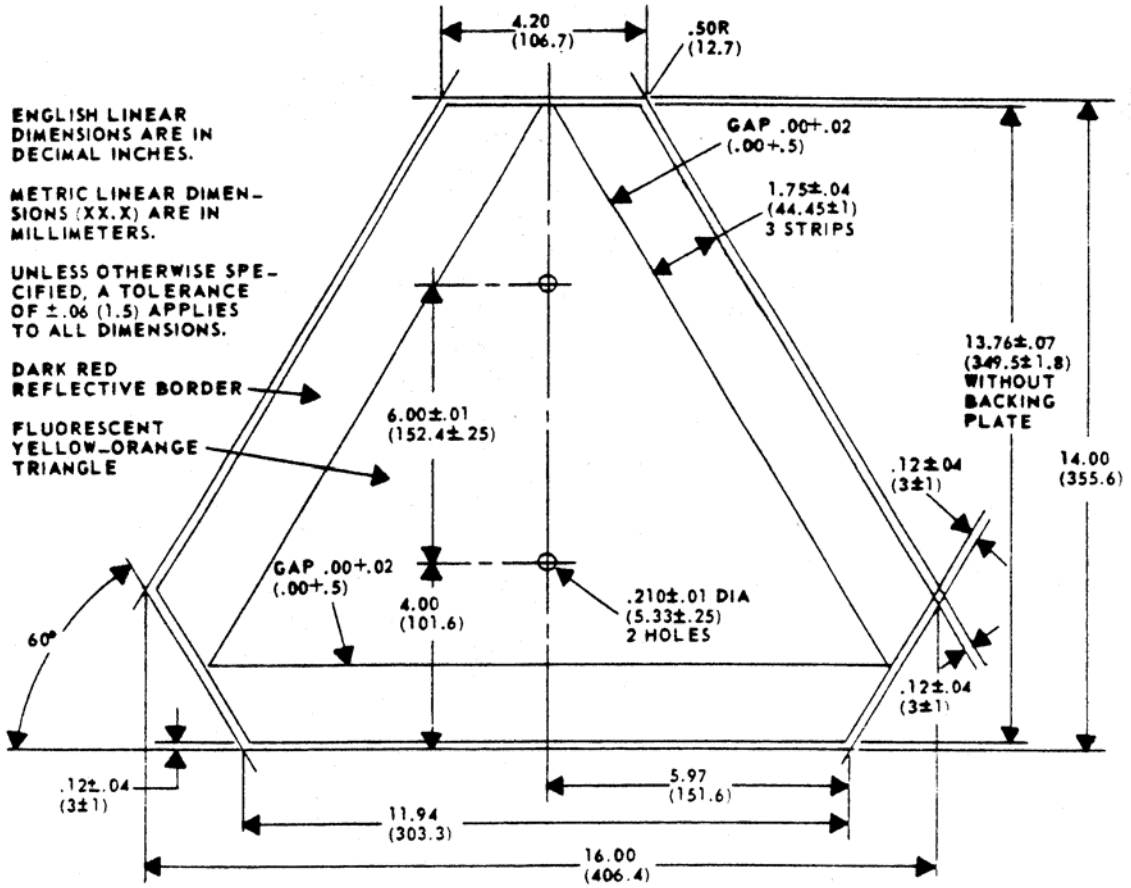

ILLUSTRATION 1 – IDENTIFICATION EMBLEM

5.3 Color and reflectivity

5.3.1 The spectrophotometric color values of the yellow-orange fluorescent material shall have a dominant wave length of 590-610 millimicrons and a purity of 98 percent before test. After durability test, paragraph 6.2, the dominant wave length of the fluorescent material shall not change more than 10 percent.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

5.3.2 The reflective material shall have minimum intensity values at each of the angles listed per Table 1. After durability test, paragraph 6.2, the minimum reflective intensity values for the reflective material shall not change more than 20 percent from the values specified in Table 1.

TABLE 1-MINIMUM REFLECTIVE INTENSITY VALUES, R*

Divergence Angle, dog	Incidence Angle, dog	Reflective Intensity, R
0.2	0	10
0.2	15	7
0.2	30	5
0.5	0	5
0.5	15	4
0.5	30	2

* Measurements shall be conducted in accordance with photometric testing procedures for reflex-reflectors as specified in Society of Automotive Engineers Standard, SAE J594, Reflex Reflectors, and using 50, ±5 sq in. (322.6, ±32.3 sq centimeters) of reflective material. The maximum dimension of the test surface shall not be greater than 1.5 times the minimum dimension. The reflective intensity (R) is computed from the equation.

$$R = \frac{(L_r)\,(d^2)}{(L_s)\,(A)}$$

Where

R = reflective intensity, candlepower per incident foot-candle per square foot

L_r = illumination incident upon receiver at observation point, foot-candles

L_s = illumination incident upon a plane perpendicular to the incident ray at the test specimen position, foot-candles (100 ft. as specified in SAE J594), feet

A = area of test surface, square feet

5.4 Durability

5.4.1 The reflective and fluorescent materials shall be tough, flexible and of sufficient thickness and strength to meet the requirements of sections 5 and 6. After the durability test, paragraph 6.2, the fluorescent and reflective material shall show no appreciable

discoloration, cracking, crazing, blistering, loss of durable bond, or dimensional change.

5.4.2 Backing material for portable identification emblems shall be equivalent to 0.040 in. (1.02 mm) minimum thickness aluminum, 22-gage (0.030 in. or 0.76 mm) minimum thickness mill-galvanized or coated sheet steel with the surface clean and receptive to a durable bond. The backing material shall be free of burrs.

NOTE: These requirements are minimal and do not preclude the use of materials having superior performance.

SECTION 6-TEST PROCEDURES

6.1 The emblem shall be tested in conformance with the following sections from SAE J575, Tests for Motor Vehicle Lighting Devices and Components:

Section B – Samples for Tests
Section D – Laboratory Facilities
Section E – Vibration Test
Section H – Corrosion Test (pertains to face of emblem only)

6.2 Durability test. Samples shall be exposed to the sun at an angle of 45 deg to horizontal and facing south per American Society for Testing and Materials, ASTM D1014, Conducting Exterior Exposure Tests of Paints on Steel.

TABLE 2-DURABILITY TEST PERIODS

	Minimum Test Period, months	
Location	Fluorscent	Reflective
Outside in Midwest	12	24
or		
Outside in Miami, Florida		12

6.3 Drop test. Each test sample be dropped from a height of 5 ft. (1.53m) to a smooth hard surface equivalent to rigid metal or concrete. Each test sample shall be submitted to three drop tests: corner drop, edge drop, and flat drop. Failure shall be considered to have occurred when the emblem will no longer meet requirements in Section 5.

SECTION 7-MOUNTING

7.1 The emblem shall be mounted point up (see Illustration 1) in a plane perpendicular to the

direction of travel plus or minus 10 degrees. It shall be placed centrally at the rear of the vehicle, unobscured, and 2 to 6 ft. (0.61 to 1.83m) above the ground measured from the lower edge of the emblem. It may be permanently attached to equipment when practical. Portable emblems shall be mounted by using bracket sockets and identification emblem brackets specified in ASAE Standard: ASAE S277, Mounting Brackets and Socket for Agricultural and Industrial Equipment Warning Lamp and Slow-Moving Vehicle (SMV) Indentification Emblem.

7.2 The emblem shall not replace such warning devices as tail lamps, reflectors, flashing lights, or warning flags and is not to be used as a clearance marker for wide equipment.

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NOTICE OF PROPOSED RULE

1) Heading of the Part: Slow-Moving Vehicle Identification Emblem

2) Code Citation: 92 Ill. Adm. Code 564

3)

Section Numbers:	Proposed Action:
564.10	New Section
564.20	New Section
564.30	New Section
564.40	New Section
564.APPENDIX A	New Section

4) Statutory Authority: Implementing and authorized by Section 12-709 of the Illinois Vehicle Code [625 ILCS 5/12-709]

5) A complete description of the subjects and issues involved: By this Notice, the Department, through its Division of Traffic Safety, is proposing a new, updated Part on the slow-moving vehicle identification emblem while simultaneously proposing a repealer of the current rules, notice and text of which appear elsewhere in this issue of the *Illinois Register*. The Department will replace the current rules with this new Part that establishes revised specifications and mounting requirements, through an incorporation by reference, for slow-moving vehicle identification emblems as mandated by 625 ILCS 5/12-709. Section 12-709 of the Illinois Vehicle Code (the Code) requires the specifications and mounting requirements to be based on the American Society of Agricultural Engineers (ASAE) Standard (S) 276.5, dated November 1997. The November 1997 ASAE standard was updated in February 2003, although the updates were not substantive in nature. Therefore, the Department is proposing to incorporate by reference the ASAE S276.5 as of February 2003, which is substantively the same as the November 1997 standard provided for in Section 12-709 of the Code. Following is a Section by Section analysis of the differences between the new Part and the old Part.

Section 564.10 Purpose − No substantive change from the old Part to the new Part.

Section 564.20 Applicability – This new Section is being added to detail those affected by this Part, as prescribed by statute.

Section 564.30 Definitions – This new Section will aid the reader in comprehending this Part.

Section 564.40 Incorporation by Reference of ASAE S276.5, February 2003 – This new Section is similar to Section 564.20 in the old Part although the Department modified language to update the ASAE standard and, also, deleted

language that required the emblem to be mounted in a location other than where the ASAE prescribes it to be mounted. The old standard required the emblem to be located 2 to 6 feet above the ground while the old Part requires the emblem to be mounted 4 to 12 feet above the ground. The new Part incorporates by reference ASAE S276.5 that prescribes the mounting at 2 to 10 feet above the ground.

Section 564.Appendix A Highlights of ASAE S276.5, February 2003 − The new Part revises the heading of the Appendix and provides important highlights from the ASAE S276.5, February 2003 that are useful to interested parties. These highlights include information regarding the general description of the emblem and the emblem's mounting requirements. These emblems are available on the retail market at farm supply stores. At the time of purchase, the end user must look for the emblem that is marked as being in compliance with ASAE S276.5. Interested parties will also need to know how to mount the emblem on their slow-moving vehicle, as discussed in the new Part at Appendix A. In the old Part, the Department set out the complete text of the ASAE standard in the rule. However, that standard has been significantly modified since March, 1968 making the old Appendix out-of-date. In the new Part, incorporating the updated standard by reference will ensure compliance by emblem manufacturers. Finally, the highlights provided in the new Appendix A will assist interested parties in their comprehension of the new requirements.

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

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

8) Does this proposed rule contain incorporations by reference? Yes

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking affects units of local government that operate vehicles required to display a slow-moving vehicle emblem such as animal drawn vehicles, farm tractors, implements of husbandry and special mobile equipment.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULE

Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, Illinois

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

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
(217) 782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking affects small businesses that operate vehicles required to display a slow-moving vehicle emblem such as animal drawn vehicles, farm tractors, implements of husbandry and special mobile equipment. This rulemaking also affects manufacturers of slow-moving vehicle identification emblems to ensure compliance with ASAE S276.5 specifications.

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

C) Types of professional skills necessary for compliance: No professional skills are necessary for compliance.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULE

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the most recent two regulatory agendas because: The Department only recently became aware of the need to revise this Part through an industry spokesperson.

The full text of this Proposed Rule begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULE

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYS

PART 564
SLOW-MOVING VEHICLE IDENTIFICATION EMBLEM

Section
564.10 Purpose
564.20 Applicability
564.30 Definitions
564.40 Incorporation by Reference of ASAE S276.5, February 2003
564.APPENDIX A Highlights of ASAE S276.5, February 2003

AUTHORITY: Implementing and authorized by Section 12-709 of the Illinois Vehicle Code [625 ILCS 5/12-709].

SOURCE: Part repealed at 28 Ill. Reg. _____, effective _____; New Part adopted at 28 Ill. Reg. _____, effective _____.

Section 564.10 Purpose

The purpose of this Part is to provide specifications and mounting requirements for slow-moving vehicle emblems as required by Section 12-709 of the Illinois Vehicle Code (the Code) [625 ILCS 5/12-709].

Section 564.20 Applicability

Section 12-709 of the Code provides:

a) *Every animal drawn vehicle, farm tractor, implement of husbandry and special mobile equipment, when operated on a highway must display a slow-moving vehicle emblem mounted on the rear except as provided in* subsection *(b) of this Section. Special mobile equipment is exempt when operated within the limits of a construction or maintenance project where traffic control devices are used in compliance with the applicable provisions of the manual and specifications adopted under Section 11-301 of the Illinois Vehicle Code.*

b) *Every vehicle or unit described in* subsection *(a) of this Section when operated in combination on a highway must display a slow-moving vehicle emblem as follows:*

1) *Where the towed unit or any load thereon partially or totally obscures the slow-moving vehicle emblem on the towing unit, the towed unit shall be equipped with a slow-moving vehicle emblem. In such cases the towing unit need not display the emblem.*

2) *Where the slow-moving vehicle emblem on the towing unit is not obscured by the towed unit or its load, then either or both may be equipped with the required emblem but it shall be sufficient if either displays it.*

3) *A registered truck towed behind a farm tractor in conformity with the provisions of Section 11-1418 of the Illinois Vehicle Code must display a slow-moving vehicle emblem in the manner provided* by this Part *while being towed on a highway if the emblem on the towing vehicle is partially or totally obscured.* (Section 12-709 of the Code)

Section 564.30 Definitions

"American Society of Agricultural Engineers" or "ASAE" means a professional and technical organization, of members worldwide, who are dedicated to the advancement of engineering applicable to agricultural, food, and biological systems. ASAE standards are developed and adopted to meet standardization needs in areas that include, but are not limited to, agricultural field equipment and farmstead equipment.

"Department" means the Illinois Department of Transportation.

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel or located on public school property. (Section 1-126 of the Code)

"Illinois Vehicle Code" or "the Code" means 625 ILCS 5.

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"Slow-moving vehicle identification emblem" means a red-orange fluorescent equilateral triangle with a red retroreflective border positioned with a point of the triangle up.

Section 564.40 Incorporation by Reference of ASAE S276.5, February 2003

This Part incorporates by reference ASAE S276.5, February 2003, that is the basis and guideline for the Department's policies on the specifications and mounting of the slow-moving vehicle identification emblem. The ASAE S276.5 is incorporated as a part of this Part and is effective as indicated, not including any later amendments or editions. The ASAE S276.5 is available for public inspection at the Division of Traffic Safety, DOT Annex Building, 3215 Executive Park Drive, Commercial Vehicle Safety Section, 3rd Floor, Springfield, Illinois. Additionally, a copy of the standard may be purchased from the American Society of Agricultural Engineers, 2950 Niles Rd., St. Joseph MI 49085-9659.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULE

Section 564.APPENDIX A Highlights of ASAE S276.5, February 2003

The following highlights are actual specifications from the ASAE S276.5, February 2003 document and are being provided to assist in the purchase of the appropriate emblem and in the proper mounting of the emblem on a vehicle. However, the specifications in this Appendix A are not all-inclusive. While the description, material and mounting requirements found in subsections (a) through (c) of Appendix A are the same as those contained in ASAE S276.5, February 2003, additional specifications applicable to the manufacturers of the emblem are incorporated by reference at Section 564.40 and are contained in the actual ASAE S276.5, February 2003 document.

a) Description

1) The identification emblem consists of a fluorescent, orange equilateral triangle with a red retroreflective border positioned with a point of the triangle up. The red-orange fluorescent triangle provides for daylight identification. The red retroreflective border appears as a hollow red triangle in the path of motor vehicle headlights at night. The emblem may be movable or vehicular mounted.

2) The emblem manufacturer's name and company address will be on the face of the emblem, along with a statement certifying that the emblem is in compliance with ASAE S276.5. This information shall be clearly and permanently marked on the face of the emblem. It will appear only in the lower center or lower right-hand corner of the emblem. On movable emblems, the information may be located on the reverse side of the backing material.

b) Material Requirements

1) Visibility of retroreflective materials. The emblem shall be visible at night as a hollow red triangle from all distances between 600 and 100 feet from the rear when directly in front of lawful vehicle low beam headlights.

2) Visibility of fluorescent materials. The emblem shall be visible in the daylight as a red-orange fluorescent triangle from all distances between 600 and 100 feet.

c) Position of Emblem

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NOTICE OF PROPOSED RULE

1) The emblem shall be mounted with the point of the triangle upward.

2) Emblems shall be mounted in a plane perpendicular to the direction of travel and ± 20 degrees from the vertical. The emblem shall be visible from the rear of a slow-moving vehicle.

3) The emblem shall be displayed as near to the rear and centered, or as near to the left of center of the vehicle or equipment as practical. It shall be located 2 to 10 feet above the ground measured from the lower edge of the emblem.

4) The emblem shall be securely and rigidly affixed to the equipment. Movable emblems may be mounted by using the socket and bracket specified in ANSI/ASAE S277, or by other means that provide secure and rigid attachment.

5) The effective reflectivity and fluorescence of the emblem shall be unobscured to the extent that the triangular shape is readily identifiable both day and night.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Fees for Analytical Testing of Community Drinking Water Supply Samples for Radionuclides

2) Code Citation: 32 Ill. Adm. Code 336

3)

Section Numbers:	Adopted Action:
336.10	Amendment
336.20	Amendment
336.30	Amendment
336.40	Amendment
336.50	Amendment
336.55	New Section
336.60	Amendment
336.70	Amendment
336.80	Amendment

4) Statutory Authority: Implementing and authorized by Section 2005-40 of the Civil Administrative Code of Illinois [20 ILCS 2005/2005-40].

5) Effective date of amendments: April 14, 2004

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 at the Agency's headquarters located at 1035 Outer Park Drive, Springfield, Illinois and is available for public inspection.

9) Notice of Proposal published in the Illinois Register: December 19, 2003 (27 Ill. Reg. 18940)

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Differences between proposal and final version:

a) In Section 336.10(b), lines 45-46, change "the effective date of this amendment" to "April 14, 2004".

b) In Section 336.30(a), line 66, strike "5/3.05" and add "5/3.145".

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENTS

c) In Section 336.30(c), line 73, change "the effective date of this amendment" to "April 14, 2004".

d) In Section 336.40(a), line 92, change "the effective date of this amendment" to "April 14, 2004".

e) In Section 336.50, in the table following line 134, in Categories AC and AQ, delete the quotation marks from ""radium-228"".

f) In Section 336.50, in the table following line 134, under the heading "Services" for each Category, delete the quotation marks from ""radium-226"" (11 times).

g) In Section 336.50, in the table following line 134, change ""228"" to "radium-228" (11 times).

h) In Section 336.70(a), line 179, change "the effective date of this amendment" to "April 14, 2004".

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 these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of amendments: This amendment will accommodate changes in USEPA's drinking water rule (40 CFR 141 and 142). Starting in 2004, different sampling schedules are going to be prescribed by USEPA. Laboratories performing drinking water analysis for radionuclides need to offer a different set of services.

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

Laura Stolpman
Staff Attorney
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, Illinois 62704
217/785-9884 (voice)
217/782-6133 (TDD)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENTS

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

PART 336
FEES FOR ANALYTICAL TESTING OF COMMUNITY
DRINKING WATER SUPPLY SAMPLES FOR RADIONUCLIDES

Section

336.10 Purpose and Scope
336.20 Incorporation by Reference
336.30 Definitions
336.40 Procedures for Requesting Testing Services and Payment of Fee
336.50 Community Water Supply Testing Categories
336.55 Changes to Community Water Supply Testing Categories
336.60 New Sampling Points for Existing Community Water Supplies
336.70 Testing Fees
336.80 Conditions

AUTHORITY: Implementing and authorized by Section 2005-40 of the Civil Administrative Code of Illinois [20 ILCS 2005/2005-40].

SOURCE: Adopted by emergency rule at 25 Ill. Reg. 10233, effective August 1, 2001, for a maximum of 150 days; adopted at 25 Ill. Reg. 14877, effective October 30, 2001; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; amended at 28 Ill. Reg. _____, effective _____.

Section 336.10 Purpose and Scope

a) Under the provisions of 20 ILCS 2005/2005-40 ~~the 2001 amendments to the Department of Nuclear Safety Law~~, the Illinois Emergency Management Agency (Agency)~~Department of Nuclear Safety (Department)~~ is authorized to analyze community drinking water samples for radionuclides and is authorized to assess a reasonable fee for such services. The Agency's~~Department's~~ laboratory is certified by the U.S. Environmental Protection Agency (USEPA) to conduct such analyses for compliance with the Safe Drinking Water Act (42 USC 300f, et seq.). This Part sets forth the procedure for requesting analytical services and the fees that the Agency~~Department~~ charges for providing analytical services.

b) Participation in the Agency's~~Department's~~ testing program is open to Illinois

community water supplies for those samples required for compliance with Illinois Pollution Control Board drinking water regulations (35 Ill. Adm. Code Subtitle F). The fee schedule found in Section 336.70 of this Part is effective from April 14, 2004 ~~August 1, 2001~~ to December 31, 2007~~2003~~. In January 2008~~December 2003~~, new USEPA testing requirements will go into effect, thus requiring a new fee schedule.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 336.20 Incorporations by Reference

All rules, standards and guidelines of agencies of the State of Illinois, United States, or nationally recognized organizations or associations that are incorporated by reference in this Part are incorporated as of the date specified. Copies of these rules, standards and guidelines that have been incorporated by reference are available for public inspection at the Illinois Emergency Management Agency~~Department of Nuclear Safety~~, 1035 Outer Park Drive, Springfield, Illinois.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 336.30 Definitions

a) *"Community water supply" means a public water supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents.* [415 ILCS 5/3.145~~5/3.05~~]

b) "Grandfather monitoring" means radium-228 results generated between June 2000 and December 8, 2003 and used to satisfy the initial monitoring requirements in accordance with 35 Ill. Adm. Code 611.731(b)(2).

c~~b~~) "New community water supply" means a community water supply that begins operation on or after April 14, 2004~~August 1, 2001~~.

d~~c~~) "New sampling point" means a sampling point that was not in existence or in use at the time a community water supply committed to participate in the Agency's~~Department's~~ testing program.

e~~d~~) "Properly certified operator" means an operator certified in accordance with the Public Water Supply Operations Act [415 ILCS 45].

f~~e~~) "Sampling point" refers to either a point in the distribution system or a finished

water entry point where drinking water samples are collected.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 336.40 Procedures for Requesting Testing Services and Payment of Fee

a) The Agency~~Department~~ shall send to all community water supplies a notice indicating the testing category to which they have been assigned by Illinois Environmental Protection Agency (IEPA)~~qualify~~ and the fee that would apply for the period from April 14, 2004 ~~August 1, 2001~~ to December 31, 2007~~2003~~ (testing fee period).

b) New community water supplies that commit to participate in the Agency's ~~Department's~~ testing program will automatically be assigned to Category BC or BQ and shall pay the fee specified in Section 336.70 of this Part.

c) A community water supply that chooses to participate in the Agency's ~~Department's~~ testing program must commit in writing to participate in the program for the entire testing fee period. A new community water supply that chooses to participate in the Agency's~~Department's~~ testing program must commit in writing to participate in the program for whatever portion of the testing fee period that remains when the commitment is made.

d) A community water supply that commits to participate must sign the prescribed commitment form provided and return it to the Agency~~Department~~ at least 30 days prior to the date that a test needs to be conducted.

e) A community water supply that commits to participate in the Agency's ~~Department's~~ testing program and returns the signed form to the Agency ~~Department~~ shall be billed the appropriate fee by the Agency~~Department~~. ~~Except as described in subsection (f) of this Section, the~~ The Agency ~~Department~~ will not perform any tests on samples submitted until the fee is paid.

f) All fees are to be paid on a quarterly basis.~~Category C and D community water supplies, as defined in Section 336.50 of this Part, shall pay the appropriate testing fee in two equal installments. The first installment shall be due before the Department performs any tests on samples submitted to the Department after August 1, 2001. The second installment shall be due on or before August 1, 2002.~~

(Source: Amended at 28 Ill. Reg. _____, effective _____)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENTS

Section 336.50 Community Water Supply Testing Categories

For the purposes of this Part, the following testing categories shall initially be assigned to community water supplies based on drinking water testing results on file at IEPA as of December 31, 2003. ~~processed by the Department before August 1, 2001. The "most recent gross alpha result" is defined as follows: For community water supplies that have collected samples quarterly for radiological analyses, it is the arithmetic mean (average) of the values from the last four completed analyses for gross alpha. For community water supplies that have collected samples for radiological analyses once every four years, it is the value from the last completed analysis for gross alpha.~~

Category	Assignment Criteria	Services
AC	Community water supplies that did not participate in the grandfather monitoring for radium-228 requesting radium analysis by composite.	Four consecutive quarters of sampling and analysis for gross alpha. One radium-226 and radium-228 composite analysis.
AQ	Community water supplies that did not participate in the grandfather monitoring for radium-228 requesting radium analysis by quarter.	Four consecutive quarters of sampling and analysis for gross alpha, radium-226 and radium-228.
BC	New community water supplies or existing supplies that add one or more new sampling points to be analyzed for radium by composite.	Four consecutive quarters of sampling and analysis for gross alpha. One radium-226 and radium-228 composite analysis.
BQ	New community water supplies or existing supplies that add one or more new sampling points to be analyzed for radium quarterly.	Four consecutive quarters of sampling and analysis for gross alpha, radium-226 and radium-228.
C3	Community water supplies on a 3 year cycle.	One quarter of sampling and analysis for gross alpha, radium-226 and radium-228.

C6	Community water supplies on a 6 year cycle.	One quarter of sampling and analysis for gross alpha, radium-226 and radium-228.
C9	Community water supplies on a 9 year cycle.	One quarter of sampling and analysis for gross alpha, radium-226 and radium-228.
CC	Community water supplies out of compliance for radium to be analyzed for radium by composite.	Quarterly sampling and analysis for gross alpha. One radium-226 and radium-228 composite analysis every 4 quarters.
CQ	Community water supplies out of compliance for radium to be analyzed for radium quarterly.	Quarterly sampling and analysis for gross alpha, radium-226 and radium-228.
DC	Community water supplies out of compliance for radium and uranium, or gross alpha greater than 15 pCi/L, to be analyzed for radium by composite.	Quarterly sampling and analysis for gross alpha. One radium-226 and radium-228 and uranium composite analysis every 4 quarters.
DQ	Community water supplies out of compliance for radium and uranium, or gross alpha greater than 15 pCi/L, to be analyzed for radium quarterly.	Quarterly sampling and analysis for gross alpha, radium-226 and radium-228 and uranium.

~~a)Category A – Most recent gross alpha result less than or equal to 5 pCi/L.b)Category B – Most recent gross alpha result greater than 5 pCi/L and less than or equal to 15 pCi/L, new community water supplies, or community water supplies that add one or more new sampling points.c)Category C – Most recent sum of radium-226 plus radium-228 is greater than 5 pCi/L and gross alpha is less than or equal to 15 pCi/L, or the public water supply is currently performing quarterly radium monitoring due to a radium violation in the past.d)Category D – Most recent gross alpha result is greater than 15 pCi/L.~~

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 336.55 Changes to Community Water Supply Testing Categories

a) IEPA will monitor the performance of each community water system on a quarterly basis. IEPA may direct changes in the tests to be required on the basis

of past performance, and notify the community water supply and IEMA. IEMA will bill the correct fee for the new category during the next quarter.

b) Community water systems that want to change from composite to quarterly radium analysis and/or total uranium analysis should notify IEPA. Upon approval by IEPA, the category will be changed for the next quarter and the appropriate new fee will be billed.

(Source: Added at 28 Ill. Reg. _____, effective _____)

Section 336.60 New Sampling Points for Existing Community Water Supplies

A ~~a)Except as described in subsection (b) of this Section, a~~ community water supply that adds one or more new sampling points after committing to participate in the Agency's~~Department's~~ testing program will need the services described in Section 336.50 and shall pay the required fee for the new sampling points as described in Section 336.70 of this Part. The required fee must be paid before the Agency~~Department~~ will test samples for a new sampling point.~~b) A community water supply that is classified as a Category A community water supply pursuant to Section 336.50 of this Part that adds a new sampling point after committing to participate in the Department's testing program and paying the required fee shall thereafter be classified as a Category B community water supply only for each new sampling point and shall pay the required fee for each new Category B sampling point as specified in Section 336.70(c) of this Part.~~

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 336.70 Testing Fees

a) Community water supplies that choose to participate in the Agency's~~Department's~~ testing program shall pay a single fee per sampling point to cover testing costs for the period from April 14, 2004 ~~August 1, 2001~~ through December 31, 2007~~2003~~.

b) Fees shall be assessed as follows:

Category	Quarterly Fee per Sampling Point
AC	$140
AQ	$380
BC	$140
BQ	$380
C3	$380
C6	$380

C9	$380
CC	$140
CQ	$380
DC	$180
DQ	$570
~~A~~	~~$ 200~~
~~B~~	~~$ 700~~
~~C~~	~~$1250~~
~~D~~	~~$1675~~

c) ~~A Category A community water supply that adds one or more new sampling points shall pay a $700 testing fee for each new sampling point. If a Category B, C, or D community water supply adds a new sampling point, the fee assessed shall be the same fee as for existing sampling points.AGENCY NOTE: Pursuant to federal and State requirements, a Category A community water supply that adds a new sampling point is required to have more frequent testing performed on more constituents on each new sampling point and thus the new sampling point is classified as a Category B sampling point. This increased testing requirement for each new sampling point necessitates an increase in the fee charged for the new sampling point.d)~~The Agency~~Department~~ will provide all required sample containers and analyze all samples required for compliance with federal radiological drinking water testing requirements over the fee period.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 336.80 Conditions

Water samples must be collected by employees or agents of a community water supply under the direction of a properly certified operator. Samples submitted shall be in the Agency's~~Department's~~ supplied container. Samples not submitted in accordance with the Agency's~~Department's~~ supplied instructions will not be tested, and resampling will be required. Upon completion of analytical work, the Agency~~Department~~ will send the results directly to the IEPA, thereby fulfilling the reporting requirement of a participating community water supply. The Agency~~Department~~ will also send a copy of the results to the community water supply.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

a) Heading of the Part: Program Description

b) Code Citation: 89 Ill. Adm. Code 676

c) Section Number: 676.110 Adopted Action: Amendment

d) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]

e) Effective date of amendment: April 8, 2004

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

g) Does this amendment contain incorporations by reference? No

h) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

i) Notices of proposed published in the Illinois Register: November 14, 2003; 27 Ill. Reg. 17165

j) Has JCAR issued a Statement of Objection to this rulemaking? No

k) Differences between proposal and final version: The source note was updated to reflect "28 Ill. Reg.".

l) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

m) Will this amendment replace any emergency amendment currently in effect? No

n) Are there any amendments pending on this Part? No

o) Summary and purpose of amendment: This amendment inserts language regarding the Health Insurance Portability and Accountability Act (HIPAA).

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

Tracie Drew
Bureau Chief of Administrative Rules

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Department of Human Services
100 South Grand Ave. East
Springfield IL 62702
217/785-9772

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

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 676
PROGRAM DESCRIPTION

SUBPART A: GENERAL PROGRAM PROVISIONS

Section
676.10 Program Purpose and Types
676.20 General Program Accessibility
676.30 Definitions
676.40 Service Description

SUBPART B: CASE MANAGEMENT

Section
676.100 Case Files (Repealed)
676.110 Sharing of Customer Information Between HSP and Other DHS Programs
676.120 Documentation of Information
676.130 Customer Signatures and Information Required to Receive Services Under the HSP
676.140 Application by DHS-ORS Employees, Individuals Holding Contracts with DHS, DHS-ORS Advisory Council Members, Family Members of DHS-ORS Employees, or Close Friends of DHS-ORS Employees
676.150 Geographic Case Assignment

SUBPART C: VENDOR PAYMENT

Section
676.200 Vendor Payment
676.210 Reporting and Collection of Misspent Funds

SUBPART D: REFERRAL TO DEPARTMENT ON AGING (DoA)

Section
676.300 Criteria for Referral to DoA
676.310 Disposition of Cases not Appropriate for Referral to DoA

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS

2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5095, effective March 21, 1995; amended at 20 Ill. Reg. 6315, effective April 18, 1996; amended at 21 Ill. Reg. 2678, effective February 7, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 19563, effective October 23, 1998; amended at 23 Ill. Reg. 6445, effective May 17, 1999; amended at 23 Ill. Reg. 13874, effective November 8, 1999; amended at 24 Ill. Reg. 2681, effective February 2, 2000; amended at 28 Ill. Reg. 6445, effective April 8, 2004.

SUBPART B: CASE MANAGEMENT

Section 676.110 Sharing of Customer Information Between HSP and Other DHS Programs

a) All information received by DHS-ORS for the purpose of providing HSP services to a customer shall only be used for such purposes and may not be shared with any other program of DHS unless the individual consents to the release of such information and a release of information is signed by the customer authorizing the release.

b) No information may be obtained from a case file of another program of DHS by HSP for the purposes of providing services to a customer unless the customer consents to the release of such information and a release of information is signed by the customer authorizing the release. DHS-ORS shall only release information pursuant to the Health Insurance Portability and Accountability Act (42 USC 1320(d) et seq.) and the regulations promulgated thereunder.

(Source: Amended at 28 Ill. Reg. 6445, effective April 8, 2004)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Customer Rights and Responsibilities

2) Code Citation: 89 Ill. Adm. Code 677

3) Section Number: 677.30 — Adopted Action: Amendment

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]

5) Effective date of amendment: April 8, 2004

6) Does this rulemaking contain an automatic repeal date No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notices of proposed published in the Illinois Register: November 14, 2003; 27 Ill. Reg. 17169

10) Has JCAR issued a Statement of Objections to this rulemaking? No

11) Differences between proposal and final version: The source note was updated to reflect "28 Ill. Reg.".

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 amendment replace any emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of amendment: This amendment inserts language regarding the Health Insurance Portability and Accountability Act (HIPAA).

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

Tracie Drew

Bureau Chief of Administrative Rules

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Department of Human Services

100 South Grand Ave. East

Springfield IL 62702
217/785-9772

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

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 677
CUSTOMER RIGHTS AND RESPONSIBILITIES

SUBPART A: CUSTOMER RIGHTS

Section
677.10 Assurance of Customer Rights
677.20 Nondiscrimination
677.30 Confidentiality of Information
677.40 Freedom of Choice
677.50 Referral
677.60 Application
677.70 Notice of Action
677.80 Appeal of an Action Taken by DHS
677.90 Repayment of Assistance

SUBPART B: CUSTOMER RESPONSIBILITIES

Section
677.200 Consumer Responsibilities

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5056, effective March 21, 1995; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 5072, effective April 12, 1999; amended at 28 Ill. Reg. 6449, effective April 8, 2004.

SUBPART A: CUSTOMER RIGHTS

Section 677.30 Confidentiality of Information

All customer information maintained by DHS-ORS for the purposes of administering the funds available under the HSP is confidential and shall only be used for the purpose of the administration of HSP, pursuant to the Health Insurance Portability and Accountability Act (42 USC 1320(d) et seq.) and the regulations promulgated thereunder, and DHS' rules found at 89 Ill.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Adm. Code 505 − Confidentiality and 89 Ill. Adm. Code 676.110.

(Source: Amended at 28 Ill. Reg. 6449, effective April 8, 2004)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

a) Heading of the Part: Provider Requirements, Type Services, and Rates of Payment

b) Code Citation: 89 Ill. Adm. Code 686

c)

Section Number:	Adopted Action:
686.100	Amendment
686.200	Amendment
686.910	Amendment
686.1010	Amendment

d) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

e) Effective date of amendment: April 8, 2004

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

g) Does this amendment contain incorporations by reference? No

h) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

i) Notices of proposed published in the Illinois Register: November 14, 2003; 27 Ill. Reg. 17173

j) Has JCAR issued a Statement of Objection to this rulemaking? No

k) Differences between proposal and final version: The source note was updated to reflect "28 Ill. Reg.".

In Section 686.100(e)(1) & (4) changed "U.S.C." to "USC".

In Section 686.100(e)(5) added ";" at the end of the sentence.

In Section 686.100(f) changed "Illinois Nursing Act of 1987" to "Nursing and Advanced Practice Nursing Act".

In Section 686.910(f) added "," after "505".

l) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

m) Will these amendments replace any emergency amendments currently in effect? No

n) Are there any amendments pending on this Part? No

o) Summary and purpose of amendments: These amendments insert language regarding the Health Insurance Portability and Accountability Act (HIPAA).

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

Tracie Drew
Bureau Chief of Administrative Rules
Department of Human Services
100 South Grand Ave. East
Springfield IL 62702
217/785-9772

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

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 686
PROVIDER REQUIREMENTS, TYPE SERVICES, AND RATES OF PAYMENT

SUBPART A: PERSONAL ASSISTANTS

Section
686.10 Personal Assistant (PA) Requirements
686.20 Services Which May Be Provided by a PA
686.25 Criminal Background Check
686.30 Annual Review of PA Performance
686.40 Payment for PA Services

SUBPART B: ADULT DAY CARE PROVIDERS

Section
686.100 Adult Day Care (ADC) Provider Requirements
686.110 Services Which Must Be Provided by ADC Providers
686.120 Compliance Review of ADC Providers
686.130 Appeal of Compliance Review for ADC Providers
686.140 Payment for ADC Services

SUBPART C: HOMEMAKER SERVICES

Section
686.200 Homemaker Service Provider Requirements
686.210 Services Which Must Be Provided by Homemaker Agencies
686.220 Compliance Review of Homemaker Agencies
686.230 Appeal of Compliance Review for Homemaker Agencies
686.240 Payment for Homemaker Services
686.250 Financial Reporting of Homemaker Services
686.260 Unallowable Costs for Homemaker Service
686.270 Minimum Direct Service Worker Costs for Homemaker Services
686.280 Cost Categories for Homemaker Services

SUBPART D: ELECTRONIC HOME RESPONSE SERVICES

Section

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

686.300 Electronic Home Response Services (EHRS) Provider Requirements
686.310 Services Which Must Be Provided by EHRS Providers
686.320 Minimum Specifications for EHRS Equipment
686.330 Compliance Review of EHRS Providers
686.340 Appeal of Compliance Review for EHRS Providers
686.350 Rate of Payment for EHRS Services

SUBPART E: MAINTENANCE HOME HEALTH SERVICE

Section
686.400 Maintenance Home Health Provider Requirements
686.410 Rate of Payment for Maintenance Home Health Services

SUBPART F: HOME DELIVERED MEALS

Section
686.500 Home Delivered Meals Provider Requirements
686.510 Rate of Payment for Home Delivered Meals

SUBPART G: ENVIRONMENTAL MODIFICATION

686.600 Environmental Modification Provider Requirements
686.610 Cost of Environmental Modification
686.620 Permanency of Environmental Modification
686.630 Reason for Denial of Environmental Modification
686.640 Verification of Environmental Modification

SUBPART H: ASSISTIVE EQUIPMENT

Section
686.700 Assistive Equipment Provider Requirements
686.710 Provision of Assistive Equipment
686.720 Verification of Receipt of Assistive Equipment

SUBPART I: RESPITE CARE

Section
686.800 Respite Care Provider Requirements

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section
686.900 Program Overview
686.910 Case Management Provider Responsibilities
686.920 Provider Staffing Requirements, Qualifications, and Training
686.930 Monitoring and Liability of Provider
686.940 Provider Compliance Requirements

SUBPART K: CASE MANAGEMENT SERVICES TO PERSONS WITH BRAIN INJURIES

Section
686.1000 Program Overview
686.1010 Case Management Provider Responsibilities
686.1020 Case Manager Staffing Requirements, Qualifications and Training
686.1025 Provisional Case Manager
686.1030 Monitoring and Liability
686.1040 Provider Compliance Requirements

SUBPART L: BEHAVIORAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section
686.1100 Behavioral Services Provider Requirements
686.1110 Rate of Payment for Behavioral Services

SUBPART M: DAY HABILITATION SERVICES FOR PERSONS WITH BRAIN INJURIES

Section
686.1200 Day Habilitation Services Provider Requirements
686.1210 Rate of Payment for Day Habilitation Services

SUBPART N: PREVOCATIONAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section
686.1300 Prevocational Services Provider Requirements
686.1310 Rate of Payment for Prevocational Services

SUBPART O: SUPPORTED EMPLOYMENT SERVICES
FOR PERSONS WITH BRAIN INJURIES

Section
686.l400 Supported Employment Service Provider Requirements
686.1410 Rate of Pay for Supported Employment Services

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

686.APPENDIX A Acceptable Human Service Degrees

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5104, effective March 21, 1995; amended at 20 Ill. Reg. 12479, effective August 28, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18945, effective October 1, 1998; amended at 22 Ill. Reg. 19262, effective October 1, 1998; amended at 23 Ill. Reg. 499, effective December 22, 1998; amended at 23 Ill. Reg. 6457, effective May 17, 1999; amended at 24 Ill. Reg. 7501, effective May 6, 2000; amended at 24 Ill. Reg. 10212, effective July 1, 2000; amended at 24 Ill. Reg. 18174, effective November 30, 2000; amended at 25 Ill. Reg. 6282, effective May 15, 2001; amended at 26 Ill. Reg. 3994, effective February 28, 2002; amended at 28 Ill. Reg. 6453, effective April 8, 2004.

SUBPART B: ADULT DAY CARE PROVIDERS

Section 686.100 Adult Day Care (ADC) Provider Requirements

Adult Day Care Providers must either be approved by DHS or by the Illinois Department on Aging (DoA) pursuant to DoA's rules found at 89 Ill. Adm. Code 240, with the exception that the term "the elderly" in 89 Ill. Adm. Code 240.1560(a)(1)(A)(ii) and (a)(2)(A)(ii) should be replaced with the term "individuals with disabilities". In order to be approved as an ADC Provider by DHS, the ADC Provider must meet all of the conditions specified by DoA, as cited above, and:

a) employ a full-time program director;

b) employ the equivalent of a full-time program coordinator/director;

c) employ a program nurse who is on duty at least a portion of every standard business day;

d) employ a nutrition staff;

e) comply with the provisions of:

1) Section 504 of the Rehabilitation Act of 1973 (29 USC ~~U.S.C.~~ 12101), as amended;

2) the Illinois Human Rights Act [775 ILCS 5];

3) the Illinois Accessibility Code (71 Ill. Adm. Code 400); ~~and~~

4) the Americans with Disabilities Act (42 USC ~~U.S.C.~~ 12101, et seq.); and

5) the Health Insurance Portability and Accountability Act (42 USC 1320(d) et seq.);

f) record the administration of all prescribed medications for those customers served through HSP who are unable to self-administer medication as documented by a physician licensed pursuant to the Medical Practice Act [225 ILCS 60], a registered nurse licensed pursuant to the ~~Illinois~~ Nursing and Advanced Practice Nursing Act ~~of 1987~~ [225 ILCS 65], or as documented in the individual's Service Plan (IL 488-1049) (89 Ill. Adm. Code 676.30);

g) provide DHS with a record of the amount of pre-service training each employee has had;

h) require, and provide DHS documentation of, at least 12 hours of in-service training for each staff person each fiscal year;

i) successfully complete an Adult Day Care Provider Review pursuant to Section 686.120;

j) agree to and sign an Adult Day Care Provider Rate Agreement;

k) maintain adequate records for planning, budgeting, administration and program evaluation and planning. These records shall be available to DHS and the United States Department of Health and Human Services (HHS), or any entity designated by DHS or HHS, and shall be maintained for a period of at least 5 years or until advised that all State and federal audits are completed. These records must include, but not be limited to:

1) records of all referrals, including the disposition of each referral;

2) all customer records;

3) administrative records, including:

A) service statistics; and

B) billing and payment records;

4) personnel records, including:

A) schedules and attendance records for staff and volunteers;

B) training records for staff and volunteers;

C) annual performance evaluations for all staff and, as appropriate, all volunteers; and

l) have an Affirmative Action Plan in place which is approved by its governing body.

(Source: Amended at 28 Ill. Reg. 6453, effective April 8, 2004)

SUBPART C: HOMEMAKER SERVICES

Section 686.200 Homemaker Service Provider Requirements

a) Only those vendors with approved Homemaker Agreements may be used to provide Homemaker Services to individuals being served through Home Services Program (HSP).

b) In order to be approved by DHS, the Homemaker Agency must comply with the following, to the satisfaction of DHS:

1) provide a comprehensive array of services which include, but are not limited to, those services described in Section 686.210;

2) assure DHS that all referrals will be responded to within 48 hours after receipt from DHS;

3) have written billing procedures and provide a copy to DHS as part of the compliance review;

4) have documented procedures to cover unexpected absences and emergencies to ensure services will be provided in an adequate and safe manner to all individuals served by the agency;

5) have written procedures to respond to customer and counselor complaints regarding services;

6) maintain comprehensive written job descriptions for, at a minimum, the positions of Executive Director/Administrator, supervisory staff, and direct service providers;

7) have established a local presence to ensure regular and on-going contact with DHS and other appropriate community groups;

8) have procedures for regular and on-going recruitment of direct service providers through local resources;

9) be either incorporated or provide DHS with a copy of a written statement of purpose and function;

10) maintain adequate records for planning, budgeting, administration and program evaluation and planning. These records shall be available at all times to DHS and the United States Department of Health and Human Services (HHS), or any entity designated by DHS or HHS, and shall be maintained for a period of at least 5 years, or until advised that all State and federal audits are completed. These records must include, but not be limited to:

A) records of all referrals, including the disposition of each referral;

B) customer records, which include:

i) dates and times services were provided to each individual;

ii) dates and times of supervisor-homemaker weekly conferences;

iii) semi-annual reports of supervisory visits with each customer served;

iv) monthly service reports for each customer served that document a summary of services, actual or anticipated changes in the customer's condition, recommended changes in the current HSP Service Plan, and all customer contacts;

v) records of all staffings held pertaining to the customer;

vi) records of all financial transactions between the customer and any agency employee;

C) administrative records, which include:

i) cumulative service statistics pertaining to any agreement with DHS;

ii) billing and payment records which pertain to DHS;

D) personnel records, which include:

i) attendance records;

ii) schedules for all direct service staff;

iii) documentation regarding each individual's qualification for the position held;

iv) wage rate and effective date for each staff member;

v) job performance evaluations for each staff person that include annual evaluations and at least one probationary evaluation completed within the first six months of employment;

vi) orientation and training attendance information for each staff member, which must include the name of each instructor, the date, the time and the title of each training program attended; and

vii) verification of liability insurance in the amounts of at least $15,000 per person bodily injury, $30,000 minimum per occurrence, and $10,000 in property damage, per occurrence, if the employee will or could be expected to transport customers in the course of his/her work;

11) maintain insurance coverage against any and all liability, loss, damage and/or expense from wrongful or negligent acts of the agency or any of its

employees and provide DHS with written verification of such coverage;

12) maintain written procedures on reporting loss and damage arising from the wrongful or negligent acts of the agency or any of its employees;

13) agree to hold harmless DHS against any and all liability, loss, damage, cost, or expense arising from wrongful or negligent acts of the agency or any of its employees;

14) assist DHS in monitoring and evaluating the agency's performance under any agreement with DHS;

15) maintain any and all information regarding individuals referred to the agency by DHS as confidential and not for public release without the written consent of DHS and the customer;

16) maintain and have available for review by customers and purchasers of services policies governing:

A) the nature and scope of each service provided by the agency;

B) a two-way receipt system for any time an employee of the agency handles an individual's money, food stamps or other negotiable items or tender;

C) personnel policies governing salary, leave time, hours of work, employee grievance procedures, and attendance at in and out-service trainings; and

17) have in place an Affirmative Action Plan which is approved by its governing body.

c) At a minimum, each Homemaker Agency must employ qualified staff in the positions of:

1) Executive Director or Administrator for each local unit providing services, who is responsible for the administration of the Homemaker Services program and who, at a minimum, has or is making continued progress towards:

A) a Bachelor's degree in health, human services, or a related field;

B) licensure as a Registered Nurse pursuant to the Nursing and Advanced Practice Nursing Act [225 ILCS 65];

C) certification as a home health care administrator, medical clinic administrator, or other health services administrator; or

D) one year of related job experience in social services or in a health agency to replace each year of education required in subsections (c)(1)(A) through (C), provided that at least 1 year of experience was in a program that provides services to individuals with disabilities.

For the purposes of subsections (c)(1)(A) through (C) "continued progress" shall mean current registration and evidence of successful completion of course work in an accredited junior college, college, or university for a minimum of 2 semesters or 3 quarters of each academic year. Successful completion shall mean a grade of at least "C" in undergraduate course work or a grade of "B" in graduate course work;

2) Supervisors, in a ratio of no less than the equivalent of 1 full-time supervisor to the equivalent of every 20 full-time direct service providers, who is responsible for the supervision of direct service staff and who, at a minimum, has:

A) a Bachelor's degree with course work in social science, home economics, or nursing;

B) knowledge and skill equivalent to completion of a Bachelor's degree, as described in subsection (c)(1)(A); or

C) a high school diploma or its equivalent plus health service experience including at least 2 years supervisory experience;

3) direct service providers who have:

A) been determined to be in good health;

B) knowledge and skill equivalent to a high school diploma;

C) experience as a homemaker, either in his/her own home or through

employment; and

D) knowledge of:

i) nursing care;

ii) first aid;

iii) personal and environmental hygiene;

iv) household budgeting;

v) housekeeping;

vi) nutrition;

vii) food preparation; and

viii) clothing care.

d) Each supervisor and direct service provider must, at a minimum, participate in the following training programs:

1) Orientation, which shall include:

A) the philosophy and purpose of homemaker services; and

B) the functions of homemaker services;

2) In-service training, directed at increasing the direct service provider's knowledge and skills, of not less than 12 hours each year in areas including:

A) disability awareness; and

B) Acquired Immunodeficiency Syndrome (AIDS).

e) The Homemaker Agency shall have a written policy and procedures governing a self-evaluation process to evaluate services and case management with an outcome of written recommendations to the governing body of the agency to improve the services the agency provides.

f) The Homemaker agency shall abide by provisions of the following federal and State laws and regulations regarding employment practices and compliance:

1) Title VI of the Civil Rights Act of 1964 (42 USC 2000d);

2) Section 504 of the Rehabilitation Act of 1973 (29 USC 794);

3) the Americans with Disabilities Act (42 USC 12101);

4) the Illinois Human Rights Act [775 ILCS 5]; ~~and~~

5) the Health Care Worker's Background Check Act [225 ILCS 46]; and~~.~~

6) the Health Insurance Portability and Accountability Act (42 USC 1320(d) et seq.).

Further, the agency shall provide DHS with a letter certifying compliance with the provisions of the laws listed in this subsection (f) and a copy of the Affirmative Action Plan for the agency.

(Source: Amended at 28 Ill. Reg. 6453, effective April 8, 2004)

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

Section 686.910 Case Management Provider Responsibilities

a) Case Management

1) The case management agency (hereafter referred to as provider) shall receive customer referrals from hospitals, the Illinois Department of Public Health's AIDS Hotline, HSP AIDS Unit, other State and local agencies, and other referral services (e.g., doctors and individuals). The provider shall assign a case manager to each customer.

2) The case manager shall have full responsibility for the determination of eligibility, including assessment, development of plans of care, and arrangement and implementation of services to be provided. There shall be two levels of case managers: provisional case managers and case managers. Provisional case managers are those who have not achieved a competency score of 98% or greater for the on-site case reviews done by

the HSP AIDS unit, per Section 686.930(d). Assessments, service plans and reassessments completed by case managers may be implemented without consultation with the HSP AIDS Unit. Provisional case managers shall submit all developed plans to the HSP AIDS Unit for approval. Approval of the plan will be based on a review to determine that: the Determination of Need Assessment on which the plan is developed is complete and accurate; the plan meets the needs identified by the assessment; the plan does not place the customer's health and safety at risk; the plan is cost effective compared to comparable institutional care; and the plan has been approved by the customer's physician.

3) The case manager shall have the option of using a Registered Nurse to review and advise the case manager on the health aspects of the assessment and reassessment and to act as a liaison with hospital discharge planner, physician, home health agencies and other medical provider agencies.

b) The case manager shall provide the following services:

1) initial assessment of eligibility and information gathering (89 Ill. Adm. Code 682);

2) development of a care plan and implementation (89 Ill. Adm. Code 684);

3) reassessment of level of care at least every six months for those cases in formal eligibility, three months for those cases that have been presumptively determined eligible for interim services (89 Ill. Adm. Code 684.80), or at such time when the customer's financial or physical condition or need for services changes;

4) networking/coordination/brokering services (i.e., referring and assisting the customer in obtaining other agencies' services);

5) assisting the customer when personal assistance problems develop. Documentation of these problems and the case management team's responses will be kept in the customer's case file;

6) counseling and advocacy;

7) acting as inter-agency liaison (e.g., with other DHS programs, vendors, hospitals);

8) contacting customer a minimum of three times per month, one contact being a face-to-face visit;

9) maintaining and updating customer records; and

10) monitoring the cost effectiveness of the service plan (89 Ill. Adm. Code 679.50).

c) Eligibility for AIDS Waiver

1) Within 10 working days (exceptions being 2 working days for prescreening referrals from cooperating hospitals for interim/emergency services, 5 working days for all other prescreening for interim/emergency services) after receipt of a referral, the case manager shall complete an individual's eligibility determination for the AIDS Waiver program.

2) The case manager shall determine customer eligibility for the AIDS Waiver by completing an assessment from a home visit or while the applicant is hospitalized (89 Ill. Adm. Code 682). To determine customer eligibility, the case manager will utilize the HSP Determination of Need Assessment (89 Ill. Adm. Code 682).

3) The case manager shall assess the customer's limitations in activities of daily living (ADLs) (e.g., cooking, bathing, shopping) and what resources are available to assist the customer in performing the ADLs (89 Ill. Adm. Code 682).

4) Notice of eligibility must be mailed to the HSP AIDS Unit within ten working days after the date on which a completed application is received by the case management contracting agency.

d) The case manager will provide a case action notice to each customer informing him or her of the eligibility determination, of all rights and responsibilities under the case management program, including the customer's right to request an appeal, the appeals procedures promulgated by the Department, the right to receive assistance in filing the request for appeal and information about the services of the Client Assistance Program (CAP) and how to reach CAP.

e) Service Plan

1) If the assessment demonstrates the need for intermediate care facility (ICF), skilled nursing facility (SNF), or hospital care because of the disability of AIDS/HIV, the case manager shall develop a service plan that will allow the customer to live at home (89 Ill. Adm. Code 684.70).

2) The service plan will be retained during the time the case is opened and for five years after closure, unless an audit exception has occurred. In the case of an audit exception, the service plan will be retained until the audit exception has been resolved. Copies of the service plan will be maintained in the case management team's locations and the HSP AIDS Unit. Closed cases will be retained in the HSP Central Office.

3) The service plan shall be approved by the customer's physician. If the plan is not approved by the customer's physician, it cannot be implemented and the customer cannot be served under the AIDS Waiver.

4) If implementation of services is delayed beyond required time limits in subsection (c) of this Section, the case manager must inform the HSP AIDS Unit and assist the customer to obtain an alternative provider.

f) Records of contact with the customer will be entered and maintained in the customer's confidential case records. All contacts, verbal or written, with or on behalf of a customer shall be documented in a confidential case record. The case manager is responsible for obtaining consents for the release of information as necessary and when required by law or regulation (Confidentiality of Records in 42 USC 290dd-2, the AIDS Confidentiality Act [410 ILCS 305]; ~~and~~ 89 Ill. Adm. Code 505, Confidentiality of Information); and the Health Insurance Portability and Accountability Act (42 USC 1320(d) et seq.).

(Source: Amended at 28 Ill. Reg. 6453, effective April 8, 2004)

SUBPART K: CASE MANAGEMENT SERVICES TO PERSONS WITH BRAIN INJURIES

Section 686.1010 Case Management Provider Responsibilities

a) Case Managers

1) The Case Manager shall receive referrals from hospitals, other health providers, and other State and local agencies.

2) The Case Manager shall have full responsibility for determining

eligibility, including assessment, development of service plans, and arrangement and implementation of services to be provided.

b) The Case Manager shall provide the following services:

1) initial assessment of eligibility and information gathering (89 Ill. Adm. Code 682);

2) development of a care plan and implementation (89 Ill. Adm. Code 684);

3) reassessment of the level of care at least every six months or at such time when the customer's financial, disabling condition or need for services circumstance changes;

4) networking/coordination/brokering services (i.e., referring and assisting the customer in obtaining other agencies' services);

5) counseling and advocacy;

6) contacting the customer a minimum of one time per month;

7) maintaining and updating customer records; and

8) monitoring the cost effectiveness of the service plan (89 Ill. Adm. Code 679.50).

c) Eligibility for the Brain Injury Waiver

1) After receipt of a referral, the Case Manager shall complete an individual's eligibility determination for the Medicaid Waiver for Persons with a Brain Injury within the following timeframes:

A) 2 working days for prescreening referral from cooperating hospitals for interim/emergency services;

B) 5 working days for all other prescreening for interim/emergency services); and

C) 10 working days for an eligibility referral.

2) The Case Manager shall determine customer eligibility for the Brain

Injured Waiver by completing an assessment from a home visit or while the customer is hospitalized (89 Ill. Adm. Code 682). To determine customer eligibility, the Case Manager will use the HSP Determination of Need Assessment (89 Ill. Adm. Code 682).

3) The Case Manager shall assess the customer's limitations in activities of daily living (ADLs) (e.g., cooking, bathing, shopping) and the resources available to assist the customer in performing the ADLs (89 Ill. Adm. Code 682).

d) The Case Manager will provide a case action notice to each customer informing him or her of the eligibility determination, of all rights and responsibilities under the case management program, including the customer's right to request an appeal, the appeals procedures promulgated by the Department, the right to receive assistance in filing the request for appeal and information about the services of the Client Assistance Program (CAP) and how to reach CAP. The determination notice must be mailed to the HSP office within 10 working days after the date on which a completed application is received by the Case Manager.

e) Service Plan

1) If the assessment demonstrates the customer is at risk of unnecessary or premature placement in an institution because of his/her brain injury, the Case Manager shall develop a service plan that will allow the customer to live at home (89 Ill. Adm. Code 684.70).

2) The service plan will be retained during the time the case is opened and for five years after closure, unless an audit exception has occurred. In the case of an audit exception, the service plan will be retained until the audit exception has been resolved. Copies of the service plan will be maintained in the Case Manager's location and the HSP office. Closed cases will be retained in the HSP Central Office.

3) The service plan shall be approved and signed by the customer's physician or neuro-psychologist. If the plan is not approved by the customer's physician or neuro-psychologist, it cannot be implemented and the customer cannot be served under the Brain Injured Waiver.

4) If implementation of services is delayed beyond required time limits in subsection (c) of this Section, the Case Manager must inform the HSP administration and assist the customer in obtaining another provider.

f) Records of contact with customer will be entered and maintained by the Case Manager in the customer's confidential case record. All contacts, oral or written, with or on behalf of a customer shall be documented in a confidential case record. The Case Manager is responsible for obtaining consents for the release of information as necessary and when required by regulation (89 Ill. Adm. Code 505) and the Health Insurance Portability and Accountability Act (42 USC 1320(d) et seq.).

(Source: Amended at 28 Ill. Reg. 6453, effective April 8, 2004)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Managed Care Dental Plans

2) Code Citation: 50 Ill. Adm. Code 5425

3)

Section Numbers:	Adopted Action:
5425.50	Adopted
5425.60	Adopted
5425.70	Adopted
5425.80	Adopted

4) Statutory Authority: Implementing and authorized by the Dental Care Patient Protection Act [215 ILCS 109] and further authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

5) Effective date of amendments: April 8, 2004

6) Do these amendments contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department of Insurance's principal office and is available for public inspection.

9) Notice of Proposal published in Illinois Register: October 10, 2003; 27 Ill. Reg. 15682

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: No substantive changes were made.

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace any emergency amendments currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of amendments: The Department has initiated these amendments in order to clarify that managed care dental plan policy form filings are to be filed in compliance with 50 Ill. Adm. Code 916. In addition, the Department is taking this

opportunity to remove any ambiguity from the rule concerning the requirement to file when there has been a material modification.

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

Chuck Budinger
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
217/782-4572

The full text of the adopted amendments begins on the next page.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER kkk: HEALTH CARE SERVICE PLANS

PART 5425
MANAGED CARE DENTAL PLANS

Section
5425.10 Purpose
5425.20 Applicability
5425.30 Definitions
5425.40 Dental Managed Care Advisory Committee
5425.50 Filing and Approval of Summary Description
5425.60 Filing and Approval of Grievance Procedure
5425.70 Filing and Approval of Point of Service Plan Requirements
5425.80 Material Modification to Summary Description, Grievance Procedure or Point of Service Plan
5425.90 Enforcement and Penalties

AUTHORITY: Implementing and authorized by the Dental Care Patient Protection Act [215 ILCS 109] and further authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Adopted at 25 Ill. Reg. 11869, effective August 31, 2001; amended at 28 Ill. Reg. 6473, effective April 8, 2004.

Section 5425.50 Filing and Approval of Summary Description

Pursuant to Section 143 of the Code a~~A~~ managed care dental plan shall file a summary description of coverage for approval by the Department, prior to its use, for each plan it establishes, operates, or maintains. The summary description shall contain all terms of coverage required by Section 25 of the Dental Care Patient Protection Act [215 ILCS 109/25]. The initial summary description shall be filed with the annual financial statement by March 1, 2002, pursuant to Section 2-7 of the Health Maintenance Act [215 ILCS 125/2-7], Section 2007 of the Limited Health Service Organization Act [215 ILCS 130/2007], Section 21 of the Voluntary Health Services Act [215 ILCS 165/21], Section 36 of the Dental Service Plan Act [215 ILCS 110/36] and Section 136 of the Code [215 ILCS 5/136]. In addition, each managed care dental plan is required to file a list of all participating dentists for informational purposes in accordance with the filing requirements of 50 Ill. Adm. Code 916~~each year with its annual financial statement~~. Subsequent filings of the summary description will only be required pursuant to

Section 5425.80 of this Part, if material modifications occur and are to be submitted to the Life, Accident and Health Compliance Unit of the Department in accordance with the filing requirements of 50 Ill. Adm. Code 916.

(Source: Amended at 28 Ill. Reg. 6473, effective April 8, 2004)

Section 5425.60 Filing and Approval of Grievance Procedure

Every managed care dental plan shall submit for the Director's approval, and thereafter maintain, a system for the resolution of grievances pursuant to Section 35(n) of the Act [215 ILCS 109/35(n)]. The initial grievance procedure shall be filed with the annual financial statement by March 1, 2002. Subsequent filings of the grievance procedure will only be required, pursuant to Section 5425.80 of this Part, if material modifications occur and are to be submitted to the Life, Accident and Health Compliance Unit of the Department in accordance with the filing requirements of 50 Ill. Adm. Code 916.

(Source: Amended at 28 Ill. Reg. 6473, effective April 8, 2004)

Section 5425.70 Filing and Approval of Point of Service Plan Requirements

Every managed care dental plan that is required to offer a point of service plan pursuant to the Act, except those plans that are licensed pursuant to Section 1001 of the Limited Health Service Organization Act [215 ILCS 130/1001] shall be required to file a description of its point of service plan for approval to the Life, Accident and Health Compliance Unit of the Department in accordance with the filing requirements of 50 Ill. Adm. Code 916~~with the Department~~.

a) The filing shall be comprised of:

1) A managed care dental plan filing and an indemnity filing. Such filing shall be coordinated by the managed care dental plan. The filing must contain reasonable financial incentives for the point of service member to utilize dental services provided or arranged by the designated managed care dental plan primary care provider and shall include:

A) Copies of all policy forms necessary to implement the point of service plan, including the member handbook used to integrate the services provided by the managed care dental plan and the benefits provided by the indemnity carrier; and

B) Enrollment application and member identification card disclosing

the name of both the managed care dental plan and the indemnity carrier; and

C) Solicitation material; and

D) Copies of all administrative service contracts between the managed care dental plan and indemnity carrier detailing their respective responsibilities and obligations in offering a point of service plan; and

E) The managed care dental plan shall include in its rate filing the rate level justification and a demonstration of how the out-of-network indemnity benefits to be provided by the indemnity carrier will impact on the managed care dental plan's rates and underlying utilization assumptions. Such documentation shall be deemed confidential by the Department unless specific authorization for disclosure is given by the managed care dental plan; and

F) Written descriptions and illustrative flow charts of how the premium is received and distributed in a timely fashion and how claims will be handled for payment; and

G) A comparison of benefits offered by the managed care dental plan and the indemnity carrier.

2) Out-of-network claims shall be filed with the managed care dental plan. The managed care dental plan is responsible for coordinating payment of all claims.

3) Covered services rendered by a participating provider without proper authorization shall be covered at the out-of-network benefit level.

4) For purposes of coordination of benefits, the two policies comprising the point of service plan shall be considered one policy.

5) For purposes of conversion and State continuation, when by statute the managed care dental plan must provide these provisions, they shall provide each enrollee who has a point of service plan the right to convert to either a managed care dental plan option or indemnity option. The managed care dental plan may, but is not required to, offer the enrollee the

right to continue under a point of service plan option. Once the enrollee has chosen an option, the other plan's options will no longer be available. Should the enrollee choose to continue or convert coverage under a point of service plan, the plan shall meet applicable standards for Illinois conversion or continuation requirements. In the event of any inconsistency between these standards, then the most favorable to the enrollee shall apply.

b) ~~The initial point of service plan shall be filed with the annual financial statement by March 1, 2002.~~ Subsequent filings of the point of service plan procedure will only be required, pursuant to Section 5425.80 of this Part, if material modifications occur and are to be submitted to the Life, Accident and Health Compliance Unit of the Department in accordance with the filing requirements of 50 Ill. Adm. Code 916.

c) A managed care dental plan licensed pursuant to Section 1001 of the Limited Health Service Organization Act [215 ILCS 130/1001] shall be subject to the point of service requirements contained in Section 3009 of the Limited Health Service Organization Act [215 ILCS 130/3009].

(Source: Amended at 28 Ill. Reg. 6473, effective April 8, 2004)

Section 5425.80 Material Modifications to Summary Description, Grievance Procedure or Point of Service Plan

A managed care dental plan shall file for approval with the Director, prior to use, any change in the summary description, grievance procedure, or point of service plan ~~originally submitted pursuant to Sections 5425.50, 5425.60 or 5425.70 of this Part, respectively~~. In addition, each managed care dental plan shall keep current the list of participating dentists required to be filed pursuant to Section 5425.50 of this Part. Any changes or additions to the list shall be filed with the Department for informational purposes within 30 days after such change.

(Source: Amended at 28 Ill. Reg. 6473, effective April 8, 2004)

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Illinois Police Training Act

2) Code Citation: 20 Ill. Adm. Code 1720

3)

Section Numbers:	Proposed Action:
1720.10	Amended
1720.15	Amended
1720.20	Amended
1720.25	Amended
1720.30	Amended
1720.35	Amended
1720.40	Amended
1720.50	Amended
1720.60	Amended
1720.70	Amended
1720.100	New Section
1720.110	New Section
1720.120	New Section
1720.130	New Section
1720.140	New Section
1720.150	New Section
1720.APPENDIX B	New Section

4) Statutory Authority: The Illinois Police Training Act, 50 ILCS 705/6.1, as amended by Public Act 93-655, effective January 20, 2004.

5) Effective Date of Amendments: April 12, 2004

6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: These emergency rules will not expire before the end of the 150 day period.

7) Date filed with Index Department: April 12, 2004

8) A copy of the emergency amendments, including any incorporation by reference, is on file in the Board's principal office and is available for public inspection.

9) Reason for the Emergency: The provision of procedural requirements for the filing of a verified complaint alleging that a police officer, while under oath, has knowingly and willfully made false statements as to a material fact going to an element of the offense of

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF EMERGENCY AMENDMENTS

murder is necessitated by the recent enactment of Public Act 93-655, effective January 20, 2004. Further, in order to fully comply with the requirements of current law, the procedural requirements must commence immediately.

10) A Complete Description of the Subject and Issues Involved: These emergency rules are intended to provide the procedural requirements for the filing of a verified complaint alleging that a police officer, while under oath, has knowingly and willfully made false statements as to a material fact going to an element of the offense of murder, resulting in decertification of the police officer.

11) Are there any proposed amendments to this Part pending? No

12) Statement of Statewide Policy Objectives: This emergency rulemaking will not require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.

13) Information and questions regarding these Emergency Amendments shall be directed to:

Dr. Thomas Jurkanin
Executive Director
Illinois Law Enforcement Training and Standards Board
600 South Second Street
Suite 300
Springfield, Illinois 62704-2542
(217) 782-4540

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

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF EMERGENCY AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER V: ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD
~~ILLINOIS LOCAL GOVERNMENTAL LAW ENFORCEMENT OFFICERS TRAINING BOARD~~

PART 1720
ILLINOIS POLICE TRAINING ACT

SUBPART A: CERTIFICATION OF POLICE OFFICERS

Section
1720.10 Course Requirements
EMERGENCY
1720.15 Equivalency Examination
EMERGENCY
1720.20 Minimum Requirements of the Trainee
EMERGENCY
1720.25 Procedures for Administration of Law Enforcement and Correctional Officers Certification Examination
EMERGENCY
1720.30 School Standards and Requirements
EMERGENCY
1720.35 Academy Entrance Qualifications
EMERGENCY
1720.40 Qualification of Police Instructors
EMERGENCY
1720.50 Reimbursements
EMERGENCY
1720.60 Requirements of Participating Local Agencies
EMERGENCY
1720.70 Minimum Training Requirements for Illinois Sheriffs
EMERGENCY

SUBPART B: DECERTIFICATION OF POLICE OFFICERS

Section
1720.100 Purpose
EMERGENCY
1720.110 Definitions
EMERGENCY

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF EMERGENCY AMENDMENTS

1720.120 Submission and Review of a Complaint
EMERGENCY
1720.130 Certification Revocation
EMERGENCY
1720.140 Reporting
EMERGENCY
1720.150 Law Enforcement Training and Standards Board Costs and Attorney Fees Fund
EMERGENCY

1720.APPENDIX A Physical Fitness Standards
1720.APPENDIX B Complaint Form
EMERGENCY

AUTHORITY: Implementing and authorized by Section 6.1 of the Illinois Police Training Act [50 ILCS 705/6.1] (see Public Act 93-655, effective January 20, 2004, and Public Act 93-605, effective November 19, 2003).

SOURCE: Filed and effective July 26, 1966; codified at 7 Ill. Reg. 11232; amended at 8 Ill. Reg. 12259, effective July 1, 1984; amended at 11 Ill. Reg. 16692, effective October 6, 1987; amended at 12 Ill. Reg. 3728, effective February 2, 1988; amended at 13 Ill. Reg. 19957, effective December 11, 1989; amended at 14 Ill. Reg. 14800, effective September 4, 1990; amended at 15 Ill. Reg. 999, effective January 14, 1991; amended at 16 Ill. Reg. 4002, effective February 28, 1992; emergency amendment at 16 Ill. Reg. 727, effective January 1, 1992; amended at 16 Ill. Reg. 18811, effective November 19, 1992; emergency amendment at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days.

SUBPART A: CERTIFICATION OF POLICE OFFICERS

Section 1720.10 Course Requirements
EMERGENCY

a) Minimum Hours

1) The Board, from time to time, shall set the minimum number of hours in prescribed subjects of the Minimum Standards Basic Law Enforcement Officers Training Course. An hour of instruction is defined as being ~~fifty (~~50~~)~~ minutes of actual instruction plus a ~~ten (~~10~~)~~ minute recess period.

2) The Board strongly recommends that the minimum number of hours set by the Board be exceeded whenever possible.

b) The Minimum Standards Basic Law Enforcement Officers Training Course shall consist of concentrated study which is continuous and full time.

c) The Basic Course shall cover the prescribed subjects with the instructional time as specified in the approved curriculum and instructor's guides.

d) Training in advanced and specialized areas of police work must follow curricula approved by the Board to be reimbursable.

e) In-service refresher type training on a departmental or regional level should be designed to meet particular problems of that locale. Therefore, each proposed course of this type shall be considered for reimbursement on an individual basis by the Board.

f) As a general rule, the Board will not certify any course of training that~~which~~ is not at least ~~thirty (~~30~~)~~ hours in length, with training to cover no less than ~~six (~~6~~)~~ hours each day on consecutive days.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

Section 1720.15 Equivalency Examination
EMERGENCY

a) The Executive Director may grant a waiver of basic training requirements set forth by the Board if, by reason of extensive prior experience as a law enforcement officer or prior experience as a county corrections officer, the basic training requirement is illogical or unreasonable. The Executive Director may require the applicant to take and successfully pass the Board's Equivalency Examination if the Executive Director, in reviewing prior experience and training, determines that there is a need for the applicant to demonstrate current knowledge of Illinois law and procedures. Factors ~~which~~ the Executive Director shall consider in determining the need for the Equivalency Exam shall include, but not be limited to, the type and length of prior experience as a law enforcement or county corrections officer, prior certificates for training, and education.

b) The Board shall establish a minimum passing score. In establishing a minimum score, the Board will ensure that the score reflects the knowledge and competency of the applicant. The minimum passing score will be established by the Board

within the range of 60 to 80% ~~percent~~ of the total score.

c) The content of the test shall include, but not be limited to, material in the areas specified in Section 7(b) of the Illinois Police Training Act (Act)~~,~~ and subjects covered in the Peace Officer Firearm~~Firearms~~ Training ~~for Peace Officers~~ Act [50 ILCS 710]~~(Ill. Rev. Stat. 1990 Supp., ch. 85, par. 515, et seq.)~~.

d) The Board shall at least biennially review the content of the examination and minimum passing score to ensure accuracy and reliability.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

Section 1720.20 Minimum Requirements of the Trainee
EMERGENCY

a) Regular attendance at all sessions is required. However, excused absences may be granted by the Academy~~designated~~ Director under certain limited circumstances beyond the trainee's control, which may include, but not be limited to, a death in the family, illness, response to a court subpoena, disability, or a transportation breakdown. In order to successfully complete the course, absences must not exceed ten percent of the total hours of instruction for any Board certified course of instruction.

b) Trainees shall maintain~~Maintenance of~~ an adequate classroom notebook. Factors to be considered in rating the notebook are neatness, legibility, accuracy and sufficiency of content. "Adequate", for purposes of this subsection, refers to:

1) Neatness. Requires concise organization of the notes. All notes and handouts will be placed in the book or received during the course. Dividers into topics are required.~~; and~~

2) Legibility. Put down notes in brief, clear complete sentences. Underline the important items. Lined notebooks or typing paper for typing should be used.~~; and~~

3) Accuracy. The notes taken in class must precisely reflect the content of the class.~~; and~~

4) Sufficiency of content. Notes~~Putting notes down in the trainee's notebook~~

should be in the trainee's own words. The trainee should strive to achieve condensation of the material clearly and concisely.

c) Trainees shall qualify~~Qualifications~~ in the use of firearms as required by the Peace Officer Firearm Training Act [50 ILCS 710]~~"AN ACT in relation to Firearms Training for Peace Officers" (Ill. Rev. Stat. 1989, ch. 85, par. 515, et seq.)~~.

d) An overall average of 70%~~percent~~ must be achieved on all written examinations given during any course of training. Separate evaluation of any skill-oriented performance requirements shall be made by the Academy~~designated~~ Director on a satisfactory/unsatisfactory basis.

e) The Academy~~designated~~ Director shall establish standards of conduct for the recruit while enrolled at the academy. These shall include demeanor, deportment and compliance with the discipline and regulations of the school or course. Receipt of certification of the successful completion of the course from the academy shall be deemed proof that the trainee has complied with the requirements of this subsection.

f) *Each trainee who has not been awarded a certificate attesting to his successful completion of the Minimum Standards Basic Law Enforcement Training Course as prescribed by the Board within ~~six (~~6~~)~~ months after~~ ~~o~~f his initial full-time employment~~,~~ must forfeit his position, or the employing agency must obtain a waiver from the Board extending the period for compliance. Such waivers shall be issued only for good and justifiable reasons, and in no case shall extend more than ~~ninety (~~90~~)~~ days beyond the initial ~~six (~~6~~)~~ months.* [50 ILCS 705/8.1(a)] Good and justifiable reasons for a waiver include, but are not limited to, unavailability of academy space for training, illness or disability, and the need for the trainee to serve his or her department during the initial 6~~six~~ month period.

g) Each trainee shall~~will~~ bring such equipment as required by the Course Director.

h) A trainee shall pass the State comprehensive examination to qualify as a permanent law enforcement or permanent correctional officer, except as is otherwise provided for in the Illinois Police Training Act.

1) The test shall be in writing. It shall be administered by the staff of the Board, or such other testing company or association expressly authorized by the Board.~~; and~~

2) The Board shall establish a minimum passing score. In establishing the minimum passing score, the Board will ensure that the score reflects the knowledge and competency of the trainee for law enforcement or correctional work. The minimum passing score will be established by the Board within the range of 60 to 80%~~percent~~ of the total score. At the beginning of each training course the minimum passing score will be announced.~~; and~~

3) The content of the test for law enforcement officers may include, but not be limited to, material in the areas specified in Section 7(b) of the Act~~,~~ and subjects covered in the Peace Officer Firearm Training Act [50 ILCS 710]. ~~"AN ACT in relation to Firearms Training for Peace Officers (Ill. Rev. Stat. 1989, ch. 85, par. 515 et seq.); and~~

4) The content of the test for correctional officers may include, but not be limited to, material in the areas specified in 20 Ill. Adm. Code 1750.202~~,~~ and subjects covered in the Peace Officer Firearm Training Act.~~"AN ACT in relation to Firearms Training for Peace Officers" (Ill. Rev. Stat. 1989, ch. 85, par. 515 et seq.); and~~

5) The Board shall at least biennially review the content of the exam and minimum passing score to ensure they are current and reliable.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

Section 1720.25 Procedures for Administration of Law Enforcement and Correctional Officers Certification Examination
EMERGENCY

a) The Comprehensive Examination will be administered to all trainee law enforcement and correctional officers who successfully complete the Trainee Basic Law Enforcement or Correctional Officers Training Course at a State-certified academy.

b) Trainees who successfully pass the Comprehensive Examination shall be eligible to receive certification attesting to their successful completion of the Minimum Standard Basic Law Enforcement or Correctional Training Requirements.

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF EMERGENCY AMENDMENTS

c) Examination scores will be reported in writing to the Chief Administrator of the Trainee's employing agency within 14 days after~~of~~ the examination date.

d) Law Enforcement or Correctional Trainees are required to successfully complete the Comprehensive Examination on one occasion only. There are no requirements for re-qualification.

e) Only trainees who have been certified by the Academy Director as having ~~met all the requirements of having~~ successfully completed the Trainee Basic Training Law Enforcement or Correctional Officers Course with an average minimum score of 70% are eligible to take the Comprehensive Examination.

f) Each trainee must be a full-time law enforcement or correctional officer and be employed by a local law enforcement agency.

g) In the event the trainee fails to successfully complete the Comprehensive Examination on the initial administration, he or she will be allowed to re-take the Comprehensive Examination a maximum of 2~~two~~ times.

h) In order to be eligible to re-take the Comprehensive Examination, a written request must be submitted by the Chief Administrator of the Officer's employing agency. Upon receipt of the written request, the Board shall administer the re-take examination, except as may otherwise be provided in subsection (o).

i) Law enforcement or correctional officers who initially fail to successfully complete the Comprehensive Examination will be administered an alternate version of the Comprehensive Examination on any successive re-takes~~re-take(s)~~.

j) The Board will establish and publish the locations with the dates and times for the administration of re-take examinations. Such exams will be given at least twice every 6~~six~~ months.

k) In the event that a law enforcement or correctional officer fails to successfully complete the Comprehensive Examination and is discharged as an employee by a law enforcement agency, he or she is nevertheless eligible to re-take the Comprehensive Examination if employed by another local law enforcement agency. He or she will be viewed as a new trainee by the Board and would be granted all rights that are provided to new trainees as specified in this Part~~herein~~.

l) The Comprehensive Examination will be administered on site at the academies on

the last Thursday on the last week of the basic course.

m) The trainee will have 3.5 hours to complete the Comprehensive Examination. A trainee will be excused from completing the examination if he/she is ill and excused by the proctor.

n) Individuals allowed within the testing area will be limited to Board-approved examination proctors~~,~~ and those who are taking the examination.

o) Any trainee who is uncooperative, disruptive or is thought to be cheating during the administration of the Comprehensive Examination will be ordered by the proctor to turn in his or her examination and to leave the examination area. A complete written report of the incident will then be submitted to the Executive Director of the Board and to the Chief Administrator of the officer's employing agency. The offending trainee shall have the opportunity within 7~~seven~~ days to submit a written report to the Executive Director describing the trainee's version of the event. In such cases it will be left to the discretion of the Executive Director to determine whether the officer has forfeited the examination and whether the trainee is eligible to re-take the Comprehensive Examination. The Executive Director's determination will be based on the nature of the officer's misbehavior and on the supporting evidence of such misbehavior.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

Section 1720.30 School Standards and Requirements
EMERGENCY

a) Each local school or course certified by the Board shall operate, for the duration of the school or course, under a full-time Director approved by the Executive Director of the Board.

b) The Academy~~designated~~ Director shall assume the responsibility of the overall supervision of the school, including the preparation and grading of examinations, rating of classroom notebooks, arranging for qualified instructors, providing for food and lodging for the trainees where appropriate, arranging for adequate training facilities such as classrooms, props, gymnasium and safe firearms ranges, and the conduct and discipline of the trainees.

c) The Academy~~designated~~ Director shall maintain complete records on each trainee

and, at the conclusion of the course, submit those~~such~~ records to the Executive Director of the Board for filing in such form as he may require. A copy of the performance record of each trainee shall also be furnished the employing agency, including demeanor and deportment of the trainee.

d) The Academy~~designated~~ Director shall make a final determination as to whether a trainee has satisfactorily passed all reasonable standards and requirements of a particular course of training. He shall also have the authority to dismiss from the school any trainee prior to the completion of the course, if, in the opinion of the Academy~~designated~~ Director, the trainee is unable or unwilling to satisfactorily complete the prescribed course of training. Immediately upon ~~such~~ dismissal action, the Academy~~designated~~ Director shall submit a written report to the Executive Director and the appointing authority.

e) The Academy~~designated~~ Director shall also have the responsibility of fixing reasonable fees to be charged for any training course, including tuition and room and board where applicable. The local governmental agency employing the trainee shall pay the~~such~~ fees directly to the training school or sponsoring agency.

f) Approval of Training Course

1) A formal letter of application for certification of a training course under the Illinois Police Training Act must be submitted to the Executive Director by the sponsoring agency and/or the course Director. Such application must include course objectives, curriculum outline, a brief description of what is taught under each topic, the complete schedule of the school (hour by hour and day by day and lesson plans) and the names and qualifications of the instructors to be used. It should also list the specific location of the physical facilities to be used, including firearms ranges and detailed justification regarding fees to be charged, as set forth in subsection~~paragraph~~ (e) ~~above~~. Applications shall be submitted at least ~~forty-five (~~45~~)~~ days prior to the next regularly scheduled meeting of the Board.

2) After the complete program of the proposed course is evaluated, the applicant will be notified by the Executive Director as to whether the course is approved or disapproved.

g) The Academy~~designated~~ Director shall have the responsibility of administering the Board's Physical Fitness Training Standards to all trainees before they

commence the Minimum Basic Standard Law Enforcement Training Course. A trainee must successfully meet the Board's Physical Fitness Training Standards as described in subsection ~~Section 1720.30~~(h).

h) Every trainee shall be required to perform and successfully complete all of the Board's physical fitness tests in the sequence delineated in this Section. The tests shall be as follows:

1) Every trainee shall meet the Board's sit and reach standard as defined in Appendix A.

2) Every trainee shall meet the Board's one ~~(1)~~ minute sit-up standard as defined in Appendix A.

3) Every trainee shall meet the Board's benchpress standard as defined in Appendix A.

4) Every trainee shall meet the Board's 1.5 mile run standard as defined in Appendix A.

i) If a trainee fails any standard listed in subsection (h) ~~in Section 1720.30(h)~~, the Academy~~designated~~ Director is authorized to administer the minimal physical fitness sequence to the trainee on one more occasion. A trainee only needs to retake the standards of the sequence he or she failed. The retake of a sequence must not be administered before 48 hours have elapsed following the conclusion of the trainee's first physical fitness test, nor later than 72 hours after the conclusion of the first test.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

Section 1720.35 Academy Entrance Qualifications
EMERGENCY

a) A person shall not be eligible to enter a Board-certified academy for basic training if that person has been convicted of a felony or any other crime involving moral turpitude, and unless he or she is a person of good character.

b) Moral turpitude includes, but is not limited to, actions that~~which~~ contravene the need to protect the public, fail to meet the integrity of the profession, or do not

preserve the administration of justice from reproach.

c) An applicant's employer agency shall submit to the academy an authorization to obtain and release information~~,~~ and a written certification ~~to the academy on or~~ within 30~~thirty~~ days prior to the first day of basic training. The written certification shall attest that the applicant's background has been checked and verified~~,~~ and that the applicant meets the requirements set forth in subsection (a) ~~above~~ and Section 6 of the Illinois Police Training Act ~~(Ill. Rev. Stat. 1991, ch. 85, par. 506)~~.

d) The written certification shall contain the following information:

1) Name and address of employer agency;

2) Name and address of applicant;

3) Verification that the criminal history of the applicant has been examined and contains no violation as specified in this Part~~rule~~;

4) Verification that the personal history of the applicant has been examined and that the applicant is of good character; and

5) Dated signatures of the agency head on the application with an attestation from the applicant that the information is true and correct.

e) The Board-certified Academy Director~~academy director~~ shall have the first 2~~two~~ weeks of training to review the qualifications of the applicant to enter the academy. An applicant's participation in the academy is conditional upon this review.

f) In the event that the Board-certified Academy Director~~academy director~~ determines that an applicant does not meet the standards set forth by law, the applicant's employer agency shall be notified in writing that the applicant is not eligible to enter the academy~~,~~ and the applicant shall be sent home. Reasons for the denial shall be in writing.

g) Any employer agency who wishes to appeal the decision of a director denying admission into a Board-certified academy shall, within 10~~ten~~ days, submit a written request for review to the Executive Director of the Board.

h) The Executive Director of the Board shall have 30~~thirty~~ days to undertake a review of the Academy Director's~~academy director's~~ decision. The Executive Director shall have the powers of investigation. Failure to cooperate in the investigation on the part of the applicant or employer agency may result in disqualification.

i) The Executive Director shall decide within ~~thirty (~~30~~)~~ days whether to confirm or overrule the Academy Director's~~academy director's~~ decision.

j) In the event the Executive Director confirms the decision, the applicant's employer agency may, in writing, file an appeal, within ~~ten (~~10~~)~~ days after~~of~~ the Executive Director's decision. The Board's Executive Committee shall review the record at the next regularly scheduled quarterly Executive Committee meeting to confirm or overrule the Executive Director. The Executive Committee shall make its recommendation to the Board at the Board's next regularly scheduled meeting.

k) If an appeal is filed, an applicant shall be entitled to the ~~ninety (~~90~~)~~ day extension in Section 8.1 of the Act to complete basic training.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

Section 1720.40 Qualification of Police Instructors
EMERGENCY

a) The instructor shall have a sufficient educational background and/or experience necessary to meet the instructional demands that will be made of him or her.

b) The instructor shall be an individual ~~a man~~ of personal integrity and have a sincere interest and desire to impart ~~his~~ knowledge and experience to the persons~~men~~ under instruction.

c) The Executive Director shall decide whether a particular instructor meets the qualifications set forth in the Section~~above~~. This decision shall be based on investigation of the credentials of the particular instructor.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

Section 1720.50 Reimbursements

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF EMERGENCY AMENDMENTS

EMERGENCY

a) The Board will, within certain limitations, reimburse the local governmental agency for one half the cost of training the officer as follows:

1) The trainee's salary during the training period.

2) The cost of lodging and meals incurred when the trainee is required to be away from his residence overnight, subject to the same limitations applicable to employees of the State of Illinois (see 80 Ill. Adm. Code 2800.Appendix A and 3000.400(b)). If the trainee returns to his residence each night, no lodging or food expense, except for lunch, will be allowed.

3) The cost of necessary travel expense incurred. Where travel is by car, the standard State mileage rate (see 80 Ill. Adm. Code 3000.300(f)(2)) will be allowed, but travel must be outside the city where the school is located.

4) The cost of school tuition and fees.

b) In no case will reimbursement for any particular course exceed the maximum amount set by statute. Reimbursement of salary will not be considered if a trainee is required to work during any part of a training course ~~or for any part thereof~~.

c) Reimbursement to Employer

1) Reimbursement will be made by the Board to those local home rule governmental units who have demonstrated their desire to participate in the program by passing the necessary resolution or ordinance and filing a copy of that~~such~~ resolution or ordinance with the Board~~,~~ and who have complied with other provisions of the~~this~~ Act.

2) Reimbursement will also be made by the Board to those local non-home-rule governmental units who employ at least one full-time law enforcement officer as defined in the~~this~~ Act and who have complied with other provisions of the~~said~~ Act.

d) Reimbursement will be made by the Board only once for a particular training course in which the same officer may be enrolled the second time, unless unusual circumstances exist.

e) As a general rule, reimbursement will not be made by the Board for any type of non-basic training unless the trainee has been awarded a certificate attesting to his successful completion of the Minimum Standards Basic Law Enforcement Officers Training Course prior to such training or has been granted a waiver of the Basic Course requirement.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

Section 1720.60 Requirements of Participating Local Agencies
EMERGENCY

Each participating local governmental agency shall:

a) Specifically inform each full-time officer appointed after January 1, 1976~~,~~ that, as a condition of permanent employment, the officer ~~he~~ must successfully complete the prescribed Basic Course~~basic course~~ of training within the first 6~~six~~ months after~~of~~ employment.

b) Fully cooperate with the Training Board by furnishing ~~such~~ reports and information ~~as~~ the Board deems necessary to fully implement all provisions of the ~~Training~~ Act.

c) Not appoint any person as a permanent full-time law enforcement officer who has not been awarded a certificate by the Training Board attesting to ~~his~~ successful completion of the required basic training course within the~~his~~ first 6~~six~~ months of employment. A waiver of this training requirement may be obtained under certain conditions~~. (Refer to~~ (Section 1720.20(f)~~1720.60(g).~~).

d) Terminate the employment of any officer who fails to successfully complete the prescribed Basic Course~~basic course~~ within the first 6~~six~~ months of ~~his~~ employment, unless a waiver of the basic course requirement has been granted the employing agency upon proper application to the Executive Director of the Board.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

Section 1720.70 Minimum Training Requirements for Illinois Sheriffs
EMERGENCY

a) Illinois Sheriffs shall successfully complete 20~~twenty~~ hours of training at a Board certified training academy or a Mobile Team Training Unit organized pursuant to the Intergovernmental Law Enforcement Officer's In-Service Training Act [50 ILCS 720]~~., (Ill. Rev. Stat. 1987, ch. 85, par. 561, et seq.)~~

b) Notwithstanding subsection (a), Illinois Sheriffs may complete up to 20~~twenty~~ hours of approved training by successfully completing training programs approved by the Executive Director of the Board. In order to obtain approval of a training program, the entity seeking approval shall submit the proposed training program to the Executive Director 30 to 90~~no less than thirty and no more than ninety~~ days prior to the administration of the training program. The~~the~~ Executive Director shall approve or deny the proposed training program within 14 days following receipt of the proposal.

c) Proposed training programs submitted for approval shall contain an outline of the proposed training program, the dates when the~~said~~ proposed program will be offered, a listing of all instructors offering the~~said~~ proposed program, and the location of the~~said~~ proposed program.

d) In approving training programs, the Board will determine if the training relates to job tasks performed by Illinois Sheriffs within their own department or relates to the duties and responsibilities of Sheriffs in supervising law enforcement or correctional tasks within their own department. Approved training programs may include, but are not limited to, the local operation of correctional facilities, supervision of deputies or county correctional officers, operation of the Sheriff's department and methods of management regarding operational and administrative departmental quality control for county correctional or local Sheriff's departments.

e) If the Executive Director denies or requests additional information, the program is not approved. The Executive Director will verify in writing to the entity seeking approval when a training program is approved.

f) The Illinois Local Governmental Law Enforcement Officers Training Board shall maintain a record for each Sheriff in Illinois to determine the amount of hours of approved training each Sheriff receives during each calendar year.

g) Upon the completion of 20~~twenty~~ hours of training approved by the Board, the Executive Director of the Board shall issue a certificate to the Sheriff attesting to the completion of training.

h) Upon completion of any Board approved training program, each Sheriff is responsible for submitting proof of completion of training to the Board's office in Springfield, Illinois.

i) Sheriffs who do not complete 20~~twenty~~ hours of approved training prior to December 31 of any calendar year for the preceding calendar year will be issued a letter notifying them of non-compliance with the Board's training requirements.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

SUBPART B: DECERTIFICATION OF POLICE OFFICERS

Section 1720.100 Purpose
EMERGENCY

The purpose of this Part is to establish procedural requirements for the filing of a verified complaint, by a defendant in a murder prosecution or by a police officer who has personal knowledge alleging that a police officer, while under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder.

(Source: Added by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

Section 1720.110 Definitions
EMERGENCY

The definitions of terms used in this Part are the same as those found in the Illinois Police Training Act [50 ILCS 705]. Additionally, the following terms are defined for purposes of this Part:

"Act" means the Illinois Police Training Act [50 ILCS 705].

"Director" means the Executive Director of the Illinois Law Enforcement Training and Standards Board.

"Complaint" means a verified document filed by a defendant or by a police officer with personal knowledge of perjured testimony in a murder prosecution.

"Complainant" means an interested party who files a verified complaint. A complainant shall be limited to only a defendant in a murder prosecution or a police officer who has personal knowledge of perjured testimony in a murder prosecution.

"Employing agency" means any local or State law enforcement agency or department within this State.

(Source: Added by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

Section 1720.120 Submission and Review of a Complaint
EMERGENCY

a) A complaint shall be in the format outlined in Appendix B. A complaint shall include identifying information about the complainant, the filing status of the complainant (i.e., defendant, police officer), information identifying the affected prosecution, the name of the police officer alleged to have committed perjury, a description of the alleged perjury, identifying information on other persons having knowledge of the perjury, and a certification by the complainant.

b) The complaint must be signed. An original complaint and 3 copies shall be filed at the following address:

Executive Director
Illinois Law Enforcement Training and Standards Board
600 South Second Street
Suite 300
Springfield, Illinois 62704-2542

c) To be valid, a verified complaint must be filed within 2 years after the disposition of the underlying murder prosecution.

d) Within 5 working days after receipt of a verified complaint, the Director shall review the filing for completeness. If the verified complaint does not meet all of the elements required for completeness as required by this Section and Appendix B, the document will be returned by certified mail, return receipt requested, to the person filing the verified complaint at the person's address contained in the verified complaint, specifying that the verified complaint is incomplete and listing

the elements that must be completed for the verified complaint to be accepted for review.

e) Within 30 days after receipt of a verified complaint that meets all of the requirements of this Part, the Director shall review the complaint and determine whether the complaint is frivolous and without merit or whether further investigation is warranted based upon the information submitted in the complaint. The Director shall provide the complainant, at the address listed in the complaint, with written notice, by certified mail, return receipt requested, of his determination whether a complaint is deemed to be frivolous and without merit (and therefore dismissed) or whether the complaint warrants further investigation. If the Director determines that a complaint warrants further investigation, then the police officer alleged to have committed perjury and the police officer's employing agency shall also be given written notice of the Director's determination. Notification shall be by certified mail, return receipt requested, sent to the officer's and employing agency's last known address. Complaints and all documents related to the complaint may only be disclosed pursuant to the provisions of the Freedom of Information Act [5 ILCS 140].

f) If the Director determines, after reviewing the verified complaint, that further investigation is warranted, the Director shall assign one or more task force investigators to conduct a fact-finding investigation and to write a report. The Director shall submit the written report to the Illinois Labor Relations Board State Panel as required by the Act.

(Source: Added by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

Section 1720.130 Certification Revocation
EMERGENCY

Upon receipt of written notification that the Illinois Labor Relations Board State Panel has concluded that a police officer, while under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder, the Illinois Law Enforcement Training and Standards Board shall immediately revoke the police officer's certification and provide written notice of such revocation by certified mail, return receipt requested, to the police officer and the officer's employing agency. Notification shall be by certified mail, return receipt requested, sent to the officer's last known address, to the officer's attorney, if any, and to the officer's employing agency.

(Source: Added by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

Section 1720.140 Reporting
EMERGENCY

The Director shall submit to the Director of the Illinois Labor Relations Board, at least semi-annually, written reports indicating:

a) the number of verified complaints received by the Director since the date of the last report;

b) the number of investigations initiated since the date of the last report;

c) the number of investigations concluded since the date of the last report;

d) the number of investigations pending as of the reporting date; and

e) the number of officers decertified since the date of the last report.

(Source: Added by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

Section 1720.150 Law Enforcement Training and Standards Board Costs and Attorney Fees Fund
EMERGENCY

Pursuant to the provisions of Section 5.595 of the State Finance Act [30 ILCS 105/5.595], an employing agency of a task force investigator and an employing agency of an officer named in a verified complaint shall be reimbursed its approved costs of a task force investigator and an accused officer's reasonable attorney's fees and costs. An application for reimbursement shall be on forms provided by the Board and, after review and approval by the Director, shall be forwarded to the State Comptroller for payment.

(Source: Added by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF EMERGENCY AMENDMENTS

Section 1720.APPENDIX B Complaint Form
EMERGENCY

COMPLAINT BEFORE THE
ILLINOIS LAW ENFORCEMENT TRAINING
AND STANDARDS BOARD

NOTE: IN ORDER TO FILE THIS COMPLAINT WITH THE BOARD, A COMPLAINANT MUST BE EITHER A DEFENDANT IN A MURDER PROSECUTION OR A POLICE OFFICER WHO HAS PERSONAL KNOWLEDGE OF PERJURED TESTIMONY IN A MURDER PROSECUTION.

1. Complainant's Name: _____
2. Complainant's Address: _____
3. The complainant is:
   - ☐ the defendant in a murder prosecution
   - ☐ a police officer with personal knowledge of perjured testimony in a murder prosecution
4. Name of the county of the Circuit Court having jurisdiction of the underlying murder prosecution: _____
5. Case Number: _____
6. Name of the Case: People of the State of Illinois v. _____
7. A verified complaint, to be valid, must be filed within 2 years after disposition of the underlying murder prosecution. Please list the following dates:
   - a) The date of acquittal on a charge of murder: _____
   - b) The date of a finding of guilt on the offense of murder: _____
   - c) The date of the granting of a new trial on direct appeal on the offense of murder (a copy of the court's Order must be attached to this complaint): _____

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF EMERGENCY AMENDMENTS

d) The date a State post-conviction evidentiary hearing on the offense of murder was ordered (a copy of the court's Order must be attached to this complaint): _____

8. The name of the police officer alleged to have committed perjury in the murder prosecution: _____

9. The name of the employing police agency at the time of the alleged perjury:

_____

10. The dates the perjury was alleged to have been committed in the murder prosecution:

_____

11. The alleged perjury was committed:

☐ while testifying under oath in a court of law

☐ during an oral deposition

☐ in a written statement

☐ during a sentencing hearing

☐ during a post-sentencing hearing

12. The names and addresses, if available, of any other persons believed to have relevant knowledge or information of the alleged perjury in the murder prosecution:

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

13. A statement of the written or oral testimony that is alleged to constitute the perjury and the basis for the belief that perjury has been committed by the police officer named in

this complaint:

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[Attach additional sheets if necessary]

NOTE: A COPY OF THE TRANSCRIPT OF THE POLICE OFFICER'S SWORN TESTIMONY MUST BE ATTACHED TO THIS COMPLAINT OR THE COMPLAINT WILL NOT BE REVIEWED BY THE DIRECTOR.

CERTIFICATION

Under penalties provided by law pursuant to Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109], the undersigned certifies that the statements set forth in this complaint are true and correct, except as to matters stated to be on information and belief and as to such matters the undersigned certifies that he or she believes to be true.

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF EMERGENCY AMENDMENTS

Complainant

20 Ill. Adm. Code 1720.120(b) requires that 3 copies of this complaint be filed with the Executive Director of the Illinois Law Enforcement Training and Standards Board at 600 S. 2nd St., Suite 300, Springfield IL 62704-2542.

(Source: Added by emergency rulemaking at 28 Ill. Reg. 6479, effective April 12, 2004, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of April 5, 2004 through April 12, 2004 and have been scheduled for review by the Committee at its April 20, 2004 or May 18, 2004 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
5/20/04	Office of Banks and Real Estate, Licensing and Regulation of Pawnbrokers (38 Ill. Adm. Code 360)	2/20/04 28 Ill. Reg. 2889	4/20/04
5/19/04	Department of Insurance, Valuation of Life Insurance Policies Including the Use of Select Mortality Factors (50 Ill. Adm. Code 1409)	2/13/04 28 Ill. Reg. 2587	5/18/04
5/19/04	Department of Insurance, Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits (50 Ill. Adm. Code 1412)	2/13/04 28 Ill. Reg. 2606	5/18/04
5/20/04	Office of the Attorney General, Tobacco Products Manufacturers' Escrow Enforcement Act of 2003 (14 Ill. Adm. Code 250)	1/9/04 28 Ill. Reg. 472	5/18/04
5/20/04	Department of Revenue, Liquor Control Act (86 Ill. Adm. Code 420)	12/12/03 27 Ill. Reg. 18524	5/18/04
5/20/04	Department of Revenue, TeleFile Program (86 Ill. Adm. Code 770)	12/12/03 27 Ill. Reg. 18534	5/18/04
5/21/04	Illinois Student Assistance Commission,	2/6/04	5/18/04

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

	Federal Family Education Loan Program (FFELP) (23 Ill. Adm. Code 2720)	28 Ill. Reg. 2008	
5/21/04	Illinois Student Assistance Commission, Monetary Award Program (MAP) (23 Ill. Adm. Code 2735)	2/6/04 28 Ill. Reg. 2021	5/18/04
5/21/04	Illinois Student Assistance Commission, Illinois Incentive for Access (IIA) Program (23 Ill. Adm. Code 2736)	2/6/04 28 Ill. Reg. 2033	5/18/04
5/21/04	Illinois Student Assistance Commission, Minority Teachers of Illinois (MTT) Scholarship Program (23 Ill. Adm. Code 2763)	2/6/04 28 Ill. Reg. 2041	5/18/04
5/21/04	Illinois Student Assistance Commission, Illinois Future Teacher Corps (IFTC) Program (23 Ill. Adm. Code 2764)	2/6/04 28 Ill. Reg. 2048	5/18/04
5/21/04	Illinois Student Assistance Commission, Illinois Special Education Teacher Tuition Waiver (SETTW) Program (23 Ill. Adm. Code 2765)	2/6/04 28 Ill. Reg. 2056	5/18/04
5/21/04	Illinois Student Assistance Commission, Illinois Prepaid Tuition Program (23 Ill. Adm. Code 2775)	2/6/04 28 Ill. Reg. 2064	5/18/04
5/21/04	Department of Natural Resources, White-Tailed Deer Hunting by Use of Firearms (17 Ill. Adm. Code 650)	2/6/04 28 Ill. Reg. 1940	5/18/04
5/21/04	Department of Natural Resources, White-Tailed Deer Hunting by Use of Muzzleloading Rifles (17 Ill. Adm. Code 660)	2/6/04 28 Ill. Reg. 1957	5/18/04
5/26/04	Illinois Commerce Commission, Telecommunications Access for Persons with Disabilities (83 Ill. Adm. Code 755)	1/30/04 28 Ill. Reg. 1548	5/18/04
5/26/04	Illinois Commerce Commission, Money Pool	1/2/04	5/18/04

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

	Agreements (83 Ill. Adm. Code 340)	28 Ill. Reg. 42	
5/26/04	Department of Revenue, Retailers' Occupation Tax (86 Ill. Adm. Code 130)	12/12/03 27 Ill. Reg. 18521	5/18/04

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF SUSPENSION & FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended the license of Mortgage Group USA, Inc., License No. 6795 of Indianapolis, IN, and issued a fine of $2,500 against Licensee under the Act, for violating the Fidelity Bond requirements of the Act and the rules and regulations adopted thereunder, effective March 13, 2004.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF RESCINDED SUSPENSION UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has rescinded the suspension against Accountant Mortgage & Loan Services, License No. 4874 of Elgin, IL, a Licensee under the Act, for violating the Surety Bond requirements of the Act and the rules and regulations adopted thereunder, effective March 31, 2004.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF RESCINDED SUSPENSION & FINE UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has rescinded the suspension and fine against City First Mortgage Services, LLC, License No. 6283 of Bountiful, UT, a Licensee under the Act, for violating the Fidelity Bond requirements of the Act and the rules and regulations adopted thereunder, effective April 5, 2004.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF REVOCATION IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has revoked the license of First Midwest Mortgage Corporation, License No. 4837 of Belleville, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective March 13, 2004.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF REVOCATION IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has revoked the license of Streamline Mortgage, Inc., License No. 6559 of Burnsville, MN, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective March 13, 2004.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF SUSPENSION & FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended the license of Allegiant Bank, License No. 3057 of Ballwin, MO, and issued a fine of $2,500 against Licensee under the Act, for violating the Fidelity Bond requirements of the Act and the rules and regulations adopted thereunder, effective March 13, 2004.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF SUSPENSION & FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended the license of Pacific Phoenix, License No. 4708 of Wheaton, IL, and issued a fine of $5,000 against Licensee under the Act, for violating the Fidelity and Surety Bond requirements of the Act and the rules and regulations adopted thereunder, effective March 13, 2004.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF SUSPENSION & FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended the license of Accountant Mortgage & Loan Services, License No. 4874 of Elgin, IL, and issued a fine of $2,500 against Licensee under the Act, for violating the Surety Bond requirements of the Act and the rules and regulations adopted thereunder, effective March 13, 2004.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF SUSPENSION & FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended the license of North Shore Financial Group, Inc., License No. 5459 of Northbrook, IL, and issued a fine of $2,500 against Licensee under the Act, for violating the Surety Bond requirements of the Act and the rules and regulations adopted thereunder, effective March 13, 2004.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF SUSPENSION & FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended the license of Community Mortgage Bankers, License No. 5539 of Melville, NY, and issued a fine of $2,500 against Licensee under the Act, for violating the Surety Bond requirements of the Act and the rules and regulations adopted thereunder, effective March 13, 2004.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF SUSPENSION & FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended the license of Elite Agents Mortgage Services, Inc., License No. 6043 of Fairfield, NJ, and issued a fine of $5,000 against Licensee under the Act, for violating the Surety and Fidelity Bond requirements of the Act and the rules and regulations adopted thereunder, effective March 13, 2004.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF SUSPENSION & FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended the license of American Family Mortgage Banking, Inc., License No. 6156 of Wheaton, IL, and issued fine of $3,500 against Licensee under the Act, for violating the Surety Bond and Change of Address Application requirements of the Act and the rules and regulations adopted thereunder, effective March 13, 2004.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF SUSPENSION & FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended the license of St. John's Mortgage Corporation, License No. 6164 of Kenosha, WI, and issued a fine of $2,500 against Licensee under the Act, for violating the Surety Bond requirements of the Act and the rules and regulations adopted thereunder, effective March 13, 2004.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF SUSPENSION & FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended the license of City First Mortgage Services, LLC, License No. 6283 of Bountiful, UT, and issued a fine of $2,500 against Licensee under the Act, for violating the Fidelity Bond requirements of the Act and the rules and regulations adopted thereunder, effective March 13, 2004.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF SUSPENSION & FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended the license of 5 Star Financial, Inc., License No. 6255 of New Lenox, IL, and issued a fine of $2,500 and a penalty fee of $3,750 against Licensee under the Act, for violating the Surety Bond and License Renewal Application requirements of the Act and the rules and regulations adopted thereunder, effective March 13, 2004.

EXECUTIVE ORDERS

2004-7
EXECUTIVE ORDER INSTITUTING USE OF E-85 AND BIODIESEL BLEND FUELS IN FLEXIBLE FUEL VEHICLES AND DIESEL POWERED VEHICLES IN THE STATE OF ILLINOIS FLEET

WHEREAS, Illinois is the leading producer of soybeans and the second leading producer of corn in the United States, agricultural commodities used in the production of renewable fuels such as E-85 and biodiesel;

WHEREAS, numerous economic developmental and environmental benefits result from the use of renewable fuels, including but not limited to strengthening our agricultural sector by increasing demand for soybeans and corn, improving net farm income, improving our rural economies, creating new renewable fuels industry related jobs, reducing our dependence on foreign oil, improving our energy security, and reducing greenhouse gas emissions;

WHEREAS, there are currently at least 25 public, government and private E-85 refueling facilities in Illinois;

WHEREAS, the State of Illinois was one of the first states in the country to purchase and operate E-85 Flexible Fuel Vehicles, and the State of Illinois has one of the largest fleets of E-85 vehicles in the country;

WHEREAS, Public Act No. 93-15, which I signed on June 11, 2003, will increase the cost competitiveness of E-85 and biodiesel blends for the people of Illinois;

WHEREAS, executive agencies of the State of Illinois should be at the forefront in utilizing E-85 and biodiesel blended fuels in flexible fuel and diesel powered vehicles in the State's fleet in order to actively demonstrate the economic development and environmental benefits to be realized from utilization of renewable fuels;

THEREFORE, I Rod R. Blagojevich, hereby order the following:

I. The Illinois Department of Central Management Services (CMS) is directed to immediately take all actions necessary to allow for the procurement of 2% blends of biodiesel (B2) fuel for the State's diesel-powered vehicle fleet and to investigate ways in which to strengthen the infrastructure for increasing the availability of B2 and E-85 for the State's flexible fuel fleet, including, but no limited to upgrading current E-95 fuel storage tanks at State facilities and establishing new State operated B2 refueling stations.

II. The Illinois Department of Commerce and Economic Opportunity (DCEO) is directed to develop a plan designed to facilitate usage of E-85 and B2 in the State's flexible fuels vehicle fleet and actively pursue the establishment of additional E-85 and biodiesel refueling facilities at public retail outlets. The plan shall address reporting requirements on usage, necessary to provide a basis for documenting utilization of E-95 and B2 by State employees and to provide a basis to evaluate performance and costs of using E-85 and B2; employee incentive programs that could be offered by the State alone; or in conjunction with private

EXECUTIVE ORDERS

sector partners; and marketing the benefits of E-95 and biodiesel blends. CMS shall act in an advisory capacity to DCEO in the development of the plan.

III. The Directors of all executive agencies utilizing the State's fleet of flexible fuel vehicles shall implement policies, rules, and/or procedures requiring that employees under their jurisdiction use E-85 and B2 when operating flexible fuels and diesel powered vehicles in the State fleet, whenever practical, in the course of their State employment. For purposes of this Executive Order, the term "whenever practical" refers to the reasonableness of obtaining E-85 or B2 given the proximity of the employee operating a flexible fuels vehicle to an E-85 or biodiesel fueling facility when the need to obtain fuel arises.

IV. In all future State of Illinois purchases or rentals of vehicles for State use, the purchasing agency may establish reasonable priorities for the purchase or rental of flexible fuel E-85 vehicles especially flexible fuel hybrid electric vehicles capable of using E-85 fuel. For diesel powered vehicles, the purchasing agency may establish reasonable priorities for those vehicles that can use blends of biodiesel or ethanol.

V. Savings Clause: Nothing in this Executive Order shall be construed to contravene any applicable State or federal law.

VI. Severability. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application.

VII. Effective Date: This Executive Order 7 shall be in full force and effect upon its filing with the Secretary of State.

Issued by Governor: April 12, 2004
Filed with Secretary of State: April 12, 2004

EXECUTIVE ORDERS

2004-8
EXECUTIVE ORDER TO MONITOR MOTOR FUEL RETAIL AND WHOLESALE PRICES THROUGH THE DEPARTMENT OF REVENUE

WHEREAS, motor fuel prices are on the rise throughout the United States; and

WHEREAS, high motor fuel prices negatively impact Illinois consumers, the State's tourism industry, transportation, and the overall health of Illinois' economy; and

WHEREAS, consumers of motor fuel in Illinois are entitled to a fair and competitive market for motor fuel and to information that will allow them to pay the lowest possible price for motor fuel; and

WHEREAS, healthy, vigorous competition among motor fuel refiners, marketers, and retailers may be encouraged by increased awareness among Illinois consumers about motor fuel prices; and

WHEREAS, lawmakers and decision makers can use information about the motor fuel market to create appropriate policy responses to increased motor fuel prices.

THEREFORE, I hereby order the following:

I. In order to regularly inform the Governor and Illinois consumers of current retail and wholesale motor fuel prices in Illinois, the Department of Revenue, in cooperation with the Department of Agriculture and the Illinois Environmental Protection Agency, shall conduct regular surveys of motor fuel retail outlets as well as collect industry data on wholesale prices of motor fuel.

II. The Department of Revenue, in cooperation with the Department of Agriculture and the Illinois Environmental Protection Agency, shall establish a system to disseminate information to the public as to motor fuel prices based upon their survey results and industry data.

III. The Department of Revenue, in cooperation with the Department of Agriculture and the Illinois Environmental Protection Agency, shall research the issue of zone pricing of motor fuel and the possible implications for the State.

IV. The Department of Revenue, in cooperation with the Department of Agriculture and the Illinois Environmental Protection Agency, shall research the issue of single source distribution of motor fuel and the possible implications for the State.

V. Savings Clause: Nothing in this Executive Order shall be construed to contravene any State or federal law.

VI. Severability: If any provision of this Executive Order or its application to any person or circumstance is held invalid in a court of competent jurisdiction, this

invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

V. Effective Date: This Executive Order shall be in full force and effect upon its filing with the Secretary of State.

Issued by Governor: April 12. 2004
Filed with Secretary of State: April 12, 2004

PROCLAMATION

2004-61
Days of Remembrance

WHEREAS, the Holocaust was the state sponsored, systematic persecution and annihilation of European Jewry by Nazi Germany and its collaborators between 1933 and 1945; and

WHEREAS, Jews were the primary victims – six million were murdered – while many others were forced into grievous oppression and death under Nazi tyranny for racial, ethnic or national reasons; and

WHEREAS, the history of the Holocaust offers an opportunity to reflect on the moral responsibilities of individuals, societies, and governments; and

WHEREAS, the people of the state of Illinois also should always remember the terrible events of the Holocaust and remain vigilant against hatred, persecution, and tyranny; and

WHEREAS, the people of the state of Illinois should actively rededicate ourselves to the principles of individual freedom in a just society; and

WHEREAS, the Days of Remembrance have been set aside for the people of the state of Illinois to remember the victims of the Holocaust as well as to reflect on the need for respect of all peoples; and

WHEREAS, pursuant to an Act of Congress (Public Law 96-388, October 7, 1980) the United States Holocaust Memorial Council designates the Days of Remembrance of victims of the Holocaust to be Sunday, April 18 through Sunday, April 25, 2004, including the International Day of Remembrance known as Yom Hashoah, April 18:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim April 18 – April 25, 2004 as DAYS OF REMEMBRANCE in Illinois, in memory of the victims of the Holocaust, and in honor of the survivors, as well as the rescuers and liberators, and urge all citizens to collectively and individually strive to overcome bigotry, hatred and indifference through learning, tolerance and remembrance.

Issued by the Governor April 2, 2004.

Filed by the Secretary of State April 6, 2004.

2004-62
World Parkinson's Disease Awareness Day

WHEREAS, discovered by Dr. James Parkinson in 1817, Parkinson's Disease is a progressive disorder of the central nervous system that causes its victims to suffer a loss of muscle control by killing off vital brain cells; and

WHEREAS, as many as one million Americans currently suffer from Parkinson's disease; and

WHEREAS, normally developing in citizens over the age of 60, Parkinson's Disease is one of the most common neurological disorders of the elderly. However, younger people are also at risk, as approximately 15% of Parkinson's cases are diagnosed before the age of 40; and

WHEREAS, for over 40 years, the American Parkinson Disease Association, Incorporated, has sought to "Ease the Burden and Find the Cure" for this disease through

research, patient and family services, and education and sponsorship in 63 chapters and 800 support groups throughout the United States; and

WHEREAS, the American Parkinson Disease Association's Midwest Chapter works in Illinois to raise funds and promote awareness to fight Parkinson's Disease, thus improving the quality of human life for those living with the disorder:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim April 11, 2004 as WORLD PARKINSON'S DISEASE AWARENESS DAY in Illinois, and encourage all citizens to raise their understanding of Parkinson's Disease and commend those that work to find a cure.

Issued by the Governor April 8, 2004.

Filed by the Secretary of State April 9, 2004.

2004-63
Telecommunications Week

WHEREAS, using state-of-the-art radio and computer systems, telecommunications professionals help to save countless lives by responding to emergency 9-1-1 calls, dispatching emergency professionals and equipment, and providing moral support to citizens in distress; and

WHEREAS, telecommunications professionals display poise under pressure, use critical decision making skills and offer aid and compassion in times of crisis; and

WHEREAS, according to the National Emergency Number Association, there are 190 million 9-1-1 emergency calls each year; and

WHEREAS, in many cases the knowledge and quick initiative of the telecommunications professionals taking emergency calls can make the difference between life and death; and

WHEREAS, one of the most important duties of telecommunications professionals is operating the new Illinois Amber Alert System, which allows storm warnings, abduction cases, and any other emergency messages to be immediately distributed to broadcasters, and in turn, to all citizens of Illinois:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim April 11-17, 2004 as TELECOMMUNICATIONS WEEK in Illinois, in recognition of the vital contributions telecommunication professionals make to the safety and well-being of our citizens.

Issued by the Governor April 8, 2004.

Filed by the Secretary of State April 9, 2004.

ILLINOIS ADMINISTRATIVE CODE
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