

2004

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 28 Issue 31
July 30, 2004
Pages 10486-10856

Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.cyberdriveillinois.com>

Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Procedures and Requirements for Revising Water Quality Management Plans
- 2) Code Citation: 35 Ill. Adm. Code 351
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
351.101	Amended
351.102	Amended
351.103	Amended
351.104	Amended
351.201	Amended
351.202	Amended
351.203	Amended
351.204	Amended
351.205	Added
351.301	Amended
351.302	Amended
351.303	Amended
351.306	Amended
351.401	Amended
351.402	Amended
351.403	Amended
351.501	Amended
351.502	Repealed
- 4) Statutory Authority: Authorized by Sections 4(m), 4(n) and 39 of the Illinois Environmental Protection Act (415 ILCS 5/4(m), 4(n) and 39(2002)) and the Facility Planning Area Rules Act (P.A. 93-0313, effective July 23, 2003) and implementing Section 303(e) of the Clean Water Act (33 U.S.C. 1313(e)(3)).
- 5) A Complete Description of the Subjects and Issues Involved: The Facility Planning Area Rules Act (P.A. 93-0313) requires the Illinois Environmental Protection Agency to propose regulations regarding facility planning area amendments by July 23, 2004. These amendments are the Agency's response to that statutory mandate. These proposed rules address recommendations of the Facility Planning Area Stakeholder Group and other studies of the facilities planning area program. 35 Ill. Adm. Code Part 351 has been updated to address concerns related to non-point source pollution, construction site runoff, urban runoff, antidegradation regulations, alternatives analysis, interagency coordination and consistency with local, county and regional land use plans and resource protection plans. In addition, these regulations update and clarify the procedural

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requirements for processing facility planning area amendments whether the amendments are filed first with the Agency or as a recommendation from an areawide planning agency.

- 6) Will these proposed amendments replace any emergency amendments 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 other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These rules prescribe procedures and requirements for revising Illinois Water Quality Management Plans and resolving conflicts concerning point source discharges in the context of revising Illinois Water Quality Management Plans.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Illinois Environmental Protection Agency will accept written public comments on this proposal for a minimum of forty-five (45) days after the date of publication in the Illinois Register. The Agency will also hold a public hearing on this rulemaking proposal. The hearing will be conducted pursuant to 35 Ill. Adm. Code Part 164 "Procedures for Information and Quasi-legislative Public Hearings" and will be held on September 16, 2004 at 1p.m. at the Agency's Headquarters Building located at 1021 North Grand Avenue East in Springfield, Illinois. Written comments on the proposal and procedural questions regarding the hearing may be addressed to:

Charles Matoesian, Hearing Officer
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19726
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143
- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations

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affected: This rulemaking is expected to impact only the internal Agency procedures for processing amendments to facilities planning area boundary changes. The rulemaking may have some impact on small municipalities seeking to make facilities planning area boundary changes. It will have no impact on small businesses or not for profit corporations.

- 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: January 2004.

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 351

PROCEDURES AND REQUIREMENTS FOR ~~CONFLICT RESOLUTION~~
~~IN~~ REVISING WATER QUALITY MANAGEMENT PLANS

SUBPART A: INTRODUCTION

- Section
- 351.101 Preamble
- 351.102 Purpose
- 351.103 Applicability
- 351.104 Definitions

SUBPART B: PROCEDURES FOR PROPOSING REVISIONS TO
WATER QUALITY MANAGEMENT PLANS

- Section
- 351.201 Initiation of a Revision and Proper Application Procedure
- 351.202 Requirements of a Petition
- 351.203 Service and Parties
- 351.204 Public Comments
- 351.205 Public Notice of a Petition

SUBPART C: PUBLIC HEARINGS

- Section
- 351.301 Request for Hearing
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- 351.303 Notice of Public Hearing
- 351.304 Hearing Officer
- 351.305 Hearing Procedures
- 351.306 Transcript

SUBPART D: DECISION OF THE AGENCY

- Section
- 351.401 Record

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- 351.402 Decision of the Agency
351.403 Review of Decision of the Agency and Areawide Planning Agency Recommendations

SUBPART E: APPLICABILITY OF THESE RULES TO SPECIAL CASES

Section

- 351.501 Permit Issuance
351.502 Exceptions to Boundaries for Facility Planning Areas (Repealed)

AUTHORITY: Authorized by Sections 4(m), 4(n) and 39 of the Environmental Protection Act [415 ILCS 5/4(m), 4(n) and 39] and the Facility Planning Area Rules Act [415 ILCS 57] and implementing Section 303(e) of the Clean Water Act (33 USC 1313 (e)(3)).

SOURCE: Adopted and Codified at 6 Ill. Reg. 2597, effective March 1, 1982; amended at 28 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 351.101 Preamble

Section 4(m) of the Illinois Environmental Protection Act [~~415 ILCS 5/4(m)]~~Ill. Rev. Stat. 1979, Ch. 111½, Par. 1001 et seq.~~ (Act) designates the Illinois Environmental Protection Agency (Agency) as pollution control agency for the State of Illinois for all purposes of the federal Clean Water Act (33 ~~USCU.SC.~~ 1251 et seq.). In addition, the Act specifically authorizes the Agency, for purposes of Section 303(e) of the Clean Water Act, *to engage in planning processes and activities, to develop plans in cooperation with units of local government, other state agencies and persons, and to promulgate procedural regulations for the holding of public hearings on the planning process.* [~~415 ILCS 5/4(n)]~~Ill. Rev. Stat. 1979, Ch. 111½, Par. 1004(n)~~.~~~~

Section 303(e) of the Clean Water Act (33 USC 1313(e)) requires Illinois to have a continuing planning process, approved by the United States Environmental Protection Agency (USEPA), resulting in Water Quality Management (WQM) Plans for all navigable waters in the state. These Plans must incorporate the elements of any areawide water quality management plan adopted under Section 208 of the Clean Water Act and must provide procedures for revision of the WQM Plans. Revisions to WQM Plans pursuant to these rules and to the Agency's continuing planning process are incorporated into the annual program plan submitted to USEPA and approved pursuant to Section 106 of the Clean Water Act.

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

Section 351.102 Purpose

This Part prescribes~~These rules~~ prescribe procedures and requirements for revising Illinois Water Quality Management Plans and resolving conflicts concerning point source discharges in the context of revising Illinois Water Quality Management Plans.

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

Section 351.103 Applicability

- a) This Part~~These rules~~ shall apply to the following revisions of WQM Plans:
- 1) ~~Amendments to population projections for the twenty-year planning period set forth in approved facilities plans that are greater than 10% for communities under 10,000 population or 5% for communities over 10,000 population;~~
 - 2) Amendments identifying new designated management agencies;
 - 2)3) Amendments terminating the status of designated management agencies ~~for failure to implement the requirements of a WQM Plan;~~
 - 3)4) Amendments to Facility Planning Area boundaries;
 - 4)5) Amendments to include sewage treatment works not identified in a WQM Plan where a facility planning agency, a designated management agency, or an areawide planning agency objects to the inclusion of the sewage treatment works within its boundaries. If there is no objection, the WQM Plan shall be amended by issuance of the National Pollutant Discharge Elimination System (NPDES) permit for the treatment works;
 - 5)6) Other amendments where a significant degree of public interest exists to warrant the use of the conflict resolution procedures set forth in these rules. The provisions of Section 351.302 shall be considered in determining whether a significant degree of public interest exists.
- b) Unless the Director of the Agency determines otherwise, these rules shall not apply to the following revisions of WQM Plans:

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- 1) Amendments to the state Continuing Planning Process (CPP) document;
- 2) Revisions contained in the annual program plan developed pursuant to Section 106 of the Clean Water Act or to the State/USEPA agreement;
- 3) Revisions which update information or which bring WQM Plans into conformity with applicable laws and regulations; ~~or-~~
- 4) Revisions that bring WQM Plans into conformity with any legislation adopted by the General Assembly authorizing the extension of sewer service to an area outside the facility planning area established by the Agency.

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

Section 351.104 Definitions

- a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act and the Clean Water Act and regulations adopted under those Acts.
- b) For purpose of these rules, the following definitions apply:
 - 1) "Areawide planning agency" means an areawide planning agency identified in accordance with Section 208 of the Clean Water Act.
 - 2) "Comprehensive plan" means a regional plan adopted under Section 5-14001 of the Counties Code, an official comprehensive plan adopted under Section 11-12-6 of the Illinois Municipal Code, or a local land resource management plan adopted under Section 4 of the Local Land Resource Management Planning Act [50 ILCS 805/4]. [20 ILCS 662/10]
 - 3) "Designated management agency" means a designated management agency identified in accordance with Section 208 of the Clean Water Act.
 - 4) "Facility planning agency" means a facility planning agency identified in accordance with Section 201 of the Clean Water Act.
 - 5) "Public agency" means any unit of State or local government.

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- 6) "Resource protection plan" is any plan adopted by a public agency that includes goals, policies, strategies, and procedures for preserving key farmland, natural areas, cultural resources, or aquatic resources. [415 ILCS 57/5]

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

SUBPART B: PROCEDURES FOR PROPOSING REVISIONS TO
WATER QUALITY MANAGEMENT PLANS**Section 351.201 Initiation of a Revision and Proper Application Procedure**

- a) A proposal to revise a WQM Plan shall be initiated by the filing of a petition with the Agency. The Agency will only review petitions filed by the Agency on its own motion or by a facility planning agency, designated management agency, or areawide planning agency for the area that is the subject of the proceeding. For areas not covered by an areawide planning agency, a petition is deemed filed on the date the application is received by the Agency via U.S. Mail at the following address:~~The petition shall be filed with the Agency.~~

Watershed Management Section
Bureau of Water
Illinois Environmental Protection Agency
1021 North Grand Ave. East
P.O. Box 19276
Springfield, Illinois 62794-9276

For areas within the jurisdiction of an areawide planning agency, a petition is deemed to be filed on the date the areawide planning agency's recommendation is received by the Agency.

- b) Since an areawide planning agency may have procedures to be followed prior to its making any recommendation on a proposed revision, Petitioners ~~must~~are encouraged to follow such procedures prior to or concurrently with the procedures contained in these rules.
- c) An owner or operator of a proposed new wastewater treatment facility may also submit a petition under this Part when that petition requests a revision to a WQM Plan identifying a new designated management agency.

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- d) Where any municipality whose boundary is contiguous with the area affected by the proposed revision files an objection to the proposed revision, the reviewing agency will cease review until the disputing parties reach an agreement prior to the resumption of review by the reviewing agency.

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

Section 351.202 Requirements of a Petition

- a) A petition filed under these rules shall include, as applicable:
- 1) A clear, complete and concise statement of the ~~revisions~~ revision(s) sought;
 - 2) If the petition is for a planning boundary change, it shall include:
 - A) A map of the existing and proposed boundaries;
 - B) A description of the existing uses and proposed future uses of:
 - i) The geographic area which is the subject of the proposed revision, ~~and~~
 - ii) The areas adjacent to the geographic area that is the subject of the proposed revision, and in i).
 - iii) Copies of any agreements to provide wastewater treatment service to the area covered by the proposed revision or other documentation of concurrence with the proposed revision by neighboring units of local government.
 - 3) An assessment, with supporting factual information, of the direct and indirect environmental impacts ~~that~~ which may result from the proposed revision, including:
 - A) existing and proposed wasteloads and facilities to collect, transport and treat such wasteloads;

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- B) whether and how the proposed revision will comply with existing water quality standards, effluent limitations and anti-degradation requirements, if applicable;
 - C) any impacts of the proposed revision on the control of urban non-point source pollution, including construction site runoff and urban runoff;
 - D) measures to be taken to mitigate any negative environmental impacts of the proposed revision;
 - E) if the affected area drains or discharges to a waterbody with impaired uses according to the Agency's most recent Clean Water Act Section 303(d) list of impaired waterbodies, the parameters suspected of causing the impairment of uses and whether and how the proposal is likely to increase the loading of the relevant parameters to the receiving waterbody; and
 - F) for areas covered by Phase II of the NPDES stormwater permitting requirements for municipal separate storm sewers, copies of the Notice of Intent submitted to the Agency covering the applicant's service area.
- 4) An assessment of the present worth analysis of alternatives to the proposed revision, including on-site and off-site treatment where applicable;
- 5) If available, written evidence of comments, recommendations, concurrence or objection by other agencies or by other persons who may be affected by the proposed revision, including the Department of Natural Resources or the Department of Agriculture;
- 6) Documentation that the petition was served on all appropriate parties pursuant to Section 351.203 of this Part and that public notice was published pursuant to Section 351.205 of this Part;
- 7) Assessment of consistency with and copies of any applicable local ordinances to address urban stormwater management, soil erosion and sedimentation control, stream and wetland management or preservation of farmland;

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- 8) Assessment of consistency with and copies of any applicable local, county or regional land use plan, comprehensive plan or resource protection plan;
 - 9) Description of the funding mechanism for the proposed revision, if applicable; and
 - 106) Other information requested by the Agency.
- b) The Agency will consider a petition complete when all relevant information set forth in this section has been provided.

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

Section 351.203 Service and Parties

- a) The Petitioner shall serve a copy of its petition, either personally or by registered or certified mail, upon each governmental agency or other person who may be adversely affected by the proposed revision to the WQM Plan. At a minimum, service shall be made on:
- 1) Any facility planning agency that is located within 1½ miles of the area covered by the proposed revision which may be affected by the revision;
 - 2) Any designated management agency responsible for point source discharge control that is located within 1½ miles of the area covered by the proposed revision which may be affected by the revision;
 - 3) Any areawide planning agency which may be affected by the proposed revision; and
 - 4) The County Clerk of the county or counties affected by the proposed revision;
 - 5) The mayor, president or other executive official for any municipality, village or township located within 1½ miles of the area covered by the proposed revision; and
 - 6) Additional persons whom the Agency identifies within 10 days after~~of~~ receipt of the petition.

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- b) Any person who may be adversely affected by the proposed revision may file with the Agency a written request to be made a party. Such request shall be made within 30 days ~~after~~ receipt of the petition by the Agency. The Agency may extend this period when necessary for a complete presentation of the facts and anticipated effects of the proposed change.
- c) The Agency shall notify the Petitioner of persons who have been named parties. All such parties shall be deemed respondents.
- d) All pleadings and submittals subsequent to the Petition shall be served on all parties personally or by first class mail. One copy shall be filed with the Agency with proof of service at the address listed in Section 351.201(a) of this Part.
- e) Service by first class mail shall be presumed complete four days after mailing.
- f) The Agency will provide a copy of the petition to the Agency in charge of administering the Farmland Preservation Act [505 ILCS 75], the Local Planning Technical Assistance Act [20 ILCS 662], the Endangered Species Protection Act [520 ILCS 10] and the Natural Areas Preservation Act [525 ILCS 30] for an opportunity to provide comments within 5 business days after the date of filing with the Agency.

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

Section 351.204 Public Comments

Any person may submit written comments on a petition filed under these rules. In making the decision on the proposed ~~revisions~~revision(s), the Agency will consider all comments received within 30 days after the filing of the petition. When a public hearing is held pursuant to Subpart C of this Part, the Agency will consider comments received within 30 days after the public hearing.

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

Section 351.205 Public Notice of a Petition

The applicant must publish a notice of the proposed WQM Plan revision in a local newspaper of general circulation in the county impacted by the proposed revision for 2 consecutive days. The notice must identify the revision sought, the area affected and the method, deadlines and

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instructions for submitting public comments on the petition to revise the WQM Plan. For Petitions filed directly with the Agency, the notice shall be published within 5 business days after filing with the Agency.

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

SUBPART C: PUBLIC HEARINGS

Section 351.301 Request for Hearing

- a) Any person may request a public hearing on the proposed revision within 30 days ~~after~~ of the filing of the petition with the Agency. ~~The Agency may extend this period when necessary for a complete presentation of the facts and anticipated effects of the proposed change.~~
- b) The request shall include a statement of the person's interest in the proceedings and of the purposes to be served by the hearing.
- c) If the Petitioner does not request a hearing in the petition, it shall be deemed a request to rule upon the petition without a hearing.

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

Section 351.302 Scheduling of Public Hearing

- a) The Agency shall schedule a public hearing when it determines that there exists a significant degree of public interest in the proposed revision.
- b) In making this determination, the Agency shall consider:
 - 1) The public interest as indicated by written comments and requests for hearings on the proposed revision;
 - 2) The nature of the proposed revision and its significance to the WQM ~~Plan~~plan;
 - 3) The likelihood that a public hearing will elicit relevant information which is not otherwise part of the record before the Agency.
- c) The Agency may jointly sponsor a public hearing with another agency.

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- d) The Agency will hold the hearing within the geographic area impacted by the proposed revision or within the municipality in which the applicant is located.

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

Section 351.303 Notice of Public Hearing

- a) The Agency shall mail serve notice of the public hearing; ~~to personally or by certified or registered mail, on~~ all parties at least 45 days prior to the date of the hearing.
- b) The notice shall include:
- 1) Information regarding the time, location and purpose of the hearing;
 - 2) A statement of the legal authority and jurisdiction under which the hearing is held;
 - 3) A concise statement of the issues to be discussed at the hearing; and
 - 4) A statement that the hearing will be conducted in accordance with these rules.
- c) The Agency may provide additional notices of the hearing when the circumstances and nature of the proposed revision warrant such notice.

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

Section 351.306 Transcript

- a) The Agency shall be responsible for obtaining a written transcript for hearings held before the Agency. Within 15 days following completion of the public hearing, the Petitioner shall furnish a transcript of the hearing to the Agency.
- b) Hearing transcripts ~~The transcript~~ shall be available for examination and copying by any person, subject to the Agency's rules for public access to agency information.

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

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SUBPART D: DECISION OF THE AGENCY

Section 351.401 Record

The record shall include:

- a) All pleadings, (including all notices and responses thereto), motions and rulings;
- b) Evidence received;
- c) Matters of which official notice was taken;
- d) The hearing transcript including offers of proof, objections and rulings thereon;
- e) Any report, opinion or decision by the Hearing Officer;
- f) Memoranda or data submitted by Agency staff in their consideration of the proposed revision;
- g) Written comments received under Section 351.204 of these rules;
- h) Recommendation of the designated areawide ~~WQM~~ planning agency and the record supporting its recommendation.

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

Section 351.402 Decision of the Agency

Decisions by the Agency to grant, deny or remand to an areawide planning agency proposed WQM Plan revisions will be made pursuant to this Section regardless of whether the request was initially presented to the Agency directly or as a recommendation of an areawide planning agency.

- a) After due consideration of the record, the Agency shall make a final decision on the proposed revision to the WQM Plan.
 - 1) In making its decision, the Agency shall consider all facts and circumstances bearing upon the reasonableness of the request including, but not limited to:

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- A) the **direct and indirect** environmental effects and the cost-effectiveness of achieving water quality goals;
 - B) the likelihood the proposed revision would encourage the proliferation of new point source discharges rather than the regionalization of wastewater treatment services;
 - C) the consistency of the proposed revision with the population projections in the existing WQM Plan for the 20 year planning period;
 - D) the consistency of the proposed revision with any applicable local, county or regional land use, watershed protection or resource protection plans or stormwater ordinances;
 - E) whether the proposed revision will have an adverse impact on adjoining units of government, designated management agencies or facility planning agencies; and
 - F) comments received from the Department of Agriculture pursuant to the Farmland Preservation Act [505 ILCS 75] and from the Department of Natural Resources pursuant to the Endangered Species Protection Act [520 ILCS 10] and the Natural Areas Preservation Act [525 ILCS 30] and from other State agencies or departments.
- 2) The Agency may deny a proposed revision when it finds that:
- A) the applicant has not demonstrated that the proposed revision will ensure compliance with applicable water quality standards and effluent limitations;
 - B) the applicant has not demonstrated that the proposed revision is the most economical method of providing wastewater treatment;
 - C) the applicant has not demonstrated the legal or managerial ability to implement the proposed revision;

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- D) the applicant has not demonstrated a need for the proposed revision;
- E) the applicant has not demonstrated compliance with applicable NPDES Phase II stormwater permitting requirements for municipal separate storm sewers;
- F) the proposed revision will be materially inconsistent with any applicable local, county or regional land use or resource protection plans; or
- G) written comments from the Department of Natural Resources or the Department of Agriculture raise substantial concerns about the possible adverse impacts of the proposed revision, or recommend denial of all or part of the proposed revision.
- 3) The Agency's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence. In evaluating the evidence presented by the applicant, the Agency may also use data collected pursuant to an Agency approved quality assurance plan or information contained in the Illinois Water Quality Report prepared pursuant to Section 305(b) of the Clean Water Act.
- b) The decision may grant, ~~or deny~~ or remand to the areawide planning agency the proposed revision, in whole or in part, and may condition the revision upon the performance or completion of activities specified in the decision.
- c) The final decision shall be in writing. Copies of the decision shall be mailed ~~to served on~~ all parties ~~personally or by registered or certified mail~~.

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

Section 351.403 Review of Decision of the Agency and Areawide Planning Agency
Recommendations

- a) Objections to recommendations of areawide planning agencies approving or denying a proposed revision are reviewed by the Agency by filing a request for hearing pursuant to Section 351.301 of this Part within 30 days after the date a final recommendation is issued by the areawide planning agency.

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- b) The Agency shall issue a decision on Petitions filed with the Agency (whether the Petition was filed initially with the Agency or as a recommendation of an areawide planning agency) within 180 days after the date a hearing is held on the proposed revision.
- c) Any party may appeal a final decision of the Agency on a Petition by filing an appeal in writing with the Director of the Agency within 30 days after the date of the final decision of the Agency. The Director shall issue a decision on the appeal within 60 days after receipt of the appeal.
- d) All decisions by the Director under this Section are final Agency actions reviewable pursuant to the Administrative Review Act [735 ILCS 5/Art. III].

~~Any party may request that the Regional Administrator, United States Environmental Protection Agency, Region V, review the decision of the Agency pursuant to 40 CFR 35.1517(e).~~

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

SUBPART E: APPLICABILITY OF THESE RULES TO SPECIAL CASES

Section 351.501 Permit Issuance

- a) When the Agency determines that issuance of ~~an NPDES~~a permit may be inconsistent with an approved WQM Plan, the Agency may request that the areawide ~~planning agency~~WQM Planning Agency, if any, review the application and identify any provisions of the WQM Plan with which the facility may be inconsistent.
- b) If, after receipt of the areawide planning agency's evaluation, the Agency determines that an inconsistency exists, the Agency shall deny the permit and shall notify the applicant of its decision.

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

Section 351.502 Exceptions to Boundaries for Facility Planning Areas (Repealed)

~~For purposes of issuing permits, other than NPDES permits, the Agency may recognize exceptions to boundaries of facility planning areas without revising the approved WQM Plan in the following circumstances.~~

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- a) ~~When the General Assembly, by legislation, authorizes the extension of sewer service to an area outside the facility planning area established by the Agency pursuant to federal regulations; or~~
- b) ~~When all of the following conditions are present:~~
 - 1) ~~The exception will not significantly impact wastewater planning in any facility planning area;~~
 - 2) ~~A revision would otherwise be necessary because a proposed sewer would cross a facility planning boundary; and~~
 - 3) ~~The designated facility planning agency, within whose facility planning area the area to be serviced by the sewer lies, has authorized such sewer extension by permit, agreement or other written document.~~

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

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- 1) Heading of the Part: Temporary Assistance for Needy Families
- 2) Code Citation: 89 Ill Adm. Code 112
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
112.54	Amendment
112.150	Amendment
- 4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].
- 5) A Complete Description of the Subjects and Issues involved: This rulemaking is being proposed in accordance with an option provided under Title IV of the Farm Bill (HR 2646-The Food Stamp Reauthorization Act of 2002). Under this provision, states may exclude certain types of resources from consideration as an asset when determining eligibility. This rulemaking exempts pension plans, including accounts solely owned by an individual such as an Individual Retirement Account (IRA), 401 K and Keogh Plan, from consideration as an asset for TANF. Implementing this change will simplify the way these assets are considered for the TANF Program. This rulemaking also corrects the reference for appeals from 89 Ill. Adm. Code 104 to 89 Ill. Adm. Code 14.

Companion amendments are also being proposed to 89 Ill. Adm. Code 114 and 89 Ill. Adm. Code 121.
- 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 incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): 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 present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762
(217) 785-9772

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory agenda on which this rulemaking was summarized: January 2004

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

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 112
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SUBPART A: GENERAL PROVISIONS

Section

- 112.1 Description of the Assistance Program and Time Limit
- 112.2 Time Limit on Receipt of Benefits for Clients Enrolled in Post-Secondary Education
- 112.3 Receipt of Cash Benefits Beyond the 60 Month Lifetime Limit
- 112.5 Incorporation by Reference
- 112.6 The Family Violence Option

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 112.8 Caretaker Relative
- 112.9 Client Cooperation
- 112.10 Citizenship
- 112.20 Residence
- 112.30 Age
- 112.40 Relationship
- 112.50 Living Arrangement
- 112.52 Social Security Numbers
- 112.54 Assignment of Medical Support Rights
- 112.60 Basis of Eligibility
- 112.61 Death of a Parent (Repealed)
- 112.62 Incapacity of a Parent (Repealed)
- 112.63 Continued Absence of a Parent (Repealed)
- 112.64 Unemployment of the Parent (Repealed)
- 112.65 Responsibility and Services Plan
- 112.66 Alcohol and Substance Abuse Treatment
- 112.67 Restriction in Payment to Households Headed by a Minor Parent
- 112.68 School Attendance Initiative
- 112.69 Felons and Violators of Parole or Probation

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SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section

- 112.70 Employment and Work Activity Requirements
- 112.71 Individuals Exempt from TANF Employment and Work Activity Requirements
- 112.72 Participation/Cooperation Requirements
- 112.73 Adolescent Parent Program (Repealed)
- 112.74 Responsibility and Services Plan
- 112.75 Teen Parent Personal Responsibility Plan (Repealed)
- 112.76 TANF Orientation
- 112.77 Reconciliation and Fair Hearings
- 112.78 TANF Employment and Work Activities
- 112.79 Sanctions
- 112.80 Good Cause for Failure to Comply with TANF Participation Requirements
- 112.81 Responsible Relative Eligibility for JOBS (Repealed)
- 112.82 Supportive Services
- 112.83 Teen Parent Services
- 112.84 Employment Retention and Advancement Project
- 112.85 Four Year College/Vocational Training Demonstration Project (Repealed)

SUBPART E: PROJECT ADVANCE

Section

- 112.86 Project Advance (Repealed)
- 112.87 Project Advance Experimental and Control Groups (Repealed)
- 112.88 Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
- 112.89 Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
- 112.90 Project Advance Sanctions (Repealed)
- 112.91 Good Cause for Failure to Comply with Project Advance (Repealed)
- 112.93 Individuals Exempt From Project Advance (Repealed)
- 112.95 Project Advance Supportive Services (Repealed)

SUBPART F: EXCHANGE PROGRAM

Section

- 112.98 Exchange Program (Repealed)

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

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Section

112.100	Unearned Income
112.101	Unearned Income of Stepparent or Parent
112.105	Budgeting Unearned Income
112.106	Budgeting Unearned Income of Applicants
112.107	Initial Receipt of Unearned Income
112.108	Termination of Unearned Income
112.110	Exempt Unearned Income
112.115	Education Benefits
112.120	Incentive Allowances
112.125	Unearned Income In-Kind
112.126	Earmarked Income
112.127	Lump-Sum Payments
112.128	Protected Income (Repealed)
112.130	Earned Income
112.131	Earned Income Tax Credit
112.132	Budgeting Earned Income
112.133	Budgeting Earned Income of Employed Applicants
112.134	Initial Employment
112.135	Budgeting Earned Income For Contractual Employees
112.136	Budgeting Earned Income For Non-contractual School Employees
112.137	Termination of Employment
112.138	Transitional Payments (Repealed)
112.140	Exempt Earned Income
112.141	Earned Income Exemption
112.142	Exclusion from Earned Income Exemption
112.143	Recognized Employment Expenses
112.144	Income from Work-Study and Training Programs
112.145	Earned Income From Self-Employment
112.146	Earned Income From Roomer and Boarder
112.147	Income From Rental Property
112.148	Payments from the Illinois Department of Children and Family Services
112.149	Earned Income In-Kind
112.150	Assets
112.151	Exempt Assets
112.152	Asset Disregards
112.153	Deferral of Consideration of Assets
112.154	Property Transfers (Repealed)
112.155	Income Limit

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SUBPART H: PAYMENT AMOUNTS

Section	
112.250	Grant Levels
112.251	Payment Levels
112.252	Payment Levels in Group I Counties
112.253	Payment Levels in Group II Counties
112.254	Payment Levels in Group III Counties
112.255	Limitation on Amount of TANF Assistance to Recipients from Other States (Repealed)

SUBPART I: OTHER PROVISIONS

Section	
112.300	Persons Who May Be Included in the Assistance Unit
112.301	Presumptive Eligibility
112.302	Reporting Requirements for Clients with Earnings
112.303	Budgeting
112.304	Budgeting Schedule
112.305	Strikers
112.306	Foster Care Program
112.307	Responsibility of Sponsors of Non-Citizens Entering the Country Prior to 8/22/96
112.308	Responsibility of Sponsors of Non-Citizens Entering the Country On or After 8/22/96
112.309	Institutional Status
112.310	Child Care for Representative Payees
112.315	Young Parents Program (Renumbered)
112.320	Redetermination of Eligibility
112.330	Extension of Medical Assistance Due to Increased Income from Employment
112.331	Four Month Extension of Medical Assistance Due to Child Support Collections
112.332	Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)
112.340	New Start Payments to Individuals Released from Department of Corrections Facilities (Repealed)

SUBPART J: CHILD CARE

Section	
112.350	Child Care (Repealed)

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- 112.352 Child Care Eligibility (Repealed)
- 112.354 Qualified Provider (Repealed)
- 112.356 Notification of Available Services (Repealed)
- 112.358 Participant Rights and Responsibilities (Repealed)
- 112.362 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
- 112.364 Rates of Payment for Child Care (Repealed)
- 112.366 Method of Providing Child Care (Repealed)
- 112.370 Non-JOBS Education and Training Program (Repealed)

SUBPART K: TRANSITIONAL CHILD CARE

Section

- 112.400 Transitional Child Care Eligibility (Repealed)
- 112.404 Duration of Eligibility for Transitional Child Care (Repealed)
- 112.406 Loss of Eligibility for Transitional Child Care (Repealed)
- 112.408 Qualified Child Care Providers (Repealed)
- 112.410 Notification of Available Services (Repealed)
- 112.412 Participant Rights and Responsibilities (Repealed)
- 112.414 Child Care Overpayments and Recoveries (Repealed)
- 112.416 Fees for Service for Transitional Child Care (Repealed)
- 112.418 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; preemptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; preemptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; preemptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; preemptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency

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amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; preemptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; preemptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; preemptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency

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amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989;

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amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996;

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amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 7391, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8426, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15597, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 4466, effective February 24, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12197, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14420, effective July 24, 1998; amended at 22 Ill. Reg. 14744, effective August 1, 1998; amended at 22 Ill. Reg. 16256, effective September 1, 1998; emergency amendment at 22 Ill. Reg. 16365, effective September 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 18082, effective October 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19840, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 598, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 942, effective January 6, 1999; emergency amendment at 23 Ill. Reg. 1133, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1682, effective January 20, 1999; emergency amendment at 23 Ill. Reg. 5881, effective May 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6958, effective May 30, 1999; amended at 23 Ill. Reg. 7091, effective June 4, 1999; amended at 23 Ill. Reg. 7896, effective July 1, 1999; emergency amendment at 23 Ill. Reg. 8672, effective July 13, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 10530, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 12648, effective September 27, 1999; amended at 23 Ill. Reg. 13898, effective November 19, 1999; amended at 24 Ill. Reg. 289, effective December 28, 1999; amended at 24 Ill. Reg. 2348, effective February 1, 2000; amended at 25 Ill. Reg. 10336, effective August 3, 2001; emergency amendment at 25 Ill. Reg. 11584, effective September 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14865, effective November 1, 2001; amended at 26 Ill. Reg. 138, effective January 1, 2002; amended at 26 Ill. Reg. 924, effective January 15, 2002; emergency amendment at 26 Ill. Reg. 3329, effective February 19, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9803, effective June 24, 2002; amended at 26 Ill. Reg. 10492, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10994, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17182, effective November 15, 2002; amended at 27 Ill. Reg. 4545, effective February 28, 2003; amended at 27 Ill. Reg. 7240, effective April 7, 2003; amended at 27 Ill. Reg. 18417, effective November 20, 2003; amended at 28 Ill. Reg. 5655, effective March 22, 2004; amended at 28 Ill. Reg. _____, effective _____.

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

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Section 112.54 Assignment of Medical Support Rights

- a) [Rights to Support](#)
- 1) As a condition of eligibility for medical assistance under the [TANFAFDC](#) program, each applicant or recipient by operation of State law, automatically assigns to the Department any rights to support which the applicant or recipient may have. This assignment gives the Department the right to collect support money directly from the absent parent in order to be reimbursed for assistance given to the dependent children.
 - 2) This right includes support money paid in the applicant/ recipient own behalf, such as alimony, and money paid in behalf of any other family member for whom assistance is requested, such as child support.
- b) As a condition of eligibility for medical assistance under the [TANFAFDC](#) program each legally able applicant and recipient must cooperate (see 89 Ill. Adm. Code 120.320(b)) with the Department in obtaining medical support or payments. ("Legally able" means the applicant/recipient has the legal authority to execute an assignment of medical support rights.) This includes support or payments for the applicant/recipient and/or for any person for whom the applicant/recipient receives medical assistance.
- c) [Refusal/Failure to Cooperate](#)
- 1) If the applicant/recipient refuses to cooperate with the Department in obtaining medical support or payments, he/she is ineligible for medical assistance and will be removed from the assistance unit for medical assistance. (Non-cooperation is failure/refusal to comply with the requirements of 89 Ill. Adm. Code 120.320(b)). However, the applicant/recipient remains eligible for [TANFAFDC](#) cash benefits.
 - 2) Cooperation in obtaining medical support and/or payments includes enrolling dependents for no cost dependent health insurance coverage.
 - 3) If the applicant/recipient fails/refuses to cooperate in obtaining medical support/payments or sign up for no cost medical insurance, he/she is ineligible for medical assistance as long as he/she continues to fail/refuse to cooperate. If the applicant/recipient later wishes to receive medical

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assistance then he/she must cooperate by complying with the requirements~~requirement(s)~~ (see 89 Ill. Adm. Code 120.320(b)) that he/she previously failed/refused to meet.

- 4) An applicant/recipient can appeal the Department's determination that he/she refused to cooperate in obtaining medical support/payments or that he/she refused to sign up for no cost medical insurance. Such appeal shall be in accordance with 89 Ill. Adm. Code 14104: Subpart A.
- d) The Department will provide or continue to provide medical assistance to any applicant or recipient who is not legally able to cooperate in securing medical support, and would otherwise be eligible for medical assistance but for the refusal by a person legally able to cooperate.

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

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section 112.150 Assets

- a) The value of nonexempt assets shall be considered in determining eligibility for an assistance payment.
- b) The entire equity value of a jointly-held liquid asset or the client's proportional share of a jointly-held non-liquid asset shall be considered in determining eligibility for an assistance payment, unless:
 - 1) the asset is a joint income tax refund;
 - 2) the client can document the amount of his or her legal interest in the asset, and that such amount is less than the entire value of the asset, the documented amount shall be considered. Appropriate documentation, may include, but is not limited to, bank documents, trust documents, signature cards, divorce papers, or court orders;
 - 3) the asset is held jointly with a client or clients of any Department assistance program other than food stamps;
 - 4) the client documents that he or she does not have access to the asset. Appropriate documentation may include but is not limited to, bank

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documents, trust documents, signature cards, divorce papers, or court orders;

- 5) the client documents that the asset or a portion of the asset is not owned by the client and the client's accessibility to the asset is changed (see subsections (b)(2) and (4) of this Section for examples of documentation);
 - 6) the co-owner refuses to make the asset available; or
 - 7) the co-owner has engaged in violent activity against a family member in the past.
- c) Income tax refunds shall be considered available assets and are to be considered against the appropriate non-exempt asset limitation of the assistance unit. One-half of joint tax refunds shall be considered available for each payee. A client who declares that less than one-half of the joint income tax was received may claim an exception. Only the amount claimed to be received shall be considered.
- d) An applicant or recipient can appeal the Department's decision relating to consideration of assets in accordance with 89 Ill. Adm. Code [14104](#).
- e) [Pension plans are exempt from consideration as an asset, including accounts owned solely by an individual, such as an Individual Retirement Account \(IRA\), 401 K or Keogh Plan.](#)

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

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- 1) Heading of the Part: General Assistance
- 2) Code Citation: 89 Ill Adm. Code 114
- 3) Section Number: 114.250 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. VI and 12-13].
- 5) A Complete Description of the Subjects and Issues involved: This rulemaking is being proposed in accordance with an option provided under Title IV of the Farm Bill (HR 2646-The Food Stamp Reauthorization Act of 2002). Under this provision, states may exclude certain types of resources from consideration as an asset when determining eligibility. This rulemaking exempts pension plans, including accounts solely owned by an individual such as an Individual Retirement Account (IRA), 401 K and Keogh Plan, from consideration as an asset for General Assistance. Implementing this change will simplify the way these assets are considered for the General Assistance Program.

Companion amendments are also being proposed to 89 Ill. Adm. Code 112 and 89 Ill. Adm. Code 121.
- 6) Will this rulemaking replace an emergency rule 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 amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): 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 present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures

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Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762
(217) 785-9772

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory agenda on which this rulemaking was summarized: January 2004

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

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 114
GENERAL ASSISTANCE

SUBPART A: GENERAL PROVISIONS

Section

- 114.1 Description of the Assistance Program
- 114.2 Determination of Not Employable
- 114.3 Advocacy Program for Persons Receiving State Transitional Assistance
- 114.5 Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 114.9 Client Cooperation
- 114.10 Citizenship
- 114.20 Residence
- 114.30 Age
- 114.40 Relationship
- 114.50 Living Arrangement
- 114.52 Social Security Numbers
- 114.60 Work Registration Requirements (Outside City of Chicago only)
- 114.61 Individuals Exempt From Work Registration Requirements (Outside City of Chicago only)
- 114.62 Job Service Registration (Outside City of Chicago only)
- 114.63 Failure to Maintain Current Job Service Registration (Outside City of Chicago only)
- 114.64 Responsibility to Seek Employment (Outside City of Chicago only)
- 114.70 Initial Employment Expenses (Outside City of Chicago only)
- 114.80 Downstate General Assistance Work and Training Programs
- 114.85 Downstate General Assistance – Food Stamps Employment and Training Pilot Project
- 114.90 Work and Training Programs
- 114.100 General Assistance Jobs Program (Repealed)
- 114.101 Persons Ineligible for TANF Due to Time Limits

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SUBPART C: PROJECT ADVANCE

Section

- 114.108 Project Advance (Repealed)
- 114.109 Project Advance Participation Requirements of Adjudicated Fathers (Repealed)
- 114.110 Project Advance Cooperation Requirements of Adjudicated Fathers (Repealed)
- 114.111 Project Advance Sanctions (Repealed)
- 114.113 Project Advance Good Cause for Failure to Comply (Repealed)
- 114.115 Individuals Exempt From Project Advance (Repealed)
- 114.117 Project Advance Supportive Services (Repealed)

SUBPART D: EMPLOYMENT AND TRAINING REQUIREMENTS

Section

- 114.120 Employment and Training Requirements
- 114.121 Persons Required to Participate in Project Chance (Repealed)
- 114.122 Advocacy Program for Persons Who Have Applied for Supplemental Security Income (SSI) Under Title XVI of the Social Security Act (Repealed)
- 114.123 Persons in Need of Work Rehabilitative Services (WRS) to Become Employable (Repealed)
- 114.124 Employment and Training Participation/Cooperation Requirements (Repealed)
- 114.125 Employment and Training Program Orientation (Repealed)
- 114.126 Employment and Training Program Full Assessment Process/Development of an Employment Plan (Repealed)
- 114.127 Employment and Training Program Components (Repealed)
- 114.128 Employment and Training Sanctions (Repealed)
- 114.129 Good Cause For Failure to Cooperate With Work and Training Participation Requirements (Repealed)
- 114.130 Employment and Training Supportive Services (Repealed)
- 114.135 Conciliation and Fair Hearings (Repealed)
- 114.140 Employment Child Care (Repealed)

SUBPART E: FINANCIAL FACTORS OF ELIGIBILITY

Section

- 114.200 Unearned Income
- 114.201 Budgeting Unearned Income
- 114.202 Budgeting Unearned Income of Applicants
- 114.203 Initial Receipt of Unearned Income
- 114.204 Termination of Unearned Income

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114.210	Exempt Unearned Income
114.220	Education Benefits (Repealed)
114.221	Unearned Income In-Kind
114.222	Earmarked Income
114.223	Lump-Sum Payments
114.224	Protected Income
114.225	Earned Income
114.226	Budgeting Earned Income
114.227	Budgeting Earned Income of Applicants
114.228	Initial Employment
114.229	Termination of Employment
114.230	Exempt Earned Income
114.235	Recognized Employment Expenses
114.240	Income From Work/Study/Training Program (Repealed)
114.241	Earned Income From Self-Employment
114.242	Earned Income From Roomer and Boarder
114.243	Earned Income From Rental Property
114.244	Earned Income In-Kind
114.245	Payments from the Illinois Department of Children and Family Services
114.246	Budgeting Earned Income for Contractual Employees
114.247	Budgeting Earned Income for Non-contractual School Employees
114.250	Assets
114.251	Exempt Assets
114.252	Asset Disregards
114.260	Deferral of Consideration of Assets (Repealed)
114.270	Property Transfers (Repealed)
114.280	Supplemental Payments

SUBPART F: PAYMENT AMOUNTS

Section	
114.350	Payment Levels
114.351	Payment Levels in Group I Counties
114.352	Payment Levels in Group II Counties
114.353	Payment Levels in Group III Counties

SUBPART G: OTHER PROVISIONS

Section	
114.400	Persons Who May Be Included In the Assistance Unit

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- 114.401 Eligibility of Strikers
- 114.402 Special Needs Authorizations (Repealed)
- 114.403 Institutional Status
- 114.404 Budgeting
- 114.405 Budgeting Schedule
- 114.406 Limitation on Amount of General Assistance to Recipients from Other States (Repealed)
- 114.408 Responsibility of Sponsors of Non-citizens Entering the Country On or After 8/22/96
- 114.420 Redetermination of Eligibility
- 114.430 Extension of Medical Assistance Due to Increased Income from Employment
- 114.440 Attorney's Fees for VA Appellants
- 114.442 Attorney's Fees for SSI Applicants

SUBPART H: CHILD CARE

Section

- 114.450 Child Care (Repealed)
- 114.452 Child Care Eligibility (Repealed)
- 114.454 Qualified Provider (Repealed)
- 114.456 Notification of Available Services (Repealed)
- 114.458 Participant Rights and Responsibilities (Repealed)
- 114.462 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
- 114.464 Rates of Payment for Child Care (Repealed)
- 114.466 Method of Providing Child Care (Repealed)

SUBPART I: TRANSITIONAL CHILD CARE

Section

- 114.500 Transitional Child Care Eligibility (Repealed)
- 114.504 Duration of Eligibility for Transitional Child Care (Repealed)
- 114.506 Loss of Eligibility for Transitional Child Care (Repealed)
- 114.508 Qualified Provider (Repealed)
- 114.510 Notification of Available Services (Repealed)
- 114.512 Participant Rights and Responsibilities (Repealed)
- 114.514 Child Care Overpayments and Recoveries (Repealed)
- 114.516 Fees for Service for Transitional Child Care (Repealed)
- 114.518 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article VI and authorized by Section 12-13 of the Illinois Public

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Aid Code [305 ILCS 5/Art. VI and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg.

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10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 7, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9909, effective August 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 16107; amended at 7 Ill. Reg. 16408, effective November 30, 1983; amended at 7 Ill. Reg. 16652, effective December 1, 1983; amended at 8 Ill. Reg. 243, effective December 27, 1983; amended at 8 Ill. Reg. 5233, effective April 9, 1984; amended at 8 Ill. Reg. 6764, effective April 27, 1984; amended at 8 Ill. Reg. 11435, effective June 27, 1984; amended at 8 Ill. Reg. 13319, effective July 16, 1984; amended at 8 Ill. Reg. 16237, effective August 24, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17896; amended at 9 Ill. Reg. 314, effective January 1, 1985; emergency amendment at 9 Ill. Reg. 823, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9557, effective June 5, 1985; amended at 9 Ill. Reg. 10764, effective July 5, 1985; amended at 9 Ill. Reg. 15800, effective October 16, 1985; amended at 10 Ill. Reg. 1924, effective January 17, 1986; amended at 10 Ill. Reg. 3660, effective January 30, 1986; emergency amendment at 10 Ill. Reg. 4646, effective February 3, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 4896, effective March 7, 1986; amended at 10 Ill. Reg. 10681, effective June 3, 1986; amended at 10 Ill. Reg. 11041, effective June 5, 1986; amended at 10 Ill. Reg. 12662, effective July 14, 1986; amended at 10 Ill. Reg. 15118, effective September 5, 1986; amended at 10 Ill. Reg. 15640, effective September 19, 1986; amended at 10 Ill. Reg. 19079, effective October 24, 1986; amended at 11 Ill. Reg. 2307, effective January 16, 1987; amended at 11 Ill. Reg. 5297, effective March 11, 1987; amended at 11 Ill. Reg. 6238, effective March 20, 1987; emergency amendment at 11 Ill. Reg. 12449, effective July 10, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 12948, effective August 1, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 18311, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 18689, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18791, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20129, effective December 4, 1987; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 889, effective January 1, 1988; SUBPARTS C, D and E recodified to SUBPARTS E, F and G at 12 Ill. Reg. 2147; Section 114.110 recodified to Section 114.52 at 12 Ill. Reg. 2984; amended at 12 Ill. Reg. 3505, effective January 22, 1988; amended at 12 Ill. Reg. 6170, effective March 18, 1988; amended at 12 Ill. Reg. 6719, effective March 22, 1988; amended at 12 Ill. Reg. 9108, effective May 20, 1988; amended at 12 Ill. Reg. 9699, effective May 24, 1988; amended at 12 Ill. Reg. 9940, effective May 31, 1988; amended at 12 Ill. Reg. 11474, effective June 30, 1988; amended at 12 Ill. Reg. 14255, effective August 30, 1988; emergency amendment at 12 Ill. Reg. 14364, effective September 1, 1988, for a maximum of 150 days; amendment at 12 Ill. Reg. 16729, effective September 30, 1988; amended at 12 Ill.

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Reg. 20171, effective November 28, 1988; amended at 13 Ill. Reg. 89, effective January 1, 1989; amended at 13 Ill. Reg. 1546, effective January 20, 1989; amended at 13 Ill. Reg. 3900, effective March 10, 1989; amended at 13 Ill. Reg. 8580, effective May 20, 1989; emergency amendment at 13 Ill. Reg. 16169, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 16015, effective October 6, 1989; amended at 14 Ill. Reg. 746, effective January 1, 1990; amended at 14 Ill. Reg. 3640, effective February 23, 1990; amended at 14 Ill. Reg. 6360, effective April 16, 1990; amended at 14 Ill. Reg. 10929, effective June 20, 1990; amended at 14 Ill. Reg. 13215, effective August 6, 1990; amended at 14 Ill. Reg. 13777, effective August 10, 1990; amended at 14 Ill. Reg. 14162, effective August 17, 1990; amended at 14 Ill. Reg. 17111, effective September 30, 1990; amended at 15 Ill. Reg. 288, effective January 1, 1991; amended at 15 Ill. Reg. 5710, effective April 10, 1991; amended at 15 Ill. Reg. 11164, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 15144, effective October 7, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3512, effective February 20, 1992; emergency amendment at 16 Ill. Reg. 4540, effective March 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 11662, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 13297, effective August 15, 1992; emergency amendment at 16 Ill. Reg. 13651, effective September 1, 1992, for a maximum 150 days; emergency amendment at 16 Ill. Reg. 14769, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 16276, effective October 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17772, effective November 13, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 18815, effective November 24, 1992; amended at 17 Ill. Reg. 1091, effective January 15, 1993; amended at 17 Ill. Reg. 2277, effective February 15, 1993; amended at 17 Ill. Reg. 3255, effective March 1, 1993; amended at 17 Ill. Reg. 3639, effective February 26, 1993; amended at 17 Ill. Reg. 3255, effective March 1, 1993; amended at 17 Ill. Reg. 6814, effective April 21, 1993; emergency amendment at 17 Ill. Reg. 19728, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3436, effective February 28, 1994; amended at 18 Ill. Reg. 7390, effective April 29, 1994; amended at 18 Ill. Reg. 12839, effective August 5, 1994; emergency amendment at 19 Ill. Reg. 8434, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15058, effective October 17, 1995; emergency amendment at 20 Ill. Reg. 4445, effective February 28, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 9970, effective July 10, 1996; emergency amendment at 21 Ill. Reg. 682, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7413, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8652, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15545, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 16356, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19820, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 588, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1619, effective January 20, 1999; amended at 23 Ill. Reg. 6067, effective May 4, 1999; amended at 23 Ill. Reg. 6434, effective May 15, 1999; amended at 23 Ill. Reg. 6948, effective

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May 30, 1999; emergency amendment at 23 Ill. Reg. 8661, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13863, effective November 19, 1999; amended at 24 Ill. Reg. 2338, effective February 1, 2000; amended at 24 Ill. Reg. 5688, effective March 20, 2000; amended at 25 Ill. Reg. 10325, effective August 3, 2001; amended at 26 Ill. Reg. 164, effective January 1, 2002; amended at 26 Ill. Reg. 9821, effective June 24, 2002; emergency amendment at 26 Ill. Reg. 11009, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17198, effective November 15, 2002; amended at 27 Ill. Reg. 7263, effective April 7, 2003; amended at 27 Ill. Reg. 18433, effective November 20, 2003; amended at 28 Ill. Reg. 5682, effective March 22, 2004; amended at 28 Ill. Reg. _____, effective _____.

SUBPART E: FINANCIAL FACTORS OF ELIGIBILITY

Section 114.250 Assets

- a) The value of non-exempt assets shall be considered in determining eligibility for an assistance payment.
- b) The entire equity value of jointly held assets shall be considered in determining eligibility for an assistance payment, unless:
 - 1) The asset is a joint income tax refund; or
 - 2) The client documents that he/she does not have access to the asset. Appropriate documents may include, but are not limited to, bank documents, signature cards, trust documents, divorce papers, and papers from court proceedings; or
 - 3) The client can document the amount of his legal interest in the asset, and that such amount is less than the entire value of the asset, then the documented amount shall be considered. Appropriate documentation may include, but is not limited to, bank documents, trust documents, signature cards, divorce papers, or court orders; or
 - 4) The asset is held jointly with a client~~client(s)~~ of any Illinois Department of Human Services assistance program, other than Food Stamps; or
 - 5) The client documents that the asset or a portion of the asset is not owned by the client and the client's accessibility to the asset is changed (see subsections (b)(2) and (b)(3) above for documentation examples).

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- c) Income tax refunds
- 1) Income tax refunds shall be considered available assets and are to be considered against the appropriate nonexempt asset limitation of the assistance unit. One-half of joint tax refunds shall be considered available for each payee.
 - 2) A client who declares that less than one-half of the joint income tax was received may claim an exception. Only the amount claimed to be received shall be considered.
- d) Trust Fund for the Benefit of a Dependent Child
- 1) When trust fund exists in the name of a child or for the benefit of a child included in the assistance unit and the amount of the trust fund by itself or combined with other nonexempt assets of the assistance unit exceeds the asset disregard, the caretaker shall be allowed ~~forty five (45)~~ days to petition the court for release of the funds. When someone other than the caretaker is the trustee of the trust fund, the caretaker is responsible for taking action within ~~forty five (45)~~ days of the Department's becoming aware of the existence of the trust fund to petition the court to order the trustee to release the funds. The child for whom the trust fund was established shall remain in the assistance unit for the ~~forty five (45)~~ days.
 - 2) When the trust fund combined with other nonexempt assets of the assistance unit does not exceed the asset disregard, petitioning the court for release of the funds is not required.
 - 3) At the end of ~~forty five (45)~~ days, if the caretaker:
 - A) does not provide verification that the court has been petitioned, the amount of the trust fund shall be considered a nonexempt asset and shall be applied to the asset disregard of the assistance unit. When the trust fund and other nonexempt assets exceed the asset disregard, the child may be deleted or if the child is the only child in the assistance unit, the case may be changed to an adult only ~~case~~case(s). The eligibility of all other members of the assistance unit shall not be affected unless the child with the trust fund is the only child in the assistance unit, or

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- B) provides verification that the court has been petitioned and the court denied the request for release of the funds, the amount of the trust fund shall be considered an exempt asset, or
- C) provides verification the court will release the funds for the child, the released ~~amounts~~amount(s) shall be considered as follows:
- i) When the petition and court order direct the money be used for the child's income maintenance needs or do not specify a purpose, payments shall be budgeted as nonexempt unearned income. The caretaker may request the child be removed from the assistance unit if the earmarked income meets the child's needs. The earmarked income shall be considered available to meet the needs of the child only and the other assistance unit members remain eligible.
 - ii) When the petition and court order direct the money be used for the child's income maintenance needs or do not specify a purpose, a one-time only release of the money shall be considered an asset subject to the asset disregard. If the payment plus other nonexempt assets exceed the asset disregard, the caretaker may choose to delete the child from the assistance unit. The other assistance unit members shall remain eligible.
 - iii) When the petition and court-order direct the money be used for a specific purpose other than the income maintenance needs of the child, the money shall be considered exempt and does not affect eligibility, or
- D) provides verification the court was petitioned but a decision was not made, assistance shall be continued for the child and a control established for 30 days.
- e) [Pension plans are exempt from consideration as an asset, including accounts owned solely by an individual, such as an Individual Retirement Account \(IRA\), 401 K or Keogh Plan.](#)

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

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- 1) Heading of the Part: Food Stamps
- 2) Code Citation: 89 Ill Adm. Code 121
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
121.57	Amendment
121.58	Amendment
- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].
- 5) A Complete Description of the Subjects and Issues involved: This rulemaking is being proposed in accordance with an option provided under Title IV of the Farm Bill (HR 2646-The Food Stamp Reauthorization Act of 2002). Under this provision, states may exclude certain types of resources from consideration as an asset when determining eligibility. This rulemaking exempts pension plans, except accounts owned solely by an individual, such as an Individual Retirement Account (IRA), 401 K or Keogh Plan, that are accessible without a penalty for withdrawal. Participants in an IRA, 401 K or Keogh Plan are subject to a penalty for withdrawal if funds are distributed before age 59½. Implementing this change will simplify the way these assets are considered for the Food Stamp Program.

Companion amendments are also being proposed to 89 Ill. Adm. Code 112 and 89 Ill. Adm. Code 114.

- 6) Will this rulemaking replace an emergency rule 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 amendments pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
121.61	Amendment	28 Ill. Reg. 2570; 1/23/04

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

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- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:
- Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762
(217) 785-9772
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory agenda on which this rulemaking was summarized: January 2004

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

Section

- 121.1 Application for Assistance
- 121.2 Time Limitations on the Disposition of an Application
- 121.3 Approval of an Application and Initial Authorization of Assistance
- 121.4 Denial of an Application
- 121.5 Client Cooperation
- 121.6 Emergency Assistance
- 121.7 Expedited Service
- 121.10 Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.18 Work Requirement
- 121.19 Ending a Voluntary Quit Disqualification (Repealed)
- 121.20 Citizenship
- 121.21 Residence
- 121.22 Social Security Numbers
- 121.23 Work Registration/Participation Requirements
- 121.24 Individuals Exempt from Work Registration Requirements
- 121.25 Failure to Comply with Work Provisions
- 121.26 Period of Sanction
- 121.27 Voluntary Job Quit/Reduction in Work Hours
- 121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
- 121.29 Exemptions from Voluntary Quit/Reduction in Work Hours Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.30 Unearned Income
- 121.31 Exempt Unearned Income

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121.32	Education Benefits (Repealed)
121.33	Unearned Income In-Kind
121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs
121.52	Earned Income from Roomer and Boarder
121.53	Income From Rental Property
121.54	Earned Income In-Kind
121.55	Sponsors of Aliens
121.57	Assets
121.58	Exempt Assets
121.59	Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section	
121.60	Net Monthly Income Eligibility Standards
121.61	Gross Monthly Income Eligibility Standards
121.62	Income Which Must Be Annualized
121.63	Deductions from Monthly Income
121.64	Food Stamp Benefit Amount

SUBPART E: HOUSEHOLD CONCEPT

Section	
121.70	Composition of the Assistance Unit
121.71	Living Arrangement
121.72	Nonhousehold Members
121.73	Ineligible Household Members
121.74	Strikers
121.75	Students
121.76	Households Receiving AFDC, SSI, Interim Assistance and/or GA – Categorical Eligibility

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section	
121.80	Fraud Disqualification (Renumbered)

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- 121.81 Initiation of Administrative Fraud Hearing (Repealed)
- 121.82 Definition of Fraud (Renumbered)
- 121.83 Notification To Applicant Households (Renumbered)
- 121.84 Disqualification Upon Finding of Fraud (Renumbered)
- 121.85 Court Imposed Disqualification (Renumbered)
- 121.90 Monthly Reporting and Retrospective Budgeting (Repealed)
- 121.91 Monthly Reporting (Repealed)
- 121.92 Budgeting
- 121.93 Issuance of Food Stamp Benefits
- 121.94 Replacement of the EBT Card or Food Stamp Benefits
- 121.95 Restoration of Lost Benefits
- 121.96 Uses For Food Coupons
- 121.97 Supplemental Payments
- 121.98 Client Training for the Electronic Benefits Transfer (EBT) System
- 121.105 State Food Program (Repealed)
- 121.107 New State Food Program
- 121.120 Redetermination of Eligibility
- 121.125 Redetermination of Earned Income Households
- 121.130 Residents of Shelters for Battered Women and their Children
- 121.131 Fleeing Felons and Probation/Parole Violators
- 121.135 Incorporation By Reference
- 121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
- 121.145 Quarterly Reporting (Repealed)

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section

- 121.150 Definition of Intentional Violations of the Program
- 121.151 Penalties for Intentional Violations of the Program
- 121.152 Notification To Applicant Households
- 121.153 Disqualification Upon Finding of Intentional Violation of the Program
- 121.154 Court Imposed Disqualification

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section

- 121.160 Persons Required to Participate
- 121.162 Program Requirements
- 121.163 Vocational Training

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- 121.164 Orientation (Repealed)
- 121.165 Community Work
- 121.166 Assessment and Employability Plan (Repealed)
- 121.167 Counseling/Prevention Services
- 121.170 Job Search Activity
- 121.172 Basic Education Activity
- 121.174 Job Readiness Activity
- 121.176 Work Experience Activity
- 121.177 Illinois Works Component (Repealed)
- 121.178 Job Training Component (Repealed)
- 121.179 JTPA Employability Services Component (Repealed)
- 121.180 Grant Diversion Component (Repealed)
- 121.182 Earnfare Activity
- 121.184 Sanctions for Non-cooperation with Food Stamp Employment and Training
- 121.186 Good Cause for Failure to Cooperate
- 121.188 Supportive Services
- 121.190 Conciliation
- 121.200 Types of Claims (Recodified)
- 121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
- 121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
- 121.203 Collecting Claim Against Households (Recodified)
- 121.204 Failure to Respond to Initial Demand Letter (Recodified)
- 121.205 Methods of Repayment of Food Stamp Claims (Recodified)
- 121.206 Determination of Monthly Allotment Reductions (Recodified)
- 121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
- 121.208 Suspension and Termination of Claims (Recodified)

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

Section

- 121.220 Work Requirement Components (Repealed)
- 121.221 Meeting the Work Requirement with the Earnfare Component (Repealed)
- 121.222 Volunteer Community Work Component (Repealed)
- 121.223 Work Experience Component (Repealed)
- 121.224 Supportive Service Payments to Meet the Work Requirement (Repealed)
- 121.225 Meeting the Work Requirement with the Illinois Works Component (Repealed)
- 121.226 Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)

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AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg.

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229, effective December 20, 1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective

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October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg. 15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468, effective October 1, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 2423, effective January 25, 2001; emergency amendment at 25 Ill. Reg. 2439, effective January 29, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 3707, effective March 1, 2001, for a maximum of 150 days; emergency expired July 28, 2001; amended at 25 Ill. Reg. 7720, effective June 7, 2001; amended at 25 Ill. Reg. 10823, effective August 12, 2001; amended at 25 Ill. Reg. 11856, effective August 31, 2001; emergency amendment at 25 Ill. Reg. 13309, effective October 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 151, effective January 1, 2002; amended at 26 Ill. Reg. 2025, effective February 1, 2002; amended at 26 Ill. Reg. 13530, effective September 3, 2002; peremptory amendment at 26 Ill. Reg. 15099, effective October 1, 2002; amended at 26 Ill. Reg. 16484, effective October 25, 2002; amended at 27 Ill. Reg. 2889, effective February 7, 2003; expedited correction at 27 Ill. Reg. 14262, effective

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February 7, 2003; amended at 27 Ill. Reg. 4583, effective February 28, 2003; amended at 27 Ill. Reg. 7273, effective April 7, 2003; amended at 27 Ill. Reg. 12569, effective July 21, 2003; peremptory amendment at 27 Ill. Reg. 15604, effective October 1, 2003; amended at 27 Ill. Reg. 16108, effective October 6, 2003; amended at 27 Ill. Reg. 18445, effective November 20, 2003; amended at 28 Ill. Reg. 1104, effective December 31, 2003; amended at 28 Ill. Reg. 3857, effective February 13, 2004; amended at 28 Ill. Reg. 10393, effective July 6, 2004; amended at 28 Ill. Reg. _____, effective _____.

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 121.57 Assets

- a) The value of nonexempt assets shall be considered in determining eligibility.
- b) Value of Nonexempt Assets
 - 1) The value of nonexempt assets is the equity value (fair market value less the amount owed), except for prepaid funeral agreements valued over \$1500.
 - 2) The Department considers the following assets in determining eligibility:
 - A) Liquid Assets
 - i) Liquid assets are those properties in the form of cash or other financial instruments which are convertible to cash, such as, but not limited to, cash on hand, money, in checking or savings accounts, credit union accounts, savings certificates, stocks or bonds, lump-sum payments, prepaid funeral agreements, IRAs and Keogh Plans that do not involve a contractual relationship with someone who is not a member of the same food stamp household.
 - ii) Pension plans are exempt from consideration as an asset, except accounts owned solely by an individual, such as an Individual Retirement Account (IRA), 401 K or Keogh Plan, that are accessible without a penalty for withdrawal. The amount of the Keogh Plan or IRA to be counted as an asset is the total value minus any amount that would be lost for early withdrawal. The amount considered

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~~is the amount the individual would receive if the account were closed. An individual (one person) Keogh Plan is the nonexempt asset. However, the Keogh Plan involving a household member and someone who is not a member of the same food stamp household is exempt unless the client can make withdrawals from the account without affecting the other individual or individuals.~~

- B) Nonliquid Assets
Nonliquid assets are those properties which are not in the form of cash or other financial instruments, such as personal property, licensed vehicles, unlicensed vehicles, buildings, land, recreational properties, and any other property not specifically exempted in Section 121.58.
- C) Assets of Sponsors of Aliens
Consider the assets of the sponsor and the sponsor's spouse who sponsored an alien on or after February 1, 1983 (7 CFR 272.1(g)(54) (2001)) in accordance with Section 121.55.
- D) Licensed Vehicles
The Department shall consider the equity value of a licensed vehicle unless exempted as stated in Section 121.58.
- E) Prepaid Funeral Agreements
The value of prepaid funeral agreements over \$1500.00 per person is considered.

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

Section 121.58 Exempt Assets

- a) Homestead Property
- 1) The home and surrounding property which, exclusive of public rights of way, is not separated from the home by intervening property owned by others.
 - 2) Homes which are temporarily unoccupied for reasons of employment, training for future employment, illness, or inhabitability caused by

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casualty or natural disaster, remain exempt if the household intends to return.

- 3) A lot owned or being purchased by the household if the household intends to build or is building a permanent home and the household does not currently own a home.
- b) Personal Property
Household goods, personal effects, one burial plot per household member, and the cash value of life insurance policies. Pension plans are exempt from consideration as an asset, except accounts owned solely by an individual, such as an Individual Retirement Account (IRA), 401 K or Keogh Plan, that are accessible without a penalty for withdrawal. and pension plans except Individual Retirement Accounts (IRA's) and Keogh plans which do not involve a household member in a contractual relationship with someone who is not a member of the same food stamp household. If the Keogh plan involves a member of the household and someone who is not a member of the same food stamp household, it is exempt unless the client can withdraw funds from the plan without affecting the other individual or individuals.
- c) Income Producing Property
- 1) Property which is annually producing income consistent with its fair market value (including land or buildings being sold by installment contract), even if only used on a seasonal basis.
 - 2) Property which is essential to the employment or self-employment of a household member, such as, farmland and work related equipment (tools of a tradesman, farm machinery). In the case of farm property (including land, equipment, and supplies) that is essential to the self-employment of a household member in a farming operation, the value of such property shall be excluded from financial resources until the expiration of the one year period beginning on the date such member ceases to be self-employed in farming.
 - 3) A rental home which is used by a household for vacation purposes at sometime during the year is an asset, unless excluded by subsection (c)(1) of this Section.
- d) Disaster Relief Payments

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Disaster relief payments provided by federal, state or local government or a disaster assistance organization.

- e) **Inaccessible Assets**
Assets whose cash value is not accessible to the household, such as but not limited to:
 - 1) irrevocable trust funds,
 - 2) security deposits on rental property and utilities,
 - 3) property in probate,
 - 4) real property when a good faith effort is being made to sell at a reasonable price,
 - 5) jointly owned assets which cannot be practically subdivided and are accessible only with the consent of the joint owner who refuses to give that consent,
 - 6) non-liquid asset or assets (see Section 121.57(b)(2)(B)) which have a lien against it as a result of a business loan and the household is prohibited by the security or lien agreement from selling the asset or assets,
 - 7) monies received from the Social Security Administration under the PASS Program that are held in a separate account, or
 - 8) an asset if when sold or otherwise disposed of would net the household less than \$1500. The net is determined by subtracting the expenses of disposing of the property from the equity value. This does not apply to negotiable financial instruments or stocks and bonds.
- f) **Prorated Income**
Money which has been prorated as income, such as income of self-employed persons or students.
- g) **Indian Lands**
Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs.

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h) Federal Statute Exclusions

Assets excluded for food stamp purposes by express provision of Federal Statute.

i) Licensed Vehicles

- 1) used primarily for producing income such as, but not limited to, a taxi, truck, or fishing boat. "Used primarily" means: used over 50% of the time the vehicle is used;
- 2) annually producing income consistent with its fair market value (even if only used on a seasonal basis);
- 3) necessary for long distance travel essential to employment, other than daily commuting (such as a sales person, migrant farmworker);
- 4) necessary for subsistence hunting or fishing (game and fish necessary for the livelihood of the household);
- 5) used as the household's home;
- 6) necessary to transport a physically disabled household member regardless of the purpose of such transportation. Only one vehicle per disabled person is allowed. The vehicle need not be specially equipped or used primarily for the transportation of the disabled individual;

*Agency Note: Exclusions (1)-(6) also apply when the vehicle is not in use because of temporary unemployment.
- 7) one licensed vehicle per household, regardless of its use;
- 8) the equity value of one licensed vehicle for each adult household member, regardless of its use;
- 9) the equity value of any other licensed vehicles used by household members under age 18 to drive to and from employment, training or education which is preparatory for employment, or to seek employment. Temporary periods of unemployment are not to affect this exemption;
- 10) any vehicle if the net proceeds would total less than \$1500 if sold; and

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- 11) property, real or personal, to the extent that it is directly related to the maintenance or use of a vehicle excluded under subsections (i)(1), (i)(2) or (i)(3) of this Section.

- j) Assets of a TANF or SSI household member
All assets of [a](#) household member who receives TANF or SSI benefits. |

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

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- 1) Heading of the Part: White-Tailed Deer Hunting By Use of Handguns
- 2) Code Citation: 17 Ill. Adm. Code 680
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
680.10	Amendment
680.20	Amendment
680.25	New Section
680.40	Amendment
680.50	Amendment
680.60	Amendment
680.70	Amendment
680.80	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].
- 5) A Complete Description of the Subjects and Issues Involved: To reflect that this season is no longer limited to handgun deer hunting only, references to "handgun" are being changed to "Late-Winter." A new Section regarding free landowner/tenant permits is being added. Legal firearms, legal ammunition and standards, and specifications for use of muzzleloading firearms are being added.
- 6) Will this rulemaking contain an automatic repeal date? 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 amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: 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 the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price, Legal Counsel
Department of Natural Resources

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One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July-December 2004

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 680

LATE-WINTER DEER HUNTING SEASON
~~WHITE-TAILED DEER HUNTING BY USE OF HANDGUNS~~

Section

680.10	Statewide Season
680.20	Statewide Deer Permit Requirements
<u>680.25</u>	<u>Deer Permit Requirements – Free Landowner/Tenant Permits</u>
680.30	Deer Permit Requirements – Group Hunt
680.40	Statewide Firearm <u>Handgun</u> Requirements for <u>Late-Winter</u> Deer Hunting
680.50	Statewide Deer Hunting Rules
680.60	Reporting Harvest
680.70	Rejection of Application/Revocation of Permits
680.80	Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].

SOURCE: Adopted at 15 Ill. Reg. 13353, effective September 3, 1991; amended at 16 Ill. Reg. 15446, effective September 28, 1992; amended at 17 Ill. Reg. 18810, effective October 19, 1993; amended at 18 Ill. Reg. 15739, effective October 18, 1994; amended at 19 Ill. Reg. 15422, effective October 26, 1995; amended at 20 Ill. Reg. 10906, effective August 5, 1996; amended at 21 Ill. Reg. 9128, effective June 26, 1997; amended at 22 Ill. Reg. 14875, effective August 3, 1998; amended at 24 Ill. Reg. 8975, effective June 19, 2000; amended at 26 Ill. Reg. 13820, effective September 5, 2002; emergency amendment at 28 Ill. Reg. 1032, effective January 6, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 2197, effective January 26, 2004; amended at 28 Ill. Reg. _____, effective _____.

Section 680.10 Statewide Season

- a) Season: One-half hour before sunrise on the first Friday after January 11 to sunset on the following Sunday. Shooting hours are one-half hour before sunrise to sunset. Hunting prior to ½ hour before sunrise or after ½ hour after sunset is a Class A misdemeanor with a minimum \$500 fine and a maximum \$5,000 fine in addition to other statutory penalties (see 520 ILCS 5/2.33(y)). Hunting after sunset is a Class B misdemeanor (see 520 ILCS 5/2.24).

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- b) For the purpose of removing surplus deer, the Department of Natural Resources (Department) shall open select counties and sites to ~~firearm~~~~handgun~~ deer hunting ~~during the Late-Winter Deer Season~~. The Department shall notify the public of the counties that are projected to have surplus deer populations via a public announcement. These counties also will be listed in the instructions contained in the current ~~Late-Winter~~~~Handgun~~ Deer Permit Application.
- c) Hunting outside the set season dates or without a valid permit for the county hunted in is a Class B misdemeanor (see 520 ILCS 5/2.24).

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

Section 680.20 Statewide Deer Permit Requirements

- a) Illinois resident hunters must have a current, valid "~~Late-Winter~~~~Handgun~~ Deer ~~Season~~ Permit" (\$15) ~~or an unused free landowner/tenant permit and must be 18 years of age or older by the opening date of the handgun deer season applied for.~~ A permit is issued for one county and is valid only in the county stated on the permit. For permit applications and other information write to:

Department of Natural Resources
(~~Late-Winter~~~~Handgun~~ Deer Season)
Deer Permit Office
Post Office Box 19227
Springfield IL 62794-9227

- b) Applications shall be accepted as soon as they are available through the tenth weekday in November for the ~~Late-Winter~~~~Handgun~~ Deer Season in the following January. Applications received after the tenth weekday in November shall not be included in the drawing. Permits shall be allocated in a random drawing. Permits not correctly filled out shall be rejected from the random drawing. Permits shall be issued as antlerless-only.
- c) In-person and mail-in applications shall receive equal treatment in the drawings.
- d) Each applicant must apply using the official agency ~~Late-Winter~~~~Handgun~~ Deer Permit Application, and must complete all portions of the form. No more than 6 single applications per envelope shall be accepted. Each applicant must submit a separate personal check or money order. Separate envelopes must be used to send

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permit applications to the Deer Permit Office for regular firearm, muzzleloading rifle, ~~Late-Winterhandgun~~, archery, and free or paid landowner/tenant permits.

- e) For the applicant to be eligible to receive a ~~Late-WinterHandgun~~ Deer Permit (\$15), he must be an Illinois resident, ~~at least 18 years of age by the opening date of the handgun deer season~~ and not have had his deer hunting privileges suspended or revoked in this State pursuant to Section 3.36 of the Wildlife Code [520 ILCS 5/3.36]. ~~Providing false information on an application is a Class A misdemeanor (see 520 ILCS 5/2.38).~~
- ~~f)~~ It shall be unlawful to apply for or receive more than one permit for the Late-Winter Deer season.
- ~~g)~~f) Applications shall be accepted at the counter window of the permit office; however, permits shall be mailed.
- ~~h)~~g) Recipients of the ~~Late-WinterHandgun~~ Deer Hunting Permit shall record their signature on the permit and must carry it on their person while hunting.
- ~~i)~~h) Permits are not transferable. Refunds shall not be granted unless the Department has erroneously issued the permit after the quota has been depleted or where the applicant was unsuccessful in obtaining a permit.
- ~~j)~~i) A \$3 service fee shall be charged for replacement permits issued by the Department, except when permits are lost in the mail, then there shall be no charge. Monies derived from this source shall be deposited in the Wildlife and Fish Fund.
- ~~k)~~j) Each applicant must enclose a separate \$15 (check or money order) payable to the Department of Natural Resources, or the application shall be returned. Applicants should not send cash with their applications. The Department shall not be responsible for cash sent through the mail.
- ~~l)~~k) Hunting without a valid permit is a Class B misdemeanor (see 520 ILCS 5/2.24).

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

Section 680.25 Deer Permit Requirements – Free Landowner/Tenant Permits

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- a) Unfilled free landowner and tenant firearm deer permits issued pursuant to 17 Ill. Adm. Code 650.21 shall be valid only on lands owned/leased by the permit holder during the Late-Winter Deer Season and only for antlerless deer.
- b) Violation of this Section is a Class B Misdemeanor (see 520 ILCS 5/2.24).

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

Section 680.40 Statewide Firearm~~Handgun~~ Requirements for Late-Winter Deer Hunting

- a) ~~The only legal firearms to take, or attempt to take, deer are: centerfire revolvers or centerfire single-shot handguns of .30 caliber or larger with a minimum barrel length of 4 inches and single-shot muzzleloading handguns (blackpowder handguns that are incapable of being loaded from the breech end) of .50 caliber or larger capable of producing at least 500 foot pounds of energy at the muzzle according to published ballistic tables of the manufacturer. It shall be unlawful to take or attempt to take white-tailed deer by the use of semi-automatic handguns, blackpowder revolvers or handguns altered to allow for shoulder firing.~~
- 1) Shotgun, loaded with slugs only, of not larger than 10 nor smaller than 20 gauge, not capable of firing more than 3 consecutive slugs; or
- 2) A single or double barreled muzzleloading rifle of at least .45 caliber shooting a single projectile through a barrel of at least 16 inches in length; or
- 3) centerfire revolvers or centerfire single-shot handguns of .30 caliber or larger with a minimum barrel length of 4 inches and single-shot muzzleloading handguns (blackpowder handguns that are incapable of being loaded from the breech end) of .50 caliber or larger capable of producing at least 500 foot pounds of energy at the muzzle according to published ballistic tables of the manufacturer.
- b) ~~Standards and specifications for legal ammunition are: The only legal ammunition for a centerfire handgun is a bottleneck centerfire cartridge of .30 caliber or larger with a case length not exceeding 1.4 inches or a straight-walled centerfire cartridge of .30 caliber or larger, both of which must be available with the published ballistic tables of the manufacturer showing a capability of at least 500 foot pounds of energy at the muzzle. Single-shot muzzleloading handguns must use a projectile of .44 caliber or larger with sufficient blackpowder or~~

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~~"blackpowder substitute" (such as Pyrodex) to produce at least 500 foot pounds of energy at the muzzle. Modern smokeless powders (nitrocellulose based) do not qualify as "blackpowder" substitutes. A wad or sleeve is not considered a projectile or part of a projectile. Non-expanding, military-style, full metal jacket bullets cannot be used to harvest white-tailed deer; only soft point or expanding bullets (including copper/copper alloy rounds designed for hunting) are legal ammunition.~~

- 1) For shotguns and muzzleloading firearms, the minimum size of the projectile shall be .44 caliber. A wad or sleeve is not considered a projectile or a part of the projectile.
 - 2) The only legal ammunition for a centerfire handgun is a bottleneck centerfire cartridge of .30 caliber or larger with a case length not exceeding 1.4 inches, or a straight-walled centerfire cartridge of .30 caliber or larger, both of which must be available with the published ballistic tables of the manufacturer showing a capability of at least 500 foot pounds of energy at the muzzle. Single-shot muzzleloading handguns must use a projectile of .44 caliber or larger with sufficient blackpowder or "blackpowder substitute" (such as Pyrodex) to produce at least 500 foot pounds of energy at the muzzle. A wad or sleeve is not considered a projectile or part of a projectile.
 - 3) Non-expanding, military-style full metal jacket bullets cannot be used to harvest white-tailed deer; only soft point or expanding bullets (including copper/copper alloy rounds designed for hunting) are legal ammunition.
- c) Standards and specifications for use of muzzleloading firearms are as follows:
- 1) A muzzleloading firearm is defined as a blackpowder firearm that is incapable of being loaded from the breech end.
 - 2) Only black powder or a "black powder substitute" such as Pyrodex may be used. Modern smokeless powders (nitrocellulose-based) do not qualify as a "black powder substitute".
 - 3) Percussion caps, wheellock, matchlock or flint type ignition only may be used.

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4) Removal of percussion cap or removal of prime powder from frizzen pan with frizzen open and hammer all the way down or removal of prime powder from flashpan and wheel un-wound or removal of prime powder and match with match not lit shall constitute an unloaded muzzleloading firearm.

d)e) It shall be unlawful to use or possess any other firearm or ammunition in the field while hunting white-tailed deer during the Late-WinterHandgun Deer Season. However, the lawful possession of firearms to take furbearing mammals and game mammals other than deer by persons other than handgun deer hunters shall not be prohibited during the Late-Winterhandgun deer season as set in Section 680.10. Violation is a Class B misdemeanor (see 520 ILCS 5/2.24).

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

Section 680.50 Statewide Deer Hunting Rules

- a) The bag limit is one antlerless deer per legally authorized antlerless-only permit. An antlerless deer is a deer without antlers or a deer having antlers less than 3 inches long.
- b) The temporary harvest tag must be attached and properly sealed immediately upon kill and before the deer is moved, transported or field dressed. No person shall leave any deer that has been killed without properly attaching the temporary harvest tag to the deer. The temporary harvest tag must be attached to the leg of antlerless deer (<3 inch antler length, or no antlers). A permanent harvest tag will be attached to the leg of the deer upon checking at the check station. If the deer head is delivered to a taxidermist for processing, the temporary harvest tag must be removed from the leg and must remain with the head while at the taxidermist. If the carcass is taken to a meat processor, the permanent harvest tag must remain attached to the leg of the deer until it is processed, then must remain with the processed deer until it is at the legal residence of the person who legally took or possessed the deer. Persons delivering deer/parts of deer to a tanner for processing must supply the tanner with their deer permit number to verify lawful acquisition. In the absence of a permit number, the tanner may rely on the written certification of the person from whom the deer was received that the specimen was legally taken or obtained.
- c) Hunters shall not have in their possession, while in the field during the Late-Winterhandgun deer season, any deer permit issued to another person (permits are

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non-transferrable).

- d) Permits shall not be re-issued in cases involving deer taken which are found to be diseased or spoiled due to previous injury. Disposal of unfit deer taken shall be the responsibility of the hunter. [For those hunters participating in the Department's Chronic Wasting Surveillance Program, a free permit for the same county or special hunt area will be made available the subsequent year if their tested deer is determined to have chronic wasting disease.](#)
- e) Violation of this Section is a Class B misdemeanor (see 520 ILCS 5/2.24), except unlawful take or possession of 2 or more deer within 90 days is a Class 4 felony, and unlawful take of 2 or more deer as a single act or possession or single course of conduct is a Class 3 felony (see 520 ILCS 5/2.36(a)).

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

Section 680.60 Reporting Harvest

- a) Deer shall be checked in by the hunter in person within 48 hours after taking a deer [at the Late-Winter by handgun at the county handgun](#) deer check station in the county for which the permit was issued or in an adjoining county.
- b) Violation is a Class B misdemeanor (see 520 ILCS 5/2.24).

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

Section 680.70 Rejection of Application/Revocation of Permits

- a) In the event that an applicant is in violation of one of the following subsections, the application shall be held in suspension, and the application fees shall be deposited, pending a determination by the permit office of whether the violation was knowing. If the permit office determines the violation was knowing, the application shall be rejected and the fee shall be retained by the Department. The applicant may request a hearing on this decision pursuant to 17 Ill. Adm. Code 2530. Should the permit office determine that the violation was without the knowledge of the applicant, the permit office will process only the number of applications allowed by administrative rule with additional applications rejected and fees returned.
- 1) Submitting more applications in the same name or by the same person for

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a [Late-WinterHandgun](#) Deer Permit than the number of legally authorized permits. Violation is a Class B misdemeanor (see 520 ILCS 5/2.24).

- 2) Providing false and/or deceptive information on the deer permit application form. Violation is a Class A misdemeanor (see 520 ILCS 5/2.38).
 - 3) Submitting an application when the applicant has a license or permit currently revoked pursuant to Section 3.36 of the Wildlife Code [520 ILCS 5/3.36]. Violation is a Class A misdemeanor (see 520 ILCS 5/3.36).
 - 4) Submitting an incomplete or incorrect application.
- b) Any violation of the Wildlife Code or administrative rules of the Department, in addition to other penalties, may result in revocation of hunting licenses and permits as per 17 Ill. Adm. Code 2530.

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

Section 680.80 Regulations at Various Department-Owned or -Managed Sites

Sites will be opened to [Late-Winterhandgun](#) deer hunting only if the site is announced as being open via a public announcement and/or the site is listed as being open on the [Late-Winterhandgun](#) deer season application. Violation of a site specific regulation is a Class B misdemeanor (see 520 ILCS 5/2.24).

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Visa Waiver Program for International Medical Graduates
- 2) Code Citation: 77 Ill. Adm. Code 591
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
591.10	Amendment
591.20	Amendment
591.30	Amendment
591.100	Amendment
591.120	Amendment
591.130	Amendment
- 4) Statutory Authority: Immigration and Nationality Act (8 USC 1182(e) and 1184(l)) and Exchange Visitor Program (22 CFR 62)
- 5) A Complete Description of the Subjects and Issues Involved: Part 591 regulates the Visa Waiver Program for International Medical Graduates. This rulemaking expands the eligible candidates for the program and increases the eligible areas in which an international medical graduate may practice. Since Fiscal Year 1994, the Center for Rural Health has participated in the Conrad State 30 Program, which allows the Department of Public Health to request J-1 visa waivers for up to 30 international medical graduate physicians to work in designated shortage areas of the State. All 30 waiver slots have, in past years, been reserved for physicians in the primary care specialties (family medicine, internal medicine, pediatrics and obstetrics/gynecology) and for psychiatrists. This fiscal year is the first year that the 30 slots have not been used in the first application cycle of the year. Many requests have been received to use the slots for specialties other than primary care that are very difficult to recruit because of shortages of the specialties among U.S. graduates. Health facilities report that they have tried to recruit some of these specialists for several years, with no success. If there are any physicians in the desired specialties, patients must wait anywhere from six to nine months for appointments. Many other states have been offering visa waivers for specialties other than primary care for a number of years. Illinois needs to offer the same service for its residents, especially if all of the slots are not needed for primary care physicians.

The rulemaking expands the eligible practice area to include medically underserved areas and medically underserved populations, both of which are defined in the rules. Eligibility standards are being added for physicians in specialties other than primary care and psychiatry. The Department's selection process for such physicians is also included.

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The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect. The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain any incorporations by reference? Yes
- 9) Are there any other proposed amendment pending on this Part? No
- 10) Statement of Statewide Policy Objective: These amendments will not require any new expenditures by units of local government.
- 11) Time, Place, and Manner which interested persons may comment on this rulemaking:
Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Susan Meister at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedures Act) commenting on these rules shall indicate its status as such, in writing in its comments.

- 12) Initial Regulatory Flexibility Analysis:
 - A) Type of small businesses, small municipalities and not-for-profit corporations affected: None

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- 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: These amendments were not included on either of the 2 most recent regulatory agendas because: the need for rulemaking was not apparent when the regulatory agendas were published.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER j: PROCESSING J-1 VISA WAIVERS FOR INTERNATIONAL
MEDICAL GRADUATES

PART 591
VISA WAIVER PROGRAM FOR INTERNATIONAL MEDICAL GRADUATES

SUBPART A: GENERAL PROVISIONS

Section	
591.10	Applicability
591.20	Definitions
591.30	Incorporated or Referenced Materials
591.40	Administrative Hearings

SUBPART B: PROCEDURES FOR J-1 VISA WAIVER REQUESTS

Section	
591.100	Participation Eligibility of Physicians and Facilities
591.110	Application Submission Timeframes
591.120	Application Materials and Processing
591.130	Selection Process
591.140	Terms of Performance

AUTHORITY: Authorized by and implementing Sections 212(e) and 214(l) of the Immigration and Nationality Act (8 USC 1182(e) and 1184(l)), and 22 CFR 62, Exchange Visitor Program.

SOURCE: Adopted at 22 Ill. Reg. 14485, effective July 24, 1998; amended at 24 Ill. Reg. 7551, effective May 15, 2000; emergency amendment at 27 Ill. Reg. 2277, effective January 22, 2003, for a maximum of 150 days; emergency expired June 20, 2003; amended at 27 Ill. Reg. 10281, effective June 30, 2003; emergency amendment at 28 Ill. Reg. 6641, effective April 15, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 591.10 Applicability

This Part implements Section 1182(e) of the federal Immigration and Nationality Act, ~~which that~~ allows state health departments to request a waiver of the J-1 Visa requirement that international

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medical graduates must return to their home country upon completion of graduate medical training in the United States. If an international medical graduate is offered a three year employment contract in a health professional shortage area or medically underserved area, or serving a medically underserved population in Illinois, the Illinois Department of Public Health and certain federal agencies can request that the international medical graduate be allowed to remain in the United States. The Illinois Department of Public Health has been authorized by the U.S. Information Agency to request J-1 Visa Waivers annually for up to 30 eligible physicians.

- a) The provisions of this Part are organized into two Subparts. Subpart A includes general provisions, such as definitions and administrative hearing rules, which apply to all Sections of the Part.
- b) Subpart B establishes eligibility criteria for an international medical graduate to request that the Department seek a waiver of the J-1 Visa home-country requirements. The Subpart sets forth the application time table and components, and the criteria to be used to select those physicians for whom a waiver will be requested.

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

Section 591.20 Definitions

"Act" means the Immigration and Nationality Act (8 USC 1182(e) and 8 USC 1184(k)).

"Community Health Center" means community/migrant health centers or health care for the homeless projects supported under Section 329, 330 or 340 of the federal Public Health Service Act (42 USC 254b, 254c, and 256), respectively, or federally qualified health center look-alikes, as designated by the U.S. Public Health Service.

"Center" means the Center for Rural Health of the Illinois Department of Public Health.

"Department" means the Illinois Department of Public Health.

"Downstate" means those Illinois counties other than Cook, Lake, McHenry, DuPage, Will and Kane.

"Federal fiscal year" means the 12-month period beginning October 1 and ending

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September 30 of the following year. The federal fiscal year may be divided into four calendar quarters: October 1 through December 31; January 1 through March 31; April 1 through June 30; and July 1 through September 30.

"Full time practice" means maintaining 40 hours of ambulatory access as required under the Act and the Code of Federal Regulations.

"Health Professional Shortage Area" or "HPSA" is a designation given by the U.S. Department of Health and Human Services, ~~Bureau of Primary Health Care,~~ Shortage Designation Branch. The HPSA designation is based on the ratio of ~~primary care physicians providers~~ to population and is used to identify areas needing additional ~~primary care~~ physicians. The list of HPSAs is published periodically in the Federal Register, and can be found at <http://belize.hrsa.gov/newhpsa/newhpsa.cfm>~~http://bphr.hrsa.gov.~~

"Medical facility" means a facility for the delivery of health services and includes:

a community health center, ~~local health department~~~~public health center~~, outpatient medical facility, or community mental health center;

a hospital, State mental hospital, facility for long-term care or rehabilitation facility;

a facility for delivery of health services to inmates in a U.S. penal or correctional institution (under section 323 of the Public Health Service Act) or a State correctional institution;

a Public Health Service medical facility (used in connection with the delivery of health service under Section 320, 321, 322, 324, 325 or 326 of the Public Health Service Act); or any other federal medical facility.

"Medically underserved area" or "MUA" is a designation given by the U.S. Department of Health and Human Services, Shortage Designation Branch. The MUA designation is based on the availability of primary care physicians, demographic characteristics, and health status of the residents of a service area and is used to identify areas in need of additional health care services. The list of MUAs can be found at <http://bphc.hrsa.gov/databases/newmua>.

"Medically underserved population" or "MUP" is a designation given by the U.S. Department of Health and Human Services, Shortage Designation Branch.

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The MUP designation means that a particular population group, such as a group of area residents with incomes at or below twice the federal poverty level, is in need of additional health care services. The list of MUPs can be found at <http://bphc.hrsa.gov/databases/newmua>.

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

"Primary care" means health care that encompasses prevention services, basic diagnostic and treatment services, and support services such as laboratory, ~~radiology~~~~radiologic~~, transportation, and pharmacy. Primary care is comprehensive in nature and not organ or problem specific, is oriented toward the longitudinal care of the patient, and includes responsibility for coordination of other health and social services as they relate to patients' needs.

"Primary care physician" means a person licensed to practice medicine in all its branches under the Medical Practice Act of 1987 [225 ILCS 60] with a specialty in family practice, general internal medicine, general pediatrics, obstetrics/gynecology, or medicine/pediatrics.

"Psychiatric physician (psychiatrist)" means a person licensed to practice medicine in all its branches under the Medical Practice Act of 1987 [225 ILCS 60] with a specialty in psychiatry.

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

"Urban" means any geographic area located in a U.S. Bureau of the Census Metropolitan Statistical Area, except a county located within a Metropolitan Statistical Area having a population of 60,000 or less.

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

Section 591.30 Incorporated or Referenced Materials

The following materials are incorporated or referenced in this Part:

- a) The following Illinois statutes and rules are referenced in this Part:

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- 1) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).
 - 2) Medical Practice Act of 1987 [225 ILCS 60].
- b) The following federal statutes ~~are referenced and regulations are incorporated~~ in this Part:
- 1) Designation of Health Professional Shortage Areas, Section 332 of the Public Health Service Act (42 ~~USCU.S.C.~~ 254e (1991)).
 - 2) Designation of Medically Underserved Areas/Populations, Section 330 of the Public Health Service Act (42 USC 254e).
- c) The following federal regulations are incorporated in this Part:
- 2) ~~Waiver of Two-Year Home-Country Physical Presence Requirement, Foreign Medical Graduates, Exchange Visitor Program (22 CFR 62 (April 1, 2004)). Part 514, Rulemaking No. 115).~~
- d) All incorporations by reference of federal ~~statutes and~~ regulations refer to materials on the date specified and do not include any additions or deletions subsequent to the date specified.

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

SUBPART B: PROCEDURES FOR J-1 VISA WAIVER REQUESTS

Section 591.100 Participation Eligibility of Physicians and Facilities

- a) Primary care physicians and psychiatrists~~Physicians~~ eligible to participate in the J-1 Visa Waiver Program for International Medical Graduates in Illinois shall meet the following requirements:
 - 1) have entered into an employment contract with a facility located in an HPSA ~~with employment to begin no later than six months after the completion of their residency training in one of the primary care specialties, or general psychiatry;~~
 - 2) be board eligible or board certified in family practice, general internal

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medicine, general pediatrics, obstetrics/gynecology, or ~~general~~ psychiatry; and

- 3) have completed a residency in general internal medicine or general pediatrics, if either of those specialties are indicated in the application of the physician seeking participation in this program.

b) Physicians in specialties other than primary care and psychiatry eligible to participate in the J-1 Visa Waiver Program for International Medical Graduates in Illinois shall meet the following requirements:

- 1) have entered into an employment contract with a facility located in an HPSA or MUA/P;
- 2) be board eligible or board certified in their specialty.

cb) Medical facilities eligible to participate in the J-1 Visa Waiver Program in Illinois shall meet the following requirements:

- 1) if contracting with a primary care physician or psychiatrist and located in a rural ~~area~~ areas, be located in a geographic HPSA, be designated as an HPSA a facility ~~located in an HPSA~~, or, if serving an HPSA ~~serve a population group HPSA~~, and be able to document that at least 51~~75~~% of the participating physician's patients seen at the facility are a part of the HPSA's population group; or
- 2) if contracting with physicians in specialties other than primary care and psychiatry, be in a geographic HPSA, be an HPSA facility, be located in an MUA, or document that at least 51% of the participating physician's patients come from the HPSA population group or from the MUA ~~group~~ in urban areas:
 - A) be located in a geographic HPSA;
 - B) be designated as a facility located in an HPSA or serve a population group HPSA and be able to document that at least 75% of the patients seen at the facility are a part of the HPSA's population group; and
 - C) be a not-for-profit facility or a public facility.

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

Section 591.120 Application Materials and Processing

- a) Application materials are available from, and should be returned to, the following address:

J-1 Visa Waiver Program
Illinois Department of Public Health
Center for Rural Health
535 West Jefferson Street
Springfield, Illinois 62761

- b) The application materials to be prepared by or on behalf of the international medical graduate seeking the waiver of the two-year home-country residency requirement shall include the following items:
- 1) statement from the administrator or director of the health care facility or agency that will be employing the international medical graduate describing prior recruitment difficulties experienced by the facility, the expected practice arrangement for the international medical graduate, and the impact on the facility and the patients it serves if the home country residency requirement is not waived;
 - 2) copy of a minimum three-year employment contract between the international medical graduate and a health care facility. The contract shall include the name and address of the facility, the specific geographic area or areas in which the international medical graduate will practice, and a statement that the physician will practice full-time (40 hours) in the HPSA, ~~or~~ HPSAs, or MUA/P identified in the contract;
 - 3) statement from the employing health care facility or agency that the salary or other form of financial support offered to the international medical graduate is at a level equivalent to that offered to all other physicians with equivalent skills and experience recruited by the health care facility;
 - 4) letter of support from a hospital chief of staff verifying that hospital admitting privileges will be granted to the international medical graduate, and if not, how admissions of the international medical graduate's patients

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will be arranged;

- 5) letter of support for the visa requirements waiver from at least one local organization or agency such as the chamber of commerce, local health department, or other community-based organization;
 - 6) copy of the applicant's Illinois medical license or application for an Illinois medical license;
 - 7) completed United States Information Agency Data Sheet;
 - 8) copy of international medical graduate's curriculum vitae;
 - 9) copy of the IAP-66 (Certificate for Exchange Visitor J-1 Status) for each year international medical graduate was in J-1 status;
 - 10) completed and notarized Certification Statement A signed by the international medical graduate agreeing to the contractual requirements set forth in Section 214(lk)(1)(B) and (C) of the Immigration and Nationality Act;
 - 11) completed and notarized Certification Statement B describing international medical graduate's obligation to his/her home country;
 - 12) completed and notarized Certification Statement C in which international medical graduate states that his or her medical license has never been suspended or revoked and that he or she is not subject to any criminal investigation or proceedings by any medical licensing authority;
 - 13) completed and notarized Certification Statement D regarding accuracy of application materials; and
 - 14) completed and notarized Certification Statement E regarding specialty status.
- c) Upon receipt of the application materials, Center for Rural Health staff will verify completeness and accuracy of the application. One written request to the applicant, or the facility or legal agency acting on behalf of the international medical graduate, will ask for any materials not included in the application. If the requested materials are not received within one month after the date of the written

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request, the application will be returned to the applicant.

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

Section 591.130 Selection Process

- a) In the first and second calendar quarters of the federal fiscal year, a maximum of two Visa Waiver applications will be approved per facility requesting J-1 Visa Waivers for international medical graduates. In subsequent calendar quarters, facilities that have already had two waivers approved may apply for additional waivers; however, selection priority will be given to applications from facilities that have not previously had waivers approved.
- b) The following selection criteria will apply to primary care physicians and psychiatrists:
 - 1b) Selection preference will be given to the Visa Waiver application for the international medical graduate whose position represents the largest proportion of primary care or psychiatrists specialty vacancies at the facility offering employment to the physician.
 - 2e) Selection preference will be given to applications received from HPSAs having the greatest unmet need for primary care physicians. Unmet need is the number of primary care physician full-time-equivalents needed to cause the HPSA to no longer meet the threshold ratio for HPSA designation.
- c) The following selection criteria will apply to physicians in specialties other than primary care and psychiatry:
 - 1) Selection preference will be given to applicants who can demonstrate the greatest shortage of their specialty in the underserved area or for the underserved population group they propose to serve.
 - 2) Selection preference will be given to applicants who can demonstrate the longer waiting time for an appointment with a physician of the same specialty in the underserved area or for the underserved population group they propose to serve.
- d) Applications received in the first and second calendar quarters of the federal fiscal

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~~year will not be considered if the addition of the international medical graduate will increase the number of primary care physicians beyond the number needed to eliminate the health professional shortage area designation for the geographic area, facility or population group.~~

- de) The following selection allocations will be used in processing waiver applications:
- 1) In the first and second calendar quarters of the federal fiscal year ~~(October 1 through December 31 and January 1 through March 31)~~, 6 waivers will be reserved for psychiatrists who will serve in rural facilities; 12 of the remaining 24 waivers will be reserved for primary care physicians; 12 waivers will be available to physicians in other specialties. The Department will reserve 50% of the waivers allocated to primary care physicians and 50% of the waivers allocated to physicians in other specialties for physicians who will serve in rural areas; the balance of the waivers will be used for urban locations.
 - 2) ~~In the first and second quarters of the federal fiscal year, if enough applications from rural areas are submitted, the Department will reserve 50% of the waiver applications for primary care physicians serving rural, underserved areas.~~
 - 23) In the third and fourth quarters of the federal fiscal year, ~~(April through June), if all 6 waivers that were reserved for psychiatrists have not been used, those~~ remaining waivers may be used for primary care, ~~or~~ psychiatrist and other specialty waiver applicants, both rural and urban.

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

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- 1) Heading of the Part: Carnival and Amusement Ride Safety Act
- 2) Code Citation: 56 Ill. Adm. Code 6000
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
6000.10	Amended
6000.300	Repealed
6000.302	New Section
6000.305	New Section
6000.308	New Section
- 4) Statutory Authority: 430 ILCS 85
- 5) Effective Date of Amendments: July 19, 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 in the agency's principle office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 25, 2003; 27 Ill. Reg. 11328
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:

Section 6000.10 – In the definition of “ASNT”, strike “2153” and replace with “1711”. Also strike “Caller” and replace with “P.O. Box”.

Section 6000.10 – Add a new definition to read: “In-line riding” means one person in front of the other.

Section 6000.302(a)(5) – Add “(1999)” after the number “1241”.

Section 6000.302(b)(3)(A) – Strike “of” and replace with “over”.

Section 6000.302(c)(5) – Strike the word “adequate”.

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Section 6000.302(c)(6)(B) – Strike the year “2004” and replace with “2006”.

Section 6000.302(c)(7) – Strike the phrase “to allow the mechanic to make performance checks”.

Section 6000.305(a)(5) – Add “(1999)” after the number “1241”.

Section 6000.305(b)(2) – Strike “N” and replace with “feet”.

Section 6000.305(b)(3)(A) – Strike “of” and replace with “over.”

Section 6000.305(c)(6)(B) – Strike “2004” and replace with “2006”.

Section 6000.305(c)(9)(A) – Add “(1998)” after the word “specification”.

Section 6000.308(a)(5) – Add “(1999)” after the number “1241”.

Section 6000.308(c)(4) – Strike “to for the mechanic”.

Section 6000.308.(c)(6)(A) – Add “(1998)” after the word “specification”.

Other minor non-substantive editorial changes were also made in response to JCAR requests.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The rulemaking implements action taken by the Carnival-Amusement Safety Board at their January 2003 and January 2004 meetings. The Board believes the rules need to reflect the latest industry standards.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Valerie A. Puccini
Assistant General Counsel
Illinois Department of Labor

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160 N. LaSalle Street, C-1300
Chicago, IL 60601
Telephone: (312) 793-1805

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

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TITLE 56: LABOR AND EMPLOYMENT
CHAPTER XIII: CARNIVAL-AMUSEMENT SAFETY BOARD

PART 6000

CARNIVAL AND AMUSEMENT RIDE ~~SAFETY ACT~~INSPECTION

Section	
6000.10	Definitions
6000.20	Exemptions
6000.30	Inspections
6000.40	Application for a Permit to Operate
6000.50	Permit, Inspection and Associated Fees
6000.60	Revocation of Permit to Operate (Repealed)
6000.65	Suspension of Permit to Operate
6000.70	Ride Design and Construction
6000.80	Insurance
6000.90	Penalties
6000.100	Appeals
6000.110	Assembly and Disassembly
6000.120	Operator Requirements
6000.130	Passenger Conduct
6000.140	Signal Systems
6000.150	Daily Inspection and Test
6000.160	Reports
6000.170	Maintenance
6000.180	Stop Operation Order
6000.190	Fire Prevention and Protection
6000.200	Internal Combustion Engines
6000.210	Means of Access and Egress
6000.220	Electrical Equipment
6000.230	Hydraulic Systems
6000.240	Air Compressors and Equipment
6000.250	Wire Rope
6000.260	Chain
6000.270	Inflated Amusement Attractions and Inflated Buildings
6000.280	Non-Destructive Testing
6000.290	Ski Lifts, Aerial Tramways, and Rope Tows
6000.300	Go-Karts, Dune Buggies, and All-Terrain Vehicles (Repealed)
6000.302	Outdoor Concession Go-Karts
6000.305	Indoor Concession Go-Karts

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6000.308	Dune Buggies and All-Terrain Vehicles
6000.310	Water Slides (Repealed)
6000.320	Dry Type Slides
6000.330	Trams
6000.340	Bungee Jumping

AUTHORITY: Implementing and authorized by the Carnival and Amusement Rides Safety Act [430 ILCS 85].

SOURCE: Emergency Rules adopted at 9 Ill. Reg. 7176, effective May 3, 1985, for a maximum of 150 days; emergency expired September 30, 1985; adopted at 10 Ill. Reg. 7685, effective April 29, 1986; emergency amendment at 10 Ill. Reg. 19117, effective October 27, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 5896, effective March 24, 1987; amended at 11 Ill. Reg. 19650, effective November 18, 1987; amended at 12 Ill. Reg. 11186, effective June 20, 1988; emergency amendment at 13 Ill. Reg. 8025, effective May 15, 1989, for a maximum of 150 days; emergency expired October 12, 1989; amended at 13 Ill. Reg. 20309, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 3235, effective February 9, 1990, for a maximum of 150 days; emergency expired July 9, 1990; amended at 15 Ill. Reg. 4109, effective February 28, 1991; emergency amendment at 16 Ill. Reg. 7716, effective May 11, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12436, effective August 1, 1992; amended at 16 Ill. Reg. 15415, effective September 28, 1992; amended at 17 Ill. Reg. 14910, effective September 1, 1993; amended at 18 Ill. Reg. 13384, effective September 1, 1994; amended at 21 Ill. Reg. 5135, effective April 15, 1997; amended at 21 Ill. Reg. 14954, effective December 1, 1997; amended at 24 Ill. Reg. 490, effective January 1, 2000; amended at 26 Ill. Reg. 871, effective January 9, 2002; amended at 28 Ill. Reg. 10569, effective July 19, 2004.

Section 6000.10 Definitions

In addition to those definitions found in Section 2-2 of the Carnival and Amusement Rides Safety Act (the Act) [430 ILCS 85/2-2], the following definitions shall apply for the purposes of this Part:

"Administrative Hearing Fee" means a fee assessed by the Department upon an operator when the Department issues a notice for an administrative hearing to suspend the Permit to Operate and/or collect past due fees.

["All-Terrain Vehicle" \(ATV\) means any vehicle designed and manufactured for off-road use.](#)

"Annual Inspection" is the official inspection of a ride or device made by the

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Director or his designee.

"ANSI" is the abbreviation for the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

"ASNT" is the abbreviation for the American Society for Nondestructive Testing, Inc., [17112453](#) Arlingate Plaza, [P.O. Box](#) ~~Call~~ #28518, Columbus, Ohio 43228-0518.

"ASTM" is the abbreviation for American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959.

"Carnival" means an enterprise which offers amusement or entertainment to the public by means of one or more amusement attractions or amusement rides. (Section 2-2(5) of the Act)

"Concession Go-kart" means a go-kart specifically designed and manufactured for indoor and/or outdoor use.

"Department" means Illinois Department of Labor. (Section 2-2 of the Act)

"Director" means the Director of the Illinois Department of Labor or his designee. (Section 2-2 of the Act)

"Dry Slides" means an inclined surface with a change in elevation of twenty feet or more upon which people slide or are conveyed.

"Fair" means an enterprise principally devoted to the exhibition of products of agriculture or industry in connection with which amusement rides or amusement attractions are operated. (Section 2-2(6) of the Act):

"In-line Riding" means one person in front of the other.

"Kiddie Rides" are those rides which are designed for 75 pounds or less per passenger.

"Major Alteration" means a change in the type or capacity of an amusement ride or amusement attraction or a change in the structure or mechanism that materially affects its functions or operation. This includes, but is not limited to changing its mode of transportation from non-wheeled to a truck or flat-bed mount, and

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changing its mode of assembly or other operational functions from manual to mechanical or hydraulic.

"Major Breakdown" means a stoppage of operation of an amusement ride or amusement attraction occurring from damage of a structural component.

"Major Rides" are those rides ~~that~~which are designed for more than 75 pounds per passenger unit.

"NFPA" is the abbreviation for National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

"Operator" means a person, or agent of a person, who owns or controls or has the duty to control the operation of an amusement ride or amusement attraction at a carnival or fair. "Operator" includes an agency of the State or any of its political subdivisions. (Section 2-2 of the Act) For the purpose of this Part:

Owner means the person, partnership, company, corporation, or any other entity, or agency of the State or any of its political subdivisions, ~~that~~who owns an amusement ride or amusement attraction.

Agent means a person employed by the Owner to carry out the responsibilities of management on the Owner's behalf.

Manager means a person employed by the Owner and who is responsible to the Agent or the Owner for the day-to-day on-site management of the amusement ~~rides~~ride(s) and/or amusement ~~attractions~~attraction(s).

Attendant means a person employed by the Owner to physically operate an amusement ride or amusement attraction when it is open to the public.

Assistant means a person employed by the Owner to assist the Attendant in operating an amusement ride or amusement attraction when it is open to the public.

"Payment of Fees" as used in this Part shall be deemed made when the ~~Department~~department receives in the Springfield office all fees due as calculated on the application in the form of a check or money order made payable to "Illinois Department of Labor". All fees shall be paid before a permit to operate an amusement ride or an amusement attraction is issued.

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"Permit" means a permit issued annually by the Department allowing an amusement ride or an amusement attraction unit to be operated in the State of Illinois.

"Public Use" means an operator of an amusement ride or amusement attraction does not prohibit or restrict access to the ride or attraction by members of the community, except as permitted under Section 2-19 of the Act and Section 6000.130 of this Part.

"Roll Over Protection System" means a system that supports the combined driver and/or passenger weight capacity, as specified by the manufacturer, and the weight of the vehicle.

"Reinspection" is an inspection, other than the annual inspection made during the year, as a result of any necessary repairs not being completed while the inspector is on site.

"SAE" means the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale PA 15096-0001.

"Serious Injury" means an injury for which treatment by a licensed physician is required.

"Snell Foundation" means Snell Memorial Foundation, 3628 Madison Avenue, North Highlands CA 95660.

"Tram" means: *Any tram, open car, or combination of open cars or wagons pulled by a tractor or other motorized device which is not licensed by the secretary of state, which may, but does not necessarily follow a fixed or restricted course, and is used primarily for the purpose of giving its passengers amusement, pleasure, thrills or excitement, and for which an individual fee is charged or a donation accepted with the exception of hayrack rides.* (Section 2-2 of the Act)

(Source: Amended at 28 Ill. Reg. 10569, effective July 13, 2004)

Section 6000.300 Go-Karts, Dune Buggies, and All-Terrain Vehicles (Repealed)

- a) Vehicle Requirements
1) All vehicles shall be equipped with passenger padding, including, but not

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- ~~limited to, steering wheel pad, headrest pad, steering wheel support post and seat cushions.~~
- 2) ~~All vehicles shall be guarded to prevent interlocking of wheels during operation.~~
 - 3) ~~All vehicles equipped with seat belts shall be equipped with a rollbar or similar device that is rigid, attached to the vehicle frame, and extends above the passenger's head.~~
 - 4) ~~The maximum speed for a mini-racer or a vehicle that is strictly used by children is eight m.p.h.~~
 - 5) ~~The engine governor will be set equal to, or less than, the maximum speed at which an inspector can safely maneuver a vehicle at full throttle through each curve of the track or course without the loss of traction or control.~~
 - 6) ~~Vehicles shall be equipped with a guarding system that covers or encloses all rotating parts of the drive mechanism except the tires. The guarding system shall also cover the exhaust system to protect the passenger when entering or exiting the vehicle.~~
 - 7) ~~Vehicles' fuel tanks shall be mounted and/or guarded in such a manner that provides protection to the passenger during operation and if an accident should occur.~~
 - 8) ~~Wheels shall be retained by a castellated nut and cotter pin or other positive method.~~
- b) ~~Track and Course Requirements~~
- 1) ~~The surface of the track or course used by Go-Karts shall be of a solid and binding material, such as concrete or asphalt.~~
 - 2) ~~Minimum width requirements for Go-Kart Tracks: Effective January 1, 1990:~~
 - A) ~~For operations that do not allow the racing or the passing of vehicles, a minimum of four vehicle widths shall be maintained throughout the entire course or track.~~
 - B) ~~For operations that allow racing and/or passing of vehicles, a minimum of six vehicle widths shall be maintained throughout the entire course or track.~~
 - 3) ~~A barrier system shall be installed around the inner and outer edges of the track or course used by Go-Karts and shall extend the entire length of the track or course. The system may be a guard rail, rubber tires, a runoff strip or embankment of friable earth or gravel or a combination thereof.~~
 - A) ~~When rubber tires are used for a barrier system, these tires shall be free of the rims and/or wheels. They shall be fastened together to form a continuous train. Tires shall never be stacked over two high.~~

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- ~~B) If a metal or fiberglass rail is used as the barrier system, the rail surface shall be kept free of sharp or protruding edges or seams and shall be maintained so that there is no loose or unsecured areas.~~
- ~~C) A barrier system shall be installed to designate and protect the pit area or passenger loading area.~~
- ~~4) A fence or railing system shall be installed at maintenance buildings, driveways, pit area, and fuel storage pumping areas to keep patrons awaiting rides and spectators from entering these track areas without the permission of, or direction by the track personnel.~~
- ~~5) No intersecting Figure 8 track or course configurations shall be permitted.~~
- e) Operation
 - ~~1) The attendant(s) or assistant(s) shall be able to clearly view the entire course.~~
 - ~~2) Fire extinguishers shall be charged and readily available to the track personnel at all times.~~
 - ~~3) The refueling of the vehicles shall take place in the pit area. All storage containers of gasoline and other flammables shall be in accordance with Section 6000.190—Fire Prevention and Protection.~~
 - ~~4) During night time operation, track lighting is required.~~
 - ~~5) A signal system shall be installed to safely alert the drivers of the vehicles to a caution situation or to stop the vehicles in case of an emergency. This signal system may consist of, but is not limited to, a hand held flag system or a set of lights visible to the drivers. The system shall be explained to the drivers before operating any vehicle.~~
 - ~~6) A separate and distinct maintenance log shall be kept for each vehicle. The maintenance logs shall be kept on a daily basis and kept available for inspector review. All replacing of parts should be noted. A comment section should be provided to allow the mechanic to make performance checks. The track mechanic shall sign each log sheet indicating that the vehicle is ready to operate. This log shall contain, but not limited to, the following information:
 - ~~A) Brake Inspection;~~
 - ~~B) Tire wear and pressure;~~
 - ~~C) Steering inspection;~~
 - ~~D) Body inspection;~~
 - ~~E) Padding inspection;~~
 - ~~F) Lubrication and engine oil check; and~~
 - ~~G) Drive mechanism.~~~~
 - ~~7) Only one patron per seat shall be permitted in each vehicle.~~

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(Source: Repealed at 28 Ill. Reg. 10569, effective July 19, 2004)

Section 6000.302 Outdoor Concession Go-Karts**a) Vehicle Requirements**

- 1) All vehicles shall be equipped with passenger padding, including, but not limited to, steering wheel pad, headrest pad, steering wheel support post and seat cushions.
- 2) All vehicles shall be guarded to prevent interlocking of wheels during operation.
- 3) All vehicles equipped with seat belts shall be equipped with a roll over protection system.
- 4) Vehicles' shall be equipped with a guarding system that covers or encloses all rotating parts of the drive mechanism except the tires. The guarding system shall also cover the exhaust to protect the passenger when entering or exiting the vehicle.
- 5) Vehicles' fuel tanks shall be mounted and/or guarded in such manner that provides protection to the passenger during operation and if an accident should occur. Fuel tank caps shall conform to SAE Recommended Practice J-1241 (1999).
- 6) Wheels shall be retained by a castellated nut and cotter pin or other positive method. Nuts with inserts of nylon or other material shall not be used.

b) Track and Course Requirements

- 1) The surface of the track or course used by go-karts shall be of a solid and binding material.
- 2) Minimum width requirements for go-kart tracks shall be 20 feet throughout the entire length of the track.

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NOTICE OF ADOPTED AMENDMENTS

- 3) A barrier system shall be installed around the inner and outer edges of the track or course used by go-karts. It shall be securely anchored and extend the entire length of the track or course. The system may be a guardrail, rubber tires, a runoff strip or embankment of friable earth or gravel or a combination thereof.
 - A) When rubber tires are used for a barrier system, these tires shall be free of the rims and/or wheels. They shall be fastened together to form a continuous train. Tires shall never be stacked over two high.
 - B) If a metal or fiberglass rail is used as the barrier, the rail surface shall be kept free of sharp or protruding edges or seams and shall be maintained so that there are no loose or unsecured areas.
 - C) A barrier system shall be installed to designate and protect the pit area or passenger loading area.
 - 4) A fence or railing system shall be installed at maintenance buildings, driveways, pit areas, and fuel storage pumping areas to keep patrons awaiting rides and spectators from entering these track areas without the permission of, or direction by, track personnel.
 - 5) No intersecting Figure 8 or course configurations shall be permitted.
- c) Operation
- 1) The attendants or assistants shall be able to clearly view the entire course.
 - 2) Fire extinguishers shall be charged and readily available to the track personnel at all times.
 - 3) The refueling of vehicles with internal combustion engines or the charging of batteries in electric powered karts shall take place in the pit areas.
 - 4) All storage containers of gasoline and other flammables shall be in accordance with Section 6000.190 – Fire Prevention and Protection.
 - 5) During operation, lighting is required.

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- 6) Monitoring
- A) A signal system shall be installed to safely alert the drivers of the vehicles to a caution situation or to stop the vehicles in case of an emergency. This signal system may consist of, but is not limited to, a hand held flag system or a set of lights visible to the drivers. The system shall be explained to the drivers before operating any vehicle.
- B) Effective January 1, 2006, each vehicle shall be equipped with a throttle control device that can be activated from the ride attendant's station.
- 7) A separate and distinct maintenance log shall be kept for each vehicle. The maintenance logs shall be kept on a daily basis and kept available for inspector review. All replacing of parts should be noted. A comment section should be provided. The track mechanic shall sign each log sheet indicating that the vehicle is ready to operate. This log shall include, but not be limited to, the following information:
- A) Brake inspection;
- B) Tire wear and pressure;
- C) Steering inspection;
- D) Body inspection;
- E) Padding inspection;
- F) Lubrication and engine oil check; and
- G) Drive mechanism.
- 8) Only one patron per seat shall be permitted in each vehicle. No in-line riding shall be permitted.

(Source: Added at 28 Ill. Reg. 10569, effective July 19, 2004)

Section 6000.305 Indoor Concession Go-Karts

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a) Vehicle Requirements

- 1) All vehicles shall be equipped with passenger padding, including, but not limited to, steering wheel pad, headrest pad, steering wheel support post and seat cushions.
- 2) All vehicles shall be guarded to prevent interlocking of wheels during operation.
- 3) All vehicles equipped with seat belts shall be equipped with a roll over protection system.
- 4) Vehicles shall be equipped with a guarding system that covers or encloses all rotating parts of the drive mechanism except the tires. The exhaust system shall be located or guarded to protect the passenger when entering or exiting the vehicle.
- 5) Vehicles with fuel tanks shall have the tanks mounted and/or guarded in such manner that provides protection to the passenger during operation and if an accident should occur. Fuel tank caps shall conform to SAE Recommended Practice J-1241 (1999).
- 6) Wheels shall be retained by a castellated nut and cotter pin or other positive method. Nuts with inserts of nylon or other material shall not be used.

b) Track and Course Requirements

- 1) The surface of the track or course used by go-karts shall be of a solid and binding material.
- 2) Minimum width requirements for tracks shall be 20 feet throughout the entire length of the track or course.
- 3) A barrier system shall be installed around the inner and outer edges of the track or course used by go-karts and shall extend the entire length of the track or course.

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- A) When rubber tires are used for a barrier system, these tires shall be free of the rims and/or wheels. They shall be fastened together to form a continuous train. Tires shall never be stacked over two high.
 - B) If a metal or fiberglass rail is used as the barrier, the rail surface shall be kept free of sharp or protruding edges or seams and shall be maintained so that there is no loose or unsecured areas.
 - C) A barrier system shall be installed to designate and protect the pit area or passenger loading area.
- 4) A fence or railing system shall be installed at maintenance buildings, driveways, pit areas, and fuel storage pumping areas to keep patrons awaiting rides and spectators from entering these track areas without the permission of, or direction by, track personnel.
- 5) No intersecting Figure 8 or course configurations shall be permitted.
- c) Operation
- 1) The attendants or assistants shall be able to clearly view the entire course.
 - 2) Fire extinguishers shall be charged and readily available to the track personnel at all times.
 - 3) The refueling of the vehicles with internal combustion engines or the recharging and/or exchanging of batteries shall take place in the pit areas.
 - 4) All storage containers of gasoline and other flammables shall be in accordance with Section 6000.190 – Fire Prevention and Protection.
 - 5) During nighttime operation, track lighting is required.
- 6) Monitoring
- A) A signal system shall be installed to safely alert the drivers of the vehicles to a caution situation or to stop the vehicles in case of an emergency. This signal system may consist of, but is not limited to, a hand held flag system or a set of lights visible to the drivers.

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The system shall be explained to the drivers before operating any vehicle.

B) Effective January 1, 2006, each vehicle shall be equipped with a throttle control device that can be activated from the ride attendant's station.

7) A separate and distinct maintenance log shall be kept for each vehicle. The maintenance logs shall be kept on a daily basis and kept available for inspector review. All replacing of parts should be noted. A comment section should be provided. The track mechanic shall sign each log sheet indicating that the vehicle is ready to operate. This log shall include, but not be limited to, the following information:

A) Brake inspection;

B) Tire wear and pressure;

C) Steering inspection;

D) Body inspection;

E) Padding inspection;

F) Lubrication and engine oil check; and

G) Drive mechanism.

8) Only one patron per seat shall be permitted in each vehicle. No in-line riding shall be permitted.

9) Personal Safety Equipment. Drivers of karts that are not equipped with seatbelts and roll bars shall wear the following personal safety equipment while on the track or course.

A) Head Gear – A full-face helmet complying with a Snell Foundation test specification (1998) is mandatory. A full-face shield is mandatory. The helmet must be secured by a chinstrap.

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- B) Neck Brace – The use of unaltered collar-type neck brace designed for racing is mandatory. Any driver losing his or her neck brace shall immediately precede to the pits and may, upon replacing the missing neck brace, return to the track.

(Source: Added at 28 Ill. Reg. 10569, effective July 19, 2004)

Section 6000.308 Dune Buggies and All-Terrain Vehiclesa) Vehicle Requirements

- 1) All vehicles shall be equipped with passenger padding, including, but not limited to, steering wheel pad, headrest pad, steering wheel support post and seat cushions.
- 2) All vehicles shall be guarded to prevent interlocking of wheels during operation.
- 3) All vehicles equipped with seat belts shall be equipped with a roll over protection system.
- 4) Vehicles shall be equipped with a guarding system that covers or encloses all rotating parts of the drive mechanism except the tires. The guarding system shall also cover the exhaust to protect the passenger when entering or exiting the vehicle.
- 5) Vehicles' fuel tanks shall be mounted and/or guarded in such manner that provides protection to the passenger during operation and if an accident should occur. Fuel tank caps shall conform to SAE Recommended Practice J-1241 (1999).
- 6) Wheels shall be retained by a castellated nut and cotter pin or other positive method. Nuts with inserts of nylon or other material shall not be used.

b) Track and Course Requirements

- 1) A minimum width of 10 feet shall be maintained throughout the entire course or track.

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- 2) The track or course shall be marked with signs to indicate designated path.
 - 3) A fence or railing system shall be installed at maintenance buildings, driveways, pit areas, and fuel storage pumping areas to keep patrons awaiting rides and spectators from entering these track areas without the permission of, or direction by, track personnel.
 - 4) No intersecting Figure 8 or course configurations shall be permitted.
- c) Operation
- 1) Fire extinguishers shall be charged and readily available to the track personnel at all times.
 - 2) The refueling of the vehicles shall take place in the pit areas. All storage containers of gasoline and other flammables shall be in accordance with Section 6000.190 – Fire Prevention and Protection.
 - 3) During nighttime operation, track lighting is required.
 - 4) A separate and distinct maintenance log shall be kept for each vehicle. The maintenance logs shall be kept on a daily basis and kept available for inspector review. All replacing of parts should be noted. A comment section should be provided. The track mechanic shall sign each log sheet indicating that the vehicle is ready to operate. This log shall include, but not be limited to, the following information:
 - A) Brake inspection;
 - B) Tire wear and pressure;
 - C) Steering inspection;
 - D) Body inspection;
 - E) Padding inspection;
 - F) Lubrication and engine oil check; and
 - G) Drive mechanism.

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- 5) Only one patron per seat shall be permitted in each vehicle. No in-line riding shall be permitted.
- 6) Personal Safety Equipment
 - A) Head Gear – A full-face helmet complying with a Snell Foundation test specification (1998) is mandatory. A full-face shield is mandatory. The helmet must be secured by a chinstrap.
 - B) Neck Brace – The use of unaltered collar-type neck brace designed for racing is mandatory. Any driver losing his or her neck brace shall immediately precede to the pits and may, upon replacing the missing neck brace, return to the track.

(Source: Added at 28 Ill. Reg. 10569, effective July 19, 2004)

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- 1) Heading of the Part: Licensing Standards for Child Welfare Agencies
- 2) Code Citation: 89 III. Adm. Code 401
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
401.40	Amended
401.100	Amended
401.140	Amended
401.210	Amended
401.250	Amended
401.300	Amended
401.400	Amended
401.420	Amended
401.460	Amended
401.470	Amended
- 4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10], the Child Product Safety Act [430 ILCS 125], and the Abused and Neglected Child Reporting Act [325 ILCS 5/3]
- 5) Effective date of rulemaking: August 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: 27 Ill Reg. 14699 – 9/19/03
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In addition to editing and formatting corrections, the following amendments were made:

In Section 401.100, the Department changed the proposed requirement for agencies, submitting an initial application, of providing the home phone number of board members to providing information limited to the home address or Post Office Box and a phone number, other than the agency's phone number, for the board chair and officers of the board, and the names of the board members and committees of the governing body.

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In Section 401.140:

The Department clarified that agencies shall provide a list of staff indicating those who are licensed. The Department also clarified that agencies shall disclose pending investigations other than the Department investigations, as part of the license renewal process.

The more specific language in Section 5(d) of the Child Care Act of 1969 was adopted allowing the license upon renewal to continue for up to 30 days pending the Department's final decision, with a 30-day extension for good cause shown. This provision is also consistent with 89 Ill. Adm. Code 404 (Licensing Standards for Institutions and Maternity Centers).

The Department clarified the requirement of providing information only on specific policy if changes were made to them.

The Department also reinstated the provision that the Department will make available to the applicant a copy of their licensing study upon payment of all copying costs.

In Section 401.210, the Department has deleted the reference to any member of immediate family because the subsequent paragraph addresses those concerns in avoiding conflicts of interest.

In Section 401.250, the Department clarified the requirement of submitting documentation of compliance with semi-annual monitoring visits by stating that the required documentation to be submitted is a list of the licensed facilities, indicating those that were visited, those that were not, and those with violations or corrective plans.

In Section 401.300, the Department withdrew the addition of a law degree as an option for the education equivalent needed for director qualification.

In Section 401.400, the Department clarified an agencies requirement to provide safekeeping of children's funds. The Department also clarified the provision prohibiting the transfer of children's personal properties, to exclude common family practices of transferring outgrown clothing or equipment to other children.

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In Section 401.420, the provision that children shall be protected from harm at all times was changed to require that the agency provide a safe environment at all times for children in care.

In Section 401.470, the Department included “birth parents” and “religion”.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of amendments: Amendments in this rule improve the management and the supervision of child welfare agencies with the objective of improving the safety and well being of children. These amendments include the requirement for agencies to improve their ethics guidelines such as no immediate family member of persons serving on an agency’s board of directors; and to provide an environment of safety for children and safekeeping of children’s personal funds and valuables.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498
217/524-1983
TDD: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 401

LICENSING STANDARDS FOR CHILD WELFARE AGENCIES

SUBPART A: INTRODUCTION AND DEFINITIONS

- 401.30 Purpose
- 401.40 Definitions

SUBPART B: PERMITS AND LICENSES

- 401.100 Application for License
- 401.110 Provisions Pertaining to Permits
- 401.120 Provisional Licenses
- 401.130 Provisions Pertaining to Licenses
- 401.140 Application for Renewal of License
- 401.145 Renewal Application Under Deemed Status
- 401.150 Acceptance of Accreditation through Deemed Status
- 401.155 Removal of Agency from Deemed Status
- 401.160 Voluntary Surrender of License

SUBPART C: ADMINISTRATION AND FINANCIAL MANAGEMENT

- 401.200 Incorporation
- 401.210 Composition and Responsibilities of the Governing Body
- 401.220 Organization and Administration
- 401.230 Finances
- 401.240 Background Checks
- 401.250 Required Reporting to the Department
- 401.260 Required Record Keeping
- 401.270 Records Retention

SUBPART D: PERSONNEL REQUIREMENTS

- 401.300 The Executive Director
- 401.310 Child Welfare Supervisors
- 401.320 Child Welfare Workers

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- 401.330 Licensing Staff
- 401.340 Professional Staff
- 401.350 Support Personnel
- 401.360 Use of Volunteer Services
- 401.370 Non-Discrimination Against Employees Who Report Suspected Licensing Violations
- 401.380 Personnel Records

SUBPART E: SERVICES TO CHILDREN

- 401.400 Legal Safeguards of Children Served
- 401.410 Required Written Consents
- 401.420 Agency Responsibility
- 401.430 Interstate Placement of Children
- 401.440 Health and Medical Services for Children
- 401.450 Transportation of Children
- 401.460 Agency Supervised Foster Family Homes, Group Homes and Day Care Homes
- 401.470 Agency Responsibilities for Adoption Services
- 401.480 Agency Responsibilities for Independent Living Programs

SUBPART F: SEVERABILITY CLAUSE

- 401.500 Severability of This Part

- 401.APPENDIX A Licensing Progression for Child Welfare Agencies
- 401.APPENDIX B Requirements for Operation of Branch Offices
- 401.APPENDIX C Management Representations of Child Welfare Agency Financial Condition and Operations
- 401.APPENDIX D Minimum Requirements for a Risk Management Plan
- 401.APPENDIX E Acceptance of Voluntary Surrender of License – No Investigations Pending
- 401.APPENDIX F Acceptance of Voluntary Surrender of License – Investigations Pending
- 401.APPENDIX G Acceptable Human Services Degrees
- 401.APPENDIX H Professionals Who Must Be Registered or Licensed to Practice in the State of Illinois

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10].

SOURCE: Adopted and codified at 5 Ill. Reg. 11351, effective November 12, 1981; amended at 7 Ill. Reg. 3428, effective April 4, 1983; amended at 11 Ill. Reg. 17511, effective October 15,

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1987; amended at 21 Ill. Reg. 4502, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 9151, effective July 1, 1997, for a maximum of 150 days; emergency amendment modified in response to JCAR Objection at 21 Ill. Reg. 13929 and 14379; emergency expired on November 26, 1997; amended at 22 Ill. Reg. 10329, effective May 26, 1998; amended at 24 Ill. Reg. 9340, effective July 7, 2000; emergency amendment at 26 Ill. Reg. 6857, effective April 17, 2002, for a maximum of 150 days; emergency expired September 13, 2002; amended at 27 Ill. Reg. 494, effective January 15, 2003; amended at 28 Ill. Reg. 10588, effective August 1, 2004.

SUBPART A: INTRODUCTION AND DEFINITIONS

Section 401.40 Definitions

"Adequate assets" means the child welfare agency has sufficient liquid assets in reserve or has other sources of income and a line of credit independent of Department contracts which would allow it to provide continuous agency operations and provide services such as staff, taxes, rent, utilities, and supplies for a period of at least 30 days.

"Administrative order of closure" means a severe administrative sanction, approved by the Director of the Department of Children and Family Services, to close immediately an unlicensed child care facility, a child care facility which is exempt from licensure, or a licensed child care facility prior to revocation of the facility's license. An administrative order of closure is issued only when continued operation of the child care facility jeopardizes the health, safety, morals, or welfare of children served by the facility.

"Age appropriate safety restraint" means, for a child under four years of age, a child restraint system (infant carrier, infant/toddler seat, or convertible safety seat) which meets the standards of the United States Department of Transportation designed to restrain, seat or position children. For a child four years of age or older, an age-appropriate safety restraint means a child restraint system or seat belt (lap belt or lap-shoulder belt combination).

"Authorized representative of the governing body" means the person authorized by formal action at a meeting of the Board of Directors to act on behalf of the child welfare agency and sign the license renewal application (but not the initial application for license), contracts, and other such documents, on behalf of the governing body. Such authorization shall be in writing on agency letterhead, submitted to the Department licensing worker, and signed by the president or chairperson of the Board of Directors and the secretary of the Board of Directors.

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"Background check" means:

a criminal history check via fingerprints of persons age 18 and over which are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI), for comparison to their criminal history records, as appropriate; and

a check of the [Statewide Automated Child Welfare Information System \(SACWIS\)](#)~~Child Abuse and Neglect Tracking System (CANTS)~~ 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.

"Chief fiscal officer" means the staff position with primary responsibility for the receipt, distribution and accounting for all financial transactions of the agency.

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

"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 this Act, established and maintained for the care of children. "Child care facility" includes a relative who is licensed as a foster family home under Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05]

"Child welfare agency" means a public or private child care facility, receiving any child or children for the purpose of placing or arranging for the placement of the child or children in foster family homes or other facilities for child care, apart from the custody of the child's or children's parents. The term "child welfare agency" includes all agencies established and maintained by a municipality or other political subdivision of the State of Illinois to protect, guard, train or care for children outside their own homes, but does not include any circuit court or duly appointed juvenile probation officer or youth counselor of the court, who receives and places children under an order of the court. [225 ILCS 10/2.08]

"Conditional license" means a nonrenewable license for a period not to exceed six

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months which may be granted to a child care facility when the facility has agreed to a corrective plan to amend identified deficiencies and bring the facility into reasonable compliance with all licensing standards. Conditional licenses may be issued with the approval of the Department only where no threat to the health, safety, morals or welfare of the children served exists. Any other license held by the facility shall be revoked when the conditional license is issued.

"Corporal punishment" means hitting, spanking, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain. (National Health and Safety Performance Standards, Guidelines for Out-Of-Home Child Care Programs, American Public Health Association and American Academy of Pediatrics, 2002).

"Corrective plan" means a written plan approved by the Department's regional licensing administrator which identifies deficiencies in a child care facility's operations and which allows the facility a maximum of six months to correct the identified deficiencies and come into reasonable compliance with all applicable licensing standards.

"Deemed status" means the Department has approved a child welfare agency as in compliance with the requirements of this Part because the agency:

has received full accreditation status from the Council on Accreditation for Children and Family Services (2001 Standards); and

during the past four years, there have been no substantiated licensing violations that affect the health, safety, morals, or welfare of children served by the accredited agency.

"Department" means the Illinois Department of Children and Family Services. [225 ILCS 10/2.02]

"Full license" means the agency is operating under a current child welfare agency license rather than a permit, a provisional license, a conditional license, or a license which has been revoked or which has expired after the agency failed to file a timely and sufficient application for license renewal.

"Governing body" means all members of the board of directors of a corporation.

"Guardian" means the guardian of the person of a minor. [225 ILCS 10/2.03]

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"Immediate family member" means a person's spouse, son, daughter, mother, father, sibling, brother- or sister-in-law, or other legal dependent.

"Inadequate assets" means the child welfare agency has less than 30 days of operating expenses available to them in liquid assets as required by the definition of adequate assets in this Section.

"Initial application for license" means the first application for licensure as a child welfare agency submitted by the individual, corporation, or other legal entity.

"License" means a document issued by the Department of Children and Family Services 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 those individuals, corporations, or other legal entities who have applied for a license from the Department of Children and Family Services.

"Licensee" means those individuals, corporations or other legal entities who hold a license or permit issued by the Department of Children and Family Services.

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

"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 solely as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601].)

"New application for child welfare agency license" means a license is sought to operate a child welfare agency when:

the applicant has applied previously for a child welfare agency license and withdrew the license application before a decision was made on the application for license; or

the applicant had been licensed previously as a child welfare agency, but voluntarily surrendered the license; or

the applicant had been licensed previously as a child welfare agency, but the

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Department revoked or refused to renew the license.

"Permit" means a one-time only document issued by the Department of Children and Family Services to allow the license applicant to become eligible for an initial license. Permits may be for a maximum six month period, except that permits granted to foster family homes and day care homes are limited to a maximum of two months.

"Petty offense" means any offense for which a sentence to a fine only is provided.
(Section 5-1-17 of the Unified Code of Corrections [730 ILCS 5/5-1-17])

"Provisional license" means a license issued for a period not to exceed two years to allow a licensed child welfare agency to demonstrate the ability to operate a business in ~~compliance with applicable standards a responsible fashion~~. During the provisional license period, the Department may exercise more stringent oversight or place more stringent requirements on the child welfare agency.

"Psychotropic medication" means medication whose use for antipsychotic, antidepressant, antimanic, antianxiety, behavioral modification or behavioral management purposes is listed in the AMA Drug Evaluations (Drug Evaluation Subscription, American Medical Association, Vols. I-III, Summer 1993) or Physician's Desk Reference (Medical Economics Data Production Company, 49th Edition, 1995) or which are administered for any of these purposes. (Section 1-121.1 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-121.1])

"Refusal to issue license" means the formal decision of the Department to decline to issue a license to the holder of a permit.

"Refusal to renew a license" means the formal decision of the Department to decline to issue a succeeding license, although the licensee has submitted a timely and sufficient application for license renewal, to the holder of a child care facility license or permit.

"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 receiving care in a licensed child care facility outside the visual or auditory supervision of facility staff.

"Reputable character" means there is satisfactory evidence that the moral character of the applicant is trustworthy.

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"Responsible" means trustworthy performance of expected duties in accordance with established professional standards, State and federal law, and the rules of the Department of Children and Family Services.

"Revocation" means the termination of a full license or provisional license to operate a child care facility by a formal action of the Department. License revocations shall be conducted in accordance with Section 8 or 8.1 of the Child Care Act of 1969 [225 ILCS 10/8 and 8.1].

"Risk management plan" means a document developed in accordance with Appendix D of this Part that outlines the process for identifying and analyzing loss exposures, examining alternative risk control methods, and making and carrying out decisions that will minimize the adverse effects of accidental losses.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that is replacing the Child Abuse and Neglect Tracking System (CANTS).

"Timely and sufficient application for license renewal" means the child welfare agency submitted the application for renewal of the license at least 90 days before the expiration date, the application was complete, dated, and signed by an authorized party, and the materials required by Section 401.140 were attached to the application for license renewal. License renewal applications for foster family homes or day care homes under the supervision of the child welfare agency are considered timely if the application was returned to the agency within the time frames required by the respective licensing standards 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes) or 89 Ill. Adm. Code 406 (Licensing Standards for Day Care Homes).

"Valid license" means a license which has not been revoked or expired, or which would have expired except that the child welfare agency submitted a timely and sufficient application for license renewal and the Department has not yet rendered a decision on the application, and the facility has not been issued an administrative order of closure.

"Voluntary surrender of license" means that, in writing, the licensee has offered and the Department has accepted the licensee's offer to give up a valid license of his, her or its own free will. The Department is not required to accept the offer of the license and, in the Department's sole discretion, may decline to accept the license.

(Source: Amended at 28 Ill. Reg. 10588, effective August 1, 2004)

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SUBPART B: PERMITS AND LICENSES

Section 401.100 Application for License

- a) The initial application for license as a child welfare agency shall be completed by the officers of the governing body of the child welfare agency on forms prescribed and furnished by the Department.
- b) For the initial application for a license to be complete, the following shall be attached to the application:
 - 1) articles of incorporation and by-laws, indicating that the agency's corporate status is in good standing with the Illinois Secretary of State and, if a not-for-profit corporation under Section 501 of the Internal Revenue Code (26 USCA 501), a copy of the Internal Revenue Service ruling on the agency's exemption status from Federal income tax and registration with the Charitable Trust Bureau of the Attorney General's office (if applicable);
 - 2) a mission statement or statement of purpose including services to be provided and the types of child care facilities to be operated and supervised by the agency, including a plan for recruiting foster family and adoptive homes, as required to fulfill the agency's mission or purpose;
 - 3) a list of owners, officers, board members, and principal shareholders owning more than 5% of the stock of the corporation and each person's attestation that he or she has not been convicted of a felony or indicated as a perpetrator of child abuse or child neglect, as defined in Appendix B of 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect). This includes any or all of the above persons who reside outside the State of Illinois. The board list shall include the name, home address or Post Office Box, and telephone number, other than the agency's telephone number, of the board chair; the officers of the board; names of the board members; and committees of the governing body;
 - 4) a listing of standing committees of the governing body;
 - 5) proposed operating budget for the first two years of operation;

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- 6) range of services to be provided within the first two years of operation;
and
 - 7) a comprehensive staffing plan which includes job descriptions and the qualifications of the staff for all child welfare programs to be provided by the agency. If the child welfare agency operates within a multi-service agency, those staff positions ~~that~~^{which} perform no functions for the child welfare agency do not need to be included in the staffing plan. If the child welfare agency intends to operate branch offices, the address, ~~telephone~~^{phone} number and staffing plan for each of the branch offices is to be included in the initial application (if known) or reported to the Department within 30 days after the location for a branch office is secured.
- c) In addition, the license applicant shall have the following items available for review when the licensing worker visits the agency headquarters.
- 1) A list of current employees of the child welfare agency, ~~and~~ persons ~~to whom~~ the agency has made a commitment to hire, ~~and~~;
 - A) certified transcripts of each employee's educational credentials (if obtained from a foreign school or university, the credentials must be translated into English and include a statement of equivalency in the United States educational system);
 - B) verification of prior work history, when the work history is required to qualify for the current position;
 - C) copy of current professional license or registration, if required. (See Appendix G for a list of professionals commonly used by a licensed child welfare agency who must be licensed or registered.);
and
 - D) if the individual is subject to the background check requirements of 89 Ill. Adm. Code 385 (Background Checks) a copy of each employee's complete, signed authorization to conduct a background check.
 - 2) The agency's written personnel policies, including written compensation policies and salary levels.

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- 3) The agency's written service delivery policies.
 - 4) The agency's risk management plan developed in accordance with Appendix D of this Part.
 - 5) The agency's documentation of current public liability insurance as required by Section 401.220(g).
 - 6) The agency's code of ethics which has been adopted by the governing body which must be at least as stringent as the Code of Ethics for Child Welfare Professionals (published by the Office of Communications, Department of Children and Family Services, 406 East Monroe, Station #65, Springfield, Illinois 62701; (May 1996) or found on the Department's website at www.state.il.us/dcf).
 - 7) The agency's financial management policies.
- d) If the corporate status or ownership of the child welfare agency changes, the new corporate entity must file an initial application for a child welfare agency license as the new corporation.
- e) A new application for a child welfare agency license shall be filed when:
- 1) an application for license as a child welfare agency has been withdrawn before a decision was made on the application and the agency seeks to reapply; or
 - 2) the applicant had been licensed previously as a child welfare agency, but voluntarily surrendered the license, and any waiting period agreed to when the voluntary surrender was accepted has expired; or
 - 3) the applicant had been licensed as a child welfare agency, but the Department revoked or refused to renew the license and the requirements of subsection (f) of this Section have been fulfilled.
- f) A new application may be submitted at any time when a license, permit or application has been voluntarily surrendered or withdrawn by the applicant unless the applicant has signed an agreement with the Department not to reapply for a license for a specified period of time. Once an investigation of the facility has

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been commenced, the license may be voluntarily surrendered only with the signed, written agreement of the regional licensing administrator on the form prescribed in Appendix F.

- g) If the Department has revoked or refused to renew the license of a child welfare agency and the agency seeks to reapply for a license, it may do so if at least 12 months have passed since the effective date of the revocation or refusal to renew. If a new license is granted to the applicant, the Department shall issue a provisional license to the applicant for a period not to exceed two years. *The denial of a reapplication for a license pursuant to this subsection must be supported by evidence that the prior revocation renders the applicant unqualified or incapable of satisfying the standards and rules promulgated by the Department pursuant to the Child Care Act of 1969, or maintaining a facility which adheres to such standards and rules.* [225 ILCS 10/6(c)]
- h) The applicant shall submit an original and one copy of the application for license and all required documentation.

(Source: Amended at 28 Ill. Reg. 10588, effective August 1, 2004)

Section 401.140 Application for Renewal of License

- a) ~~License renewal application~~Application forms ~~for license renewal~~ shall be mailed to the child welfare agency by the Department six months prior to the expiration date of the license. For a renewal application to be considered complete, the following shall be attached to the application: When the application for license renewal is submitted to the Department,
- 1) ~~the child welfare agency shall submit~~ a complete listing of the names and addresses of all licensed and license-exempt child care facilities supervised by the child welfare agency and of any pending applications for ~~licensure of license as~~ a foster family or day care home which will be supervised by the child welfare agency;
 - 2) a current list of names, home addresses or Post Office Box, and contact telephone numbers, other than the agency's telephone number, of owners, officers, board members, and principal shareholders owning more than 5% of the stock of the corporation;
 - 3) a staff list, including name and job title, indicating those who are licensed

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under 89 Ill. Adm. Code 412.40 to practice as a direct child welfare service employee;

4) any pending investigations other than the Department investigations; and

5) the following documents if changes were made to them since the last application or renewal:

A) statement of purpose;

B) range of services; and

C) code of ethics.

- b) The original of the completed application, along with the listing of child care facilities supervised by the agency, and one copy of all materials shall be submitted to the Department no later than 90 days before the date of the expiration of the child welfare agency's license.
- c) *When a licensee has made timely and sufficient application for renewal of a license and the Department fails to render a decision on the application for renewal of the license prior to the expiration date of the license, the existing license shall continue in full force and effect for up to 30 days until the final Department decision has been made. The Department may further extend the period in which such decision must be made in individual cases for up to 30 days, but such extensions shall be only upon good cause shown. [225 ILCS 10/5(d)]*
- d) After receipt of the application for license renewal, the Department shall conduct a license study ~~that~~which shall consist of a comprehensive licensing compliance review. The study may include unannounced visits if conducted within normal business hours, in order to determine that the child welfare agency continues to meet licensing standards. The licensing study shall include *an examination of the premises and records* of the child welfare agency to determine the degree of compliance with these standards and shall include:
- 1) *random surveys of parents or legal guardians who are consumers of the child welfare agency's services to assess the quality of care given and to determine if the child welfare agency is in compliance with the Foster Parent Law [20 ILCS 520];*

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- 2) a review of a representative sample of child care facilities supervised by the child welfare agency, which may include site visits to these facilities;
 - 3) a review of unusual incident reports, child abuse/neglect reports, financial and payment records, and other agency performance indicators to evaluate the quality of care provided through the agency;
 - 4) interviews of child welfare agency employees, foster parents, biological parents, children receiving care through the licensed child welfare agency, and other clients that receive services from the child welfare agency; and
 - 5) a review of the records, staffing, and operations of any branch offices operated by the child welfare agency.
- e) The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing worker performing the study. *If the Department is satisfied that the facility continues to be in compliance with minimum standards which it prescribes and publishes, it shall renew the license to operate the facility.* [225 ILCS 10/6] A copy of the licensing study will be made available to the license applicant upon payment of all copying costs.

(Source: Amended at 28 Ill. Reg. 10588, effective August 1, 2004)

SUBPART C: ADMINISTRATION AND FINANCIAL MANAGEMENT

Section 401.210 Composition and Responsibilities of the Governing Body

- a) The governing body of a child welfare agency shall be all the members of the Board of Directors of the corporation.
- b) Each member of the governing body of the child welfare agency and principal shareholders (owning 5% or more of the corporate stock) shall be of reputable and responsible character who shall certify that they have never been convicted of a felony or indicated as a perpetrator in a child abuse or neglect report, as defined in Appendix B of 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect).
- c) The governing body may create an executive committee or a child welfare committee that has been delegated limited decision making authority. The executive committee may act on behalf of the governing body in emergency matters.

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- d) The governing body shall:
- 1) establish written by-laws which govern the major operations of the agency and which outline the duties of the officers of the board of directors and committees to be established by the board of directors;
 - 2) set long range goals for the agency;
 - 3) if incorporated as a not-for-profit corporation, adopt a conflict of interest policy which requires, at a minimum:
 - A) that no member of the board of directors may derive or appear to derive any personal profit or gain, directly or indirectly, by reason of his or her membership on the board of directors or because of services provided to the board;
 - B) that each board member must disclose to the board any personal interest which he or she or any member of his or her immediate family may have in any current or potential matter before the board and refrain from participating in any decision on such matters;
 - C) that no member of the executive director's or the chief financial officer's immediate family ~~shall~~may serve on the board of directors for the child welfare agency and no member of any board member's immediate family may serve as executive director, the chief financial officer, or an independent contractor of the agency;
 - 4) if incorporated as a for-profit corporation, adopt a code of conduct for the board;
 - 5) insure that the child welfare agency operates at all times with a qualified, full-time executive director who, by official written notice, is made known to the Department. The governing body shall:
 - A) approve a written job description for the agency executive director which delineates the executive director's responsibilities and authority and the governing body's expectations of the agency executive director;

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- B) review and authorize all compensation for the agency executive director, including salary, allowances, memberships or other benefits;
 - C) evaluate the agency executive director in writing at least annually;
- 6) insure that an adequate process is in place for recruiting, hiring, and maintaining qualified child welfare supervisors and other staff required by this Part;
 - 7) hold at least quarterly meetings, unless the agency holds a provisional license, thus requiring a minimum of bi-monthly meetings of the board of directors. *Unless specifically prohibited by the articles of incorporation or bylaws, directors or non-director committee members may participate in and act at any meeting of such board or committee through the use of a conference telephone or other communications equipment by means of which all persons participating in the meeting can communicate with each other. Participation in such meeting shall constitute attendance and presence in person at the meeting of the person or persons so participating [805 ILCS 105/108.15];*
 - 8) keep written records or minutes of all board meetings reflecting official actions of the board which shall contain, at a minimum, the date of each board meeting, the persons who were in attendance, the issues discussed in the meeting, any committee reports made to the board, the decisions made and actions taken. Such minutes shall be available for review by the Department's licensing worker, upon request;
 - 9) officially notify the Department in writing within 30 days after a change in the executive director or chief financial officer of the child welfare agency or of any major changes in the corporate structure, including, but not limited to:
 - A) changes in the articles of incorporation or by-laws;
 - B) changes in the not-for-profit status or tax exempt status as determined by the Internal Revenue Service (if applicable) or its charitable organization status as determined by the Illinois Attorney General;

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- C) addition of any principal shareholder owning at least 5% of the stock of the corporation; or
 - D) changes in the governing body or its officers;
- 10) establish written policies of the child welfare agency which shall be made available to all board members, employees, and agency clientele, including services to be provided by the agency, admissions, care of children, and other policies as needed to direct the agency, such as family visitation and community contacts with children;
 - 11) provide and maintain permanent offices accessible to the public and appropriate for the administrative program and supportive services. These offices, including all branch offices, shall be staffed during the business hours established by the agency, shall be equipped with telephones, and shall have a permanent mailing address;
 - 12) maintain and keep all records and documents required by this Part in the State of Illinois where they shall be readily available for review by authorized persons;
 - 13) insure fidelity bonding of fiscally responsible officers and employees against breach of fiduciary duty or the loss of monies, securities, or other property which the agency may sustain through any fraudulent or dishonest act committed by an officer or employee acting alone or in collusion with others. These officers or employees must be bonded regardless of whether elected or appointed or whether compensated by salary;
 - 14) insure that the child welfare agency maintains adequate assets, as defined in Section 401.40, for responsible fiscal operation of the agency; and
 - 15) insure that all persons working directly with children are of reputable and responsible character, as verified by their employment history of at least the past three years, the status of any professional license they hold, and completion of the background checks required by 89 Ill. Adm. Code 385 (Background Checks).
- e) ~~Child welfare agencies fully licensed as of July 1, 1998 have until July 1, 1999 to attain compliance with the requirements of this Section.~~

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(Source: Amended at 28 Ill. Reg. 10588, effective August 1, 2004)

Section 401.250 Required Reporting to the Department

- a) **Staff and Volunteers**
The child welfare agency shall maintain and submit reports on staff and volunteers to the Department on forms prescribed by the Department:
- 1) An individual report on each new employee or member of the governing body (including the owner, operator, principal shareholder owning at least 5% of the stock of the corporation or director) shall be filed with the Department within 30 days after the employment of the new employee or appointment of a new member of the governing body. A copy of this report shall be kept at the agency.
 - 2) Copies of documentation of verification of educational achievement and documentation of prior work history (when required to qualify for the current position).
- b) **License Status of Child Care Facilities Supervised by the Child Welfare Agency**
The child welfare agency shall report in writing to the Department licensing office when the license status changes for a foster family home or day care home supervised by the agency. Such reports shall be received within five days after the last day of each month for all license status changes in the month. Such changes in license status may include, but are not limited to:
- 1) failure or refusal to renew the license;
 - 2) revocation or voluntary surrender of the license;
 - 3) change in the status of licensees (death, divorce or separation of a husband and wife, change in not-for-profit status);
 - 4) change of address of the licensee;
 - 5) change in license capacity;
 - 6) transfer of license supervision to another supervising child welfare agency; or
 - 7) foster or adoptive family moves out-of-state.

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- c) Semiannual Monitoring of Licensed Facilities Supervised by the Agency
The agency shall maintain and submit to the regional licensing office a list of the licensed facilities subject to monitoring, noting both the date that the agency has performed a semiannual monitoring visit at the facility and those facilities with violations or corrective plans, as documentation of compliance with Section 401.420(c) requiring semiannual monitoring.
- d) Reports of Child Abuse and Neglect
When there has been a report of child abuse or neglect in a foster family home or day care home that is supervised by the agency and a formal child abuse and neglect investigation begins, the agency shall send a complete copy of the licensing record and any other requested information to the Department's agency and institution licensing representative within 5 days after a request for such information.
- e) Licensing Complaint Investigation
The agency shall send a copy of the licensing complaint investigation file to the Department's licensing unit within 5 days after the conclusion of the complaint investigation.
- f) Monthly Visits with Children in Placement
The agency shall submit written quarterly reports to the regional licensing office listing the names of all children served by the agency, with the dates on which an agency child welfare worker visited each child, as documentation of compliance with Section 401.420(b) requiring monthly visits with foster parents and children in care.
- g)e) Unusual Incident Reports
The agency shall report to the Department unusual incidents as defined in 89 Ill. Adm. Code 331 (Unusual Incidents).
- 1) Involving Children
The governing body or its designee shall orally report any unusual incidents involving children at the earliest reasonable time, but no later than the next business day after the incident, to the child's parent or guardian and the Department licensing worker. If the agency is unable to contact the parent or guardian and the Department immediately, it shall document this fact in the child's record. Unusual incidents include accident or injury requiring hospitalization, death, arrest, or other

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emergency situations. Oral reports shall be confirmed in writing within two business days after the occurrence.

- 2) Involving Employees, Foster Parents, or Relative Caregivers
The governing body or its designee shall report to the Department licensing worker any work or service related unusual incident which results in the death, accident or injury resulting in hospitalization, or alleged commission of a felony involving any child welfare agency employee, foster parent, day care provider, or relative caregiver. A verbal report shall be made within 24 hours after the occurrence and shall be confirmed in writing within two business days after the occurrence.

[h\) Complete Copy of the Licensing File](#)
Upon request, the agency shall provide the Department's licensing unit within 5 calendar days, a complete copy of the licensing file for a foster home or day care home that is supervised by the agency.

(Source: Amended at 28 Ill. Reg. 10588, effective August 1, 2004)

SUBPART D: PERSONNEL REQUIREMENTS

Section 401.300 The Executive Director

- a) The child welfare agency shall hire an executive director who shall be a full-time employee designated by the governing body to carry out the day-to-day management of the child welfare agency and the policies and procedures established by the governing body. The requirements of this Section apply to the person who reports to the board about the day to day management of the agency, regardless of the title used to describe the position within the agency. When the child welfare agency operates within a larger, multi-service agency, the executive director responsible for the child welfare agency need not be the chief executive officer for the multi-service agency.
- b) The executive director shall have:
 - 1) a Master's of Social Work degree from an accredited school of social work and three years' work experience in social work administration; or
 - 2) a Master's degree in a human services field from an accredited school and five years work experience in human services administration; or

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- 3) a Master's degree in Business Administration or Health Administration and ~~5~~five years experience in administration. Such degrees are acceptable only if the executive director never functions as the child welfare supervisor and the child welfare supervisor has a Master's of Social Work degree from an accredited school of social work or a Master's degree in a human services field from an accredited school.
- c) If the executive director also serves as the child welfare supervisor, the executive director also must meet the qualifications in Section 401.310 for the child welfare supervisor.
- d) All persons currently serving as executive director who were qualified as the administrator under former Section 401.11 of this Part (The Administrator) and who have served in that capacity for a minimum of ~~5~~five years immediately preceding July 1, 1998 shall continue to be deemed qualified for their positions as executive director for the child welfare agency where they are employed as of July 1, 1998.
- e) A qualified supervisor or manager shall be appointed to act on behalf of the executive director when the executive director is absent and cannot be reached in the event of an emergency.
- f) If the executive director is to be on leave for more than one month or has left his or her position prior to the hiring of a replacement, the Department shall be notified within five business days of the name of the person appointed as acting executive director. The acting executive director shall have the qualifications required of an executive director as specified in this Section.

(Source: Amended at 28 Ill. Reg. 10588, effective August 1, 2004)

SUBPART E: SERVICES TO CHILDREN

Section 401.400 Legal Safeguards of Children Served

- a) The agency shall have written verification of the legal status for all children accepted for care and service. There shall be written financial agreements between the child welfare agency, foster family parents, and the legal guardian, court, or another agency, as applicable and appropriate for the care of the child and the management of any monies or benefits received on the child's behalf.

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- b) The agency holding a child's funds shall have procedures for ensuring the safety of those funds. Amounts of \$300 and over shall be deposited in an insured account. Reports on the status of each child's insured account shall be given to the child's caseworker annually.
- c) Personal financial transactions or transfer of a child's or youth's personal property among children or youth, children or youth and staff, and children or youth and volunteers/interns shall be prohibited. This prohibition does not apply to the common practice in families and foster families of transferring outgrown clothes or equipment.
- d) The agency shall assure that a child's valuables brought to a placement and acquired by or given to the child, such as clothing, books, toys, gifts, private collections, photographs, child's private savings, allowances and other items, accompany the placement and are returned to the child when the child leaves that placement.

(Source: Amended at 28 Ill. Reg. 10588, effective August 1, 2004)

Section 401.420 Agency Responsibility

- a) Each child served by the agency shall, at all times, have a designated child welfare worker assigned or, for a period of time not to exceed 30 days, the case may be assigned to a child welfare supervisor.
- b) Children in placement shall be seen by the child welfare worker assigned to the case at least once every month. Foster parents shall be seen by the child welfare worker at least monthly.
- c) Each licensed facility supervised by the child welfare agency shall be visited by the licensing worker of the agency at least semi-annually to insure that the standards for licensing continue to be met.
- d) Critical decisions regarding a child, such as accepting for placement, subsequent placements, determination of or changes in the service plan, and discharge from care, shall be reviewed by the child welfare supervisor prior to implementation and when needed. These critical decisions shall result in a revised service plan.
- e) A comprehensive written admission study shall be completed within 30 days after

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admission and shall include:

- 1) child's name, birth date, place of birth, sex, race, religious affiliation, primary language, legal status including the legal status of the parents, and present address;
 - 2) names, birth dates, places of birth, marital status, sex, race, religious affiliation, primary language, addresses, and telephone numbers of the child's biological and adoptive parents;
 - 3) date and facility of placement and information concerning any special care or treatment provided to the child and his or her family; and
 - 4) reasons for, and the goal of, placement.
- f) The child and/or his or her parent or guardian shall be active participants, to the extent possible, in all decisions regarding the reasons for, and the goal of placement, the child's educational plan, and the service agreement.
- g) Child welfare agencies that license or supervise foster family homes shall comply with the Foster Parent Law [20 ILCS 520].
- h) Records for each child placed in a licensed or license exempt child care facility or independent living program shall include an admission study, legal documents and agreements for care, as required, and case recording which reflects the on-going placement supervision, service planning, care and treatment of the child.
- i) When a child is discharged from the agency's care, records shall include the reason for discharge, the legal status of the child, the name and address of the agency or person to whom the child is discharged, family reunification or aftercare services to be provided to stabilize the family, and any recommendation for the child's future care.
- j) The agency shall provide an environment of safety and well being for children in care.
- 1) Staff shall not abuse or neglect children and shall provide a safe environment at all times.
 - 2) No child shall be subjected to corporal punishment, verbal abuse, threats

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or derogatory remarks about the child or the child's family.

(Source: Amended at 28 Ill. Reg. 10588, effective August 1, 2004)

Section 401.460 Agency Supervised Foster Family Homes, Group Homes and Day Care Homes

- a) Foster family and day care homes operated and supervised by a child welfare agency shall be licensed according to the standards prescribed and published by the Department for licensing such foster family and day care homes.
- b) The child welfare agency shall submit an application for a license on forms provided by the Department for each foster family home and day care home supervised by it. The child welfare agency shall recommend the licensure of or denial of license of family homes supervised by the child welfare agency. The child welfare agency shall make these recommendations to the Department in accordance with 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes) and 89 Ill. Adm. 406 (Licensing Standards for Day Care Homes).
- c) When an individual submits an initial application for a foster family home license and the applicant was previously licensed as a foster family home, the child welfare agency shall review and assess all previous licensing history before making a recommendation to issue or deny a license on the current application. The child welfare agency shall share a complete copy of the previous licensing file and any licensing complaint file with an agency reviewing such an application for license.
- d)e) The child welfare agency shall maintain licensing records on all foster family and day care homes under its licensing supervision. The child welfare agency shall insure that facilities operating under its supervision maintain all the records required by the appropriate licensing standards for the facility.
- e)d) The child welfare agency supervising a group home licensed by the Department shall be responsible for ensuring the facility operates in accordance with the applicable licensing standards prescribed by the Department. When the child welfare agency intends to supervise a group home, the child welfare agency shall forward the group home license application and necessary documentation to the Department. Department's licensing staff shall conduct a license study and determine whether the group home is in compliance with 89 Ill. Adm. Code 403; (Licensing Standards for Group Homes).

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(Source: Amended at 27 Ill. Reg. 10588, effective August 1, 2004)

Section 401.470 Agency Responsibilities for Adoption Services

Child welfare agencies must assure the Department that placements of children for adoption are made in the best interests of the children and are selected to meet the needs of the child at the time of the placement and as the child grows and develops. In addition to meeting all requirements for a child welfare agency described in this Part, agencies which provide adoption services must meet the following additional requirements:

- a) have guidelines and eligibility criteria for the selection and evaluation of adoptive home applicants;
- b) provide pre-placement services ~~that~~which include the assessment and preparation of the potential adoptive family as well as the child in need of an adoptive home;
- c) provide the adoptive family with all non-identifying information about the child which has been verified as accurate, whenever possible. If it is not possible to verify the accuracy of the information provided to the adoptive parents, the agency may provide the information to the adoptive family, but shall note that the information has not been verified;
- d) ensure that the legal rights of all parties, including the birth parents, the child, and the adoptive parent are protected throughout the adoption process;
- e) provide the adoptive family, through written agreements, with a clear explanation of the charges and costs the family will incur in the adoption process;
- f) provide the adoptive family prior written notification of any changes to the charges or costs;
- g) provide the birth parents with a clear written explanation of their rights;
- h) comply with all State and federal laws and the requirements of 89 Ill. Adm. Code 333 (Inter-country Adoption Services) when the adoptive placement involves a child from a foreign country;
- i) prohibit discrimination against any child, birth parent, foster parent or prospective adoptive parent on the basis of race, religion, gender, or ethnicity.

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(Source: Amended at 27 Ill. Reg. 10588, effective August 1, 2004)

ILLINOIS COMMERCE COMMISSION

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- 1) Heading of the Part: Standards of Service for Electric Utilities and Alternative Retail Electric Suppliers
- 2) Code Citation: 83 Ill. Adm. Code 410
- 3) Section Number: 410.180 Adopted Action: Amendment
- 4) Statutory Authority: Implementing Sections 8-301, 8-302, 8-501, 9-201, 10-101, 10-107, 16-115(d)(4) and (e)(4), 16-115A(a)(i) and (b), 16-116(b), 16-123, and 17-300(b) of the Public Utilities Act [220 ILCS 5/8-301, 8-302, 8-501, 9-201, 10-101, 10-107, 16-115(d)(4) and (e)(4), 16-115A(a)(i) and (b), 16-116(b), 16-123, and 17-300(b)]
- 5) Effective Date of Amendment: August 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 11/14/03; 27 Ill. Reg. 17153
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: Section 410.180(b): Add "The size of each sample shall be determined through use of an allowed sampling procedure listed in subsection (a).".

Section 410.180(c): Replace "achieves" with "indicates"; add "(AQL)" after "level". Add "AQL shall indicate the maximum percentage of nonconforming meters to be permitted within a homogeneous group.".

Section 410.180(h): Add "the year in which" after "year after".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were required.
- 13) Will this amendment replace any emergency amendment currently in effect? No

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- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The previous language within Section 410.180 inadequately described requirements associated with sample testing of electric meters. The amendment is to ensure that Illinois electric utilities consistently conduct adequate meter tests and take appropriate action when sample tests indicate that homogeneous groups of meters should be replaced. The changes define the meter population from which the sample is to be taken as well as the sample testing schedule; include acceptable performance criterion for meters included in the sample, which must be used with the acceptable quality level to determine if a homogenous group passes or fails sample testing; specify the meter tests that must be performed on each meter that is included in a sample; and specify required actions utilities must take if homogeneous groups of meters fail sample testing.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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

(217)785-3922

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIESPART 410
STANDARDS OF SERVICE FOR ELECTRIC UTILITIES AND
ALTERNATIVE RETAIL ELECTRIC SUPPLIERS

SUBPART A: GENERAL

Section	
410.10	Definitions
410.20	Application
410.30	Exemption or Modification
410.40	Complaints
410.45	Customer Call Centers

SUBPART B: ELECTRIC METERING STANDARDS

Section	
410.100	Application of Subpart B
410.110	Meter Records
410.120	Metering Service Requirements
410.130	Separate Metering
410.140	Testing Facilities and Equipment
410.150	Meter Accuracy Requirements
410.151	Installation and Removal of Lagged Demand Meters
410.155	Installation Inspections
410.160	Initial Tests
410.170	Accuracy Testing of Meters
410.180	Sample Testing Procedures
410.190	Meter Tests Requested by Customer
410.195	Meter Tests Requested by Entity

SUBPART C: CUSTOMER INFORMATION

Section	
410.200	Corrections and Adjustments for Meter Error
410.210	Information to Customers

ILLINOIS COMMERCE COMMISSION

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SUBPART D: ELECTRIC SERVICE STANDARDS

Section	
410.300	Voltage Regulation
410.310	Voltage Surveys
410.320	Standard Frequency
410.330	Service Connections

SUBPART E: EXTENSION OF LINES

Section	
410.400	Application of Subpart E
410.410	Extension Provisions

AUTHORITY: Implementing Sections 8-301, 8-302, 8-501, 9-201, 10-101, 10-107, 16-115(d)(4) and (e)(4), 16-115A(a)(i) and (b), 16-116(b), 16-123, and 17-300(b) of the Public Utilities Act [220 ILCS 5/8-301, 8-302, 8-501, 9-201, 10-101, 10-107, 16-115(d)(4) and (e)(4), 16-115A(a)(i) and (b), 16-116(b), 16-123, and 17-300(b)].

SOURCE: Effective August 1, 1948; amended at 5 Ill. Reg. 6805, effective June 12, 1981; codified at 8 Ill. Reg. 12183, amended at 10 Ill. Reg. 148, effective December 23, 1985; amended at 11 Ill. Reg. 8964, effective May 1, 1987; emergency amendment at 13 Ill. Reg. 16563, effective October 10, 1989, for a maximum of 150 days; amended at 14 Ill. Reg. 3454, effective March 1, 1990; amended at 16 Ill. Reg. 2544, effective February 1, 1992; amended at 19 Ill. Reg. 2804, effective April 1, 1995; emergency amendment at 22 Ill. Reg. 11215, effective June 10, 1998 for a maximum of 150 days; amended at 22 Ill. Reg. 20087, effective November 7, 1998; old Part repealed, new Part adopted at 24 Ill. Reg. 19097, effective December 15, 2000; amended at 28 Ill. Reg. 10617, effective August 1, 2004.

SUBPART B: ELECTRIC METERING STANDARDS

Section 410.180 Sample Testing Procedures

- a) An entity that chooses to use sample testing shall use the procedures prescribed in any of the following documents (alone or in combination) to sample test non-demand, self-contained single-phase or three-wire network meters.
 - 1) ANSI/ASQC Z1.4-1993 "Sampling Procedures and Tables for Inspection by Attributes", approved 1993, American Society for Quality Control, 611 East Wisconsin Avenue, Milwaukee, WI 53202. No later amendment or

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

editions are incorporated.

- 2) ANSI/ASQC Z1.9-1993 "Sampling Procedures and Tables for Inspection by Variables for Percent Nonconforming", approved 1993, American Society for Quality Control, 611 East Wisconsin Avenue, Milwaukee, WI 53202. No later amendment or editions are incorporated.
 - 3) Military Standard 414 "Sampling Procedures and Tables for Inspection by Variables", approved May 8, 1968, Defense Automation and Production Service, Building 4/D, 700 Robbins Avenue, Philadelphia, PA 19111-5094. No later amendment or editions are incorporated.
 - 4) Military Standard 105 "Sampling Procedures and Tables for Inspection by Attributes", approved May 10, 1989, Defense Automation and Production Service, Building 4/D, 700 Robbins Avenue, Philadelphia, PA 19111-5094. No later amendment or editions are incorporated.
 - 5) If, on December 15, 2000, an entity does not already use sample testing in accordance with subsection (a)(1) or (a)(2), the entity must begin to sample test in accordance with subsection (a)(1) or (a)(2), starting with the earlier of either the entity upgrading to a new sample testing tracking program or January 2010.
 - 6) If, on December 15, 2000, an entity does use sample testing in accordance with subsection (a)(1) or (a)(2), that entity shall continue to use a sample testing program in accordance with subsection (a)(1) or (a)(2).;
- b) The entity shall divide the meter population into homogeneous groups consisting of meters of the same basic type and purpose. All meters within each homogeneous group shall be eligible for sampling each time a sample is taken. A sample shall be taken each calendar year from each homogeneous group, and testing shall be completed during the same calendar year. The size of each sample shall be determined through use of an allowed sampling procedure listed in subsection (a).
- c) The performance of a homogeneous group shall be considered acceptable when, after applying the performance criteria described in subsection (f) to each meter included in the sample, the sample indicates an acceptable quality level (AQL) at least as stringent as 2.5%. AQL shall indicate the maximum percentage of nonconforming meters to be permitted within a homogeneous group. ~~A minimum~~

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

~~acceptable quality level of 2.5% shall be adopted as part of each entity's sampling plan.~~

- d) Each entity shall perform 100% testing on all used or remanufactured meters purchased.
- e) Each entity using sample testing shall file a yearly report no later than March 31 of the following year with the Chief Clerk of the Commission and provide a copy to the Manager of the Energy Division or its successor detailing the sample plan used in the previous year, along with the results of the testing program.
- f) The performance of a meter that is tested as part of a sample shall be considered acceptable when its average percent registration, prior to any adjustment, is not less than 98% or more than 102%. The average percent registration for each meter shall be calculated as described in Section 410.150(d).
- g) All tests described in Section 410.150(a) shall be performed on all meters included in the sample, and all meters included in the sample shall be left adjusted so that the error shall not exceed the limits listed in Section 410.150(b).
- h) When an entity finds the performance of any homogeneous group to be unacceptable through sample testing, the entity shall perform corrective action on the group. Corrective actions outlined in this subsection shall be completed by the end of the second calendar year after the year in which the homogeneous group performance is initially found to be unacceptable. The corrective action shall consist of one of the following:
 - 1) Removal of a subgroup of problem meters from service so that the performance of the remaining meters in the group is found to be acceptable through subsequent sample testing; or
 - 2) Removal from service of all meters associated with the group.

(Source: Amended at 28 Ill. Reg. 10617, effective August 1, 2004)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Certification Requirements and Standards of Service for Meter Service Providers
- 2) Code Citation: 83 Ill. Adm. Code 460
- 3) Section Number: 460.410 Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 16-108(a) of the Public Utilities Act [220 ILCS 5/16-108(a)]
- 5) Effective Date of Amendment: August 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 11/14/03; 27 Ill. Reg. 17159
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version:

Section 460.410(b): Add "The size of each sample shall be determined through use of an allowed sampling procedure listed in subsection (a).".

Section 460.410 (c): Replace "achieves" with "indicates"; add "(AQL)" after "level". Add "AQL shall indicate the maximum percentage of nonconforming meters to be permitted within a homogeneous group.".

Section 460.410(h): Add "the year in which" after "year after".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were required.
- 13) Will this amendment replace an emergency amendment currently in effect? No

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The previous language within Section 460.410 inadequately described requirements associated with sample testing of electric meters. The changes ensure that meter service providers consistently conduct adequate meter tests and take appropriate action when sample tests indicate that homogeneous groups of meters should be replaced. The changes define the meter population from which the sample is to be taken as well as the sample testing schedule; include acceptable performance criterion for meters included in the sample, which must be used with the acceptable quality level to determine if a homogenous group passes or fails sample testing; specify the meter tests that must be performed on each meter that is included in a sample; and specify required actions meter service providers must take if homogeneous groups of meters fail sample testing.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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

(217)785-3922

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIES

PART 460
CERTIFICATION REQUIREMENTS AND STANDARDS OF SERVICE
FOR METER SERVICE PROVIDERS

SUBPART A: GENERAL PROVISIONS

Section

- 460.10 Definitions
- 460.15 Meter Service Components
- 460.20 Application
- 460.30 Requirements for Applicants
- 460.40 Required Filings and Procedures
- 460.50 Customer Records and Information
- 460.60 License or Permit Bond Requirements
- 460.70 Confidential Documentation
- 460.80 Penalties for Violations or Non-conformances

SUBPART B: REQUIREMENTS FOR CERTIFICATION

Section

- 460.100 Financial Qualifications
- 460.110 Technical Qualifications
- 460.120 Managerial Qualifications
- 460.130 Qualifications of Agents and Contractors

SUBPART C: PROCEDURES FOR REPORTING CONTINUING COMPLIANCE
WITH CERTIFICATION REQUIREMENTS

Section

- 460.200 General Provisions
- 460.210 Erroneous or Defective Reports
- 460.220 Certification of Compliance with Subparts D, E and F
- 460.230 Financial Reporting Requirements
- 460.240 Managerial Reporting Requirements
- 460.250 Technical Reporting Requirements

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

SUBPART D: STANDARDS OF SERVICE

Section

460.300	Exemption or Modification
460.310	Complaints
460.320	Customer Call Centers
460.330	Meter Records
460.340	Metering Service Requirements
460.350	Separate Metering
460.360	Testing Facilities and Equipment
460.370	Meter Accuracy Requirements
460.380	Installation Inspections
460.390	Initial Tests
460.400	Accuracy Testing of Meters
460.410	Sample Testing Procedures
460.420	Meter Tests Requested by Customer
460.430	Meter Tests Requested by Entity
460.440	Corrections and Adjustments for Meter Error
460.450	Meter Tampering, Theft of Service, and Illegal Taps
460.460	Meter Reading and Meter Data Management
460.470	Retention of Related Records

SUBPART E: METER WORKER QUALIFICATIONS

Section

460.500	General Qualifications for Meter Workers
460.510	Illinois Class 1 Qualification
460.520	Illinois Class 2 Qualification
460.530	Illinois Class 3 Qualification

SUBPART F: SAFETY REQUIREMENTS

Section

460.600	Reports of Accidents
460.610	Site Inspections

AUTHORITY: Implementing and authorized by Section 16-108(a) of the Public Utilities Act [220 ILCS 5/16-108(a)].

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

SOURCE: Adopted at 24 Ill. Reg. 19052, effective December 15, 2000; amended at 28 Ill. Reg. 10623, effective August 1, 2004.

SUBPART D: STANDARDS OF SERVICE

Section 460.410 Sample Testing Procedures

- a) An MSP that chooses to use sample testing shall use the procedures prescribed in any of the following documents (alone or in combination) to sample test non-demand, self-contained single-phase or three-wire network meters.
 - 1) ANSI/ASQC Z1.4-1993 "Sampling Procedures and Tables for Inspection by Attributes", approved 1993, American Society for Quality Control, 611 East Wisconsin Avenue, Milwaukee WI 53202. No later amendment or editions are incorporated.
 - 2) ANSI/ASQC Z1.9-1993 "Sampling Procedures and Tables for Inspection by Variables for Percent Nonconforming", approved 1993, American Society for Quality Control, 611 East Wisconsin Avenue, Milwaukee WI 53202. No later amendment or editions are incorporated.
- b) The MSP shall divide the meter population into homogeneous groups consisting of meters of the same basic type and purpose. All meters within each homogeneous group shall be eligible for sampling each time a sample is taken. A sample shall be taken each year from each homogeneous group, and testing shall be completed during the same calendar year. The size of each sample shall be determined through use of an allowed sampling procedure listed in subsection (a).
- c) The performance of a homogeneous group shall be considered acceptable when, after applying the performance criteria described in subsection (f) to each meter included in the sample, the sample indicates an acceptable quality level (AQL) at least as stringent as 2.5%. AQL shall indicate the maximum percentage of nonconforming meters to be permitted within a homogeneous group. ~~A minimum acceptable quality level of 2.5% shall be adopted as part of each MSP's sampling plan.~~
- d) Each MSP shall perform 100% testing on all used or remanufactured meters purchased.

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NOTICE OF ADOPTED AMENDMENT

- e) Each MSP using sample testing shall file a yearly report no later than March 31 of the following year with the Chief Clerk of the Commission and provide a copy to the Manager of the Energy Division or its successor detailing the sample plan used in the previous year, along with the results of the testing program
- f) The performance of a meter that is tested as part of a sample shall be considered acceptable when its average percent registration, prior to any adjustment, is not less than 98% or more than 102%. The average percent registration for each meter shall be calculated as described in Section 460.370(d).
- g) All tests described in Section 460.370(a) shall be performed on all meters included in the sample, and all meters included in the sample shall be left adjusted so that the error shall not exceed the limits listed in Section 460.370(b).
- h) When an MSP finds the performance of any homogeneous group to be unacceptable through sample testing, the MSP shall perform corrective action on the group. Corrective actions outlined in this subsection shall be completed by the end of the second calendar year after the year in which the homogeneous group performance is initially found to be unacceptable. The corrective action shall consist of one of the following:
- 1) Removal of a subgroup of problem meters from service so that the performance of the remaining meters in the group is found to be acceptable through subsequent sample testing; or
 - 2) Removal from service of all meters associated with the group.

(Source: Amended at 28 Ill. Reg. 10623, effective August 1, 2004)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Renal Diseases Program for Care and Treatment Code
- 2) Code Citation: 77 Ill. Adm. Code 700
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
700.10	Repeal
700.20	Repeal
700.30	Repeal
700.APPENDIX A	Repeal
700.APPENDIX B	Repeal
- 4) Statutory Authority: Implementing and authorized by Sections 1 and 3 of the Renal Disease Treatment Act [410 ILCS 430]
- 5) Effective date of Repealer: July 19, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of proposal published in the Illinois Register: March 28, 2004; 28 Ill. Reg. 4419
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: No changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no agreements.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: This rulemaking was incorrectly recodified to the Department of Human Services in 1997. The Department of Public Aid administers this program.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED REPEALER

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

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

(217) 785-9772

- 17) Does this repealer require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Illinois Snowmobile Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3010
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
3010.50	Amendment
3010.80	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 8-1 and 9-1 of the Snowmobile Registration and Safety Act [625 ILCS 40/8-1 and 9-1
- 5) Effective date of amendments: July 13, 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 amendments, including all material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: March 26, 2004; 28 Ill. Reg. 5135
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: Section 3010.50(b) was changed to read as follows:
 - "b) Grant assistance may be obtained for annual trail maintenance/patrol costs, as authorized by the Department, which include any of the following items:
 - 1) fuel and necessary oils/fluids;
 - 2) vehicle insurance;
 - 3) equipment repairs; or
 - 4) routine maintenance parts directly associated with the operation and transportation of snowmobile grant-assisted grooming/patrol equipment used while maintaining designated trails open to the public."

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of Rulemaking: Amendments were made to allow grant assistance for annual trail maintenance/patrol costs to cover authorized expenses and to update the Department's address.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTSPART 3010
ILLINOIS SNOWMOBILE GRANT PROGRAM

Section

3010.10	Program Objectives
3010.20	Eligibility Requirements
3010.30	Assistance Formula
3010.40	General Procedures for Grant Applications and Awards
3010.50	Eligible Project Costs
3010.60	Project Evaluation Priorities
3010.70	Program Compliance Requirements
3010.80	Program Information Contact

AUTHORITY: Implementing and authorized by Sections 8-1 and 9-1 of the Snowmobile Registration and Safety Act [625 ILCS 40/8-1 and 9-1].

SOURCE: Adopted and codified at 5 Ill. Reg. 13440, effective November 20, 1981; amended at 7 Ill. Reg. 14953, effective November 1, 1983; amended at 16 Ill. Reg. 1806, effective January 17, 1992; amended at 18 Ill. Reg. 10066, effective June 21, 1994; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 28 Ill. Reg. 10631, effective July 13, 2004.

Section 3010.50 Eligible Project Costs

- a) Grant assistance may be obtained for, but not limited to, the following items:
- 1) land acquisition (fee simple, lease, easement) for snowmobile trails and areas;
 - 2) snowmobile trail development;
 - 3) trail grooming equipment;
 - 4) parking areas, access roads, warming shelters, signs, safety lighting and other snowmobiling support facilities;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 5) snowmobiles and communication equipment (for local agency patrol use);
 - 6) first-aid facilities; and
 - 7) concession facilities.
- b) Grant assistance may be obtained for annual trail maintenance/patrol costs, as authorized by the Department, which include any of the following items:
- 1) fuel and necessary oils/fluids;
 - 2) vehicle insurance;
 - 3) equipment repairs; or
 - 4) routine maintenance parts directly associated with the operation and transportation of snowmobile grant-assisted grooming/patrol equipment used while maintaining designated trails open to the public.
- cb) No grant awards shall be awarded for the acquisition or development of land which is not available for public snowmobiling use.

(Source: Amended at 28 Ill. Reg. 10631, effective July 13, 2004)

Section 3010.80 Program Information Contact

Write: Illinois Department of Natural Resources
Division of Grant Administration
~~Lincoln Tower Plaza~~
~~One Natural Resources Way 524 South Second St.~~
Springfield ~~IL 62702-1271, Illinois 62701-1787~~

Telephone: 217/782-7481

(Source: Amended at 28 Ill. Reg. 10631, effective July 13, 2004)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Snowmobile Trail Establishment Fund Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3020
- 3) Section Number: 3020.80 Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 9-1 and 9-2 of the Snowmobile Registration and Safety Act [625 ILCS 40/9-1 and 9-2]
- 5) Effective date of amendment: July 13, 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 all material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: March 26, 2004; 28 Ill. Reg. 5139
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: This Part was amended to change the Department's address.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Jack Price, Legal Counsel
Department of Natural Resources

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTSPART 3020
SNOWMOBILE TRAIL ESTABLISHMENT FUND GRANT PROGRAM

Section

3020.10	Program Objective
3020.20	Program Eligibility Requirements
3020.30	Funding Assistance Formula
3020.40	General Procedures for Grant Applications and Awards
3020.50	Eligible Project Expenditures
3020.60	Project Evaluation Criteria/Priorities
3020.70	Program Compliance Requirements
3020.80	Program Information

AUTHORITY: Implementing and authorized by Sections 9-1 and 9-2 of the Snowmobile Registration and Safety Act [625 ILCS 40/9-1 and 9-2].

SOURCE: Adopted and codified at 7 Ill. Reg. 198, effective December 22, 1982; amended at 7 Ill. Reg. 14964, effective November 1, 1983; amended at 11 Ill. Reg. 12869, effective July 28, 1987; amended at 16 Ill. Reg. 1833, effective January 17, 1992; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 9085, effective June 26, 1997; amended at 28 Ill. Reg. 10635, effective July 13, 2004.

Section 3020.80 Program Information

Write: Illinois Department of Natural Resources
Division of Grant Administration
~~Lincoln Tower Plaza~~
~~One Natural Resources Way 524 South Second Street~~
Springfield ~~IL 62702-1271, Illinois 62701-1787~~

Telephone: 217/782-7481

(Source: Amended at 28 Ill. Reg. 10635, effective July 13, 2004)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Open Space Lands Acquisition and Development Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3025
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
3025.40	Amendment
3025.60	Amendment
3025-80	Amendment
- 4) Statutory Authority: Implementing and authorized by the Open Space Lands Acquisition and Development Act [525 ILCS 35]
- 5) Effective date of amendments: July 13, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including all material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: March 26, 2004; 28 Ill. Reg. 5142
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: This Part was amended to update the Department's address.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price, Legal Counsel

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTSPART 3025
OPEN SPACE LANDS ACQUISITION
AND DEVELOPMENT GRANT PROGRAM

Section

3025.10	Program Objective
3025.20	Incorporation by Reference (Repealed)
3025.25	Eligibility Requirements
3025.30	Assistance Formula
3025.40	General Procedures for Grant Applications and Awards
3025.50	Eligible Project Costs
3025.60	Project Evaluation Priorities
3025.70	Program Compliance Requirements
3025.80	Program Information/Contact
3025.APPENDIX A	Project Evaluation Criteria

AUTHORITY: Implementing and authorized by the Open Space Lands Acquisition and Development Act [525 ILCS 35].

SOURCE: Emergency amendments adopted at 9 Ill. Reg. 13113, effective August 7, 1985, for a maximum of 150 days; adopted at 9 Ill. Reg. 18486, effective November 20, 1985; amended at 10 Ill. Reg. 13253, effective July 30, 1986; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 22 Ill. Reg. 14817, effective August 3, 1998; amended at 23 Ill. Reg. 8398, effective July 7, 1999; amended at 25 Ill. Reg. 3671, effective February 26, 2001; amended at 28 Ill. Reg. 10638, effective July 13, 2004.

Section 3025.40 General Procedures for Grant Applications and Awards

- a) Grant applications for assistance under this program must be submitted in accordance with a schedule publicly announced annually by the Department. Failure to submit a completed application to the Department by the specified application deadline date will result in project rejection for that particular year.
- b) Necessary application material and instructions are available through the Department. Awarding of grants will be on a competitive basis (Section 3025.60)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

and will be made under authority of the Director of the Department of Natural Resources.

- c) Project grant applications consist of the following basic components, at a minimum:
- 1) applicant's name, address and telephone number;
 - 2) information on the supply of existing public park acreage and recreation facilities located within the project sponsor's (applicant) jurisdiction;
 - 3) an itemized proposed project cost estimate;
 - 4) project narrative statement describing the project concept, location, need for and objectives of the project, anticipated benefits, proposed usages and method of financing or accomplishing the project;
 - 5) project location map, site plat map and proposed development plan;
 - 6) project environmental evaluation;
 - 7) proof of land ownership or usage rights for proposed development (construction) projects or commitment of title insurance for project property planned for acquisition; and
 - 8) a signed document by the applicant verifying the applicant has the resources to initially finance and subsequently manage the project area and will comply with program regulations and indemnify the Department from any liability relative to the project.
- d) A program information packet may be obtained from the Division of Grant Administration, Illinois Department of Natural Resources, [One Natural Resources Way](#)~~524 S. Second Street~~, Springfield IL ~~62702-1271~~~~62701-1787~~, telephone 217/782-7481.

(Source: Amended at 28 Ill. Reg. 10638, effective July 13, 2004)

Section 3025.60 Project Evaluation Priorities

The following factors are used by the Department in evaluating and recommending local project

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applications for funding assistance consideration (see Appendix A):

a) Statewide Outdoor Recreation Priorities – 60%

1) Department Statewide Priorities – 35%

Projects are evaluated in terms of their ability to address major outdoor recreation and conservation issues identified by the Department in its "Statewide Outdoor Recreation Plan". These include, but are not limited to, natural area and wetland preservation, protection of endangered/threatened species and critical habitat resources, conservation education, creation of greenways and long distance trail corridors, water-based recreation, recreation for disadvantaged populations and adaptive re-use/redevelopment of urban lands, including brownfields. These priorities are listed in the Department's OSLAD Local Participation Grant Manual (4/1/98 ed.; Illinois Department of Natural Resources Division of Grant Administration, [One Natural Resources Way 524 South Second Street](#), Springfield IL [62702-1271](#) ~~62701-1787~~).

2) Statewide Local Needs Assessment – 25%

Determination of local need is based on a comparison of:

A) existing local supply of recreation facilities per capita to the statewide median for those facilities as identified in the Department's "Statewide Outdoor Recreation Plan"; and

B) existing supply and distribution of open space and park land acreage, measured in acres/capita, to the statewide median and/or to locally adopted standards. Recreation needs based on project service area are also given consideration.

b) Project concept and site characteristics – 25%

The project proposal is evaluated in terms of the site's physical and aesthetic qualities, including accessibility; soil, topographic and hydrologic characteristics; site vegetation; compatibility with adjacent land uses; environmental intrusion on the site; impacts to cultural and natural resources; and the overall recreational diversity provided by the project.

c) Local Planning – 10%

The major consideration under this criteria is public support and input into the

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project plan and existence of a comprehensive local recreation and/or open space plan identifying the proposed project as a priority. Consideration is also given for unique recreation opportunities not specifically identified in a local plan but having documented widespread public support.

- d) Other Considerations – 5%
Relevant factors considered in evaluating the overall merits of a project and need for funding include projects located in inner-urban areas; proposing initial site development; involving private donations; representing economic revitalization efforts; or from applicants not previously benefitting from OSLAD assistance.
- e) Penalty Factors – (deduct up to 15%)
Consideration is given to the applicant's past performance in completing OSLAD or other Department grant projects or unresolved project violations, ability to properly maintain the project site, and failure to cooperate with the Department in completing the "Illinois Recreation Facilities Inventory" (IRFI).
- f) Project Application Review and Grant Award:
Department grant staff, in consultation with executive and appropriate resource staff, reviews all applications in accordance with the established evaluation criteria. Preliminary recommendations are then submitted to the Department's "Natural Resource Advisory Board" for consideration at a public hearing conducted by the Board after which final recommendations are forwarded to the Director for OSLAD grant approval.

(Source: Amended at 28 Ill. Reg. 10638, effective July 13, 2004)

Section 3025.80 Program Information/Contact

For information on the OSLAD Grant Program, contact:

Illinois Department of Natural Resources
Division of Grant Administration
~~One Natural Resources Way~~ 524 South Second Street
Springfield IL ~~62702-1271~~ 62701-1787
Telephone: 217/782-7481
FAX: 217/782-9599

(Source: Amended at 28 Ill. Reg. 10638, effective July 13, 2004)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Boat Access Area Development Program
- 2) Code Citation: 17 Ill. Adm. Code 3035
- 3) Section Number: 3035.80 Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 63a25 of the Civil Administrative Code [20 ILCS 805/63a25] and Section 10-1 the Boat Registration and Safety Act [625 ILCS 45/10-1].
- 5) Effective date of amendment: July 13, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including all material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: March 26, 2004; 28 Ill. Reg. 5149
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: This Part was amended to update the Department's address.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Jack Price, Legal Counsel
Department of Natural Resources

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NOTICE OF ADOPTED AMENDMENT

One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTSPART 3035
BOAT ACCESS AREA DEVELOPMENT PROGRAM

Section	
3035.10	Program Objectives
3035.20	Eligibility Requirements
3035.30	Assistance Formula
3035.40	General Procedures for Grant Awards
3035.50	Applicable Facilities
3035.60	Selection Criteria
3035.70	Program Compliance Requirements
3035.80	Program Information Contact

AUTHORITY: Implementing and authorized by Section 63a25 of the Civil Administrative Code [20 ILCS 805/63a25] and Section 10-1 the Boat Registration and Safety Act [625 ILCS 45/10-1].

SOURCE: Adopted and codified at 7 Ill. Reg. 5858, effective April 27, 1983; amended at 9 Ill. Reg. 2910, effective February 26, 1985; amended at 11 Ill. Reg. 15896, effective September 21, 1987; amended at 15 Ill. Reg. 4117, effective March 4, 1991; amended at 16 Ill. Reg. 1797, effective January 17, 1992; amended at 19 Ill. Reg. 15400, effective October 26, 1995; amended at 28 Ill. Reg. 10644, effective July 13, 2004.

Section 3035.80 Program Information Contact

Write: Illinois Department of Natural Resources
Division of Grant Administration
~~One Natural Resources Way~~
~~524 South Second St.~~
~~Lincoln Tower Plaza~~
Springfield ~~IL 62702-1271, Ill. 62701-1787~~

Telephone: 217-782-7481

(Source: Amended at 28 Ill. Reg. 10644, effective July 13, 2004)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Illinois Bicycle Path Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3040
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
3040.40	Amendment
3040.80	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 63a36 of the Civil Administrative Code of Illinois [20 ILCS 805/63a36] and Section 2-119 of the Illinois Vehicle Code [625 ILCS 5/2-119]
- 5) Effective date of amendments: July 13, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: March 26, 2004; 28 Ill. Reg. 5152
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: Section 3040.40(c) was amended to read as follows:

"c) A program information packet may be obtained from the Division of Grant Administration, Illinois Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271, telephone 217/782-7481."
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and purpose of rulemaking: This Part was amended to update the Department's address.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTSPART 3040
ILLINOIS BICYCLE PATH GRANT PROGRAM

Section

3040.10	Program Objectives
3040.20	Eligibility Requirements
3040.30	Assistance Formula
3040.40	General Procedures for Grant Applications and Awards
3040.50	Eligible Project Costs
3040.60	Project Evaluation Priorities
3040.70	Program Compliance Requirements
3040.80	Program Information/Contact
3040.APPENDIX A	Project Evaluation Criteria
3040.APPENDIX B	Application Form (Repealed)
3040.APPENDIX C	Acquisition Data (Repealed)
3040.APPENDIX D	Development Data (Repealed)
3040.APPENDIX E	Narrative Statement and Environmental Evaluation (Repealed)
3040.APPENDIX F	Certification Statement (Repealed)
3040.APPENDIX G	Application for Federal/State Assistance (Repealed)

AUTHORITY: Implementing and authorized by Section 63a36 of the Civil Administrative Code of Illinois [20 ILCS 805/63a36] and Section 2-119 of the Illinois Vehicle Code [625 ILCS 5/2-119].

SOURCE: Adopted at 14 Ill. Reg. 6106, effective April 17, 1990; amended at 15 Ill. Reg. 4132, effective March 4, 1991; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 22 Ill. Reg. 4902, effective March 2, 1998; amended at 28 Ill. Reg. 10647, effective July 13, 2004.

Section 3040.40 General Procedures for Grant Applications and Awards

- a) Grant applications for funding assistance under this program must be submitted in accordance with schedules to be publicly announced annually by the Department of Natural Resources. Necessary application forms and instructions are available through the Department. Awarding of grants will be on a competitive basis and will be made under the authority of the Director of the Department of Natural

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NOTICE OF ADOPTED AMENDMENTS

Resources.

- b) Project grant applications shall consist of the following basic components, at a minimum:
- 1) local project sponsor's name, address and telephone number;
 - 2) existing supply of public bicycle trails currently existing within jurisdiction of the project sponsor;
 - 3) an itemized proposed project cost estimate;
 - 4) project narrative statement describing the project concept, location, need for and objectives of the project, anticipated benefits, proposed trail usages and method of financing or accomplishing the project;
 - 5) project location map, site plat map and proposed development plan;
 - 6) project environmental evaluation;
 - 7) proof of land ownership or usage rights for development project or commitment of title insurance for property planned for acquisition; and
 - 8) a signed document by the project sponsor verifying the applicant has the resources to initially finance and properly manage the project area and will comply with program regulations and indemnify the Department from any liability relative to the project.
- c) A program information packet may be obtained from the Division of Grant Administration, Illinois Department of Natural Resources, [One Natural Resources Way](#) ~~524 S. Second Street~~, Springfield, IL [62702-1271](#), ~~telephone 62701-1787~~. ~~Telephone 217/782-7481.~~

(Source: Amended at 28 Ill. Reg. 10647, effective July 13, 2004)

Section 3040.80 Program Information/Contact

For information on the Illinois Bicycle Path Grant Program, contact:

Illinois Department of Natural Resources

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Division of Grant Administration

~~Lincoln Tower Plaza~~

~~One Natural Resources Way~~~~524 South Second Street~~

Springfield, IL ~~62702-1271~~~~62701-1787~~

Telephone: 217/782-7481

FAX: 217/782-9599

(Source: Amended at 28 Ill. Reg. 10647, effective July 13, 2004)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Off-Highway Vehicle Recreational Trails Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3045
- 3) Section Number: 3045.90 Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 15 of the Recreational Trails of Illinois Act [20 ILCS 862/15]
- 5) Effective date of amendment: July 13, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including all material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: March 26, 2004; 28 Ill. Reg. 5157
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: This Part was amended to update the Department's address.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Springfield IL 62702-1271
217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTSPART 3045
OFF-HIGHWAY VEHICLE RECREATIONAL TRAILS GRANT PROGRAM

Section

3045.10	Program Objective
3045.20	Program Eligibility Requirements
3045.30	Funding Assistance Formula
3045.40	General Procedures for Grant Applications and Awards
3045.50	Eligible Project Expenditures
3045.60	Project Evaluation Criteria/Priorities
3045.70	Review by Advisory Board
3045.80	Program Compliance Requirements
3045.90	Program Information
3045.100	Issuing Public Access Stickers

AUTHORITY: Implementing and authorized by Section 15 of the Recreational Trails of Illinois Act [20 ILCS 862/15].

SOURCE: Adopted at 23 Ill. Reg. 314, effective December 21, 1998; amended at 26 Ill. Reg. 3470, effective February 25, 2002; amended at 28 Ill. Reg. 10652, effective July 13, 2004.

Section 3045.90 Program Information

Write to: Illinois Department of Natural Resources
Division of Grant Administration
[One Natural Resources Way 524 South Second Street](#)
Springfield [IL 62702-1271](#), ~~Illinois 62701-1787~~

Telephone: 217/782-7481
FAX: 217/782-9599
[e-mail: grantsgrant@dnrmail.state.il.us](mailto:grantsgrant@dnrmail.state.il.us)

(Source: Amended at 28 Ill. Reg. 10652, effective July 13, 2004)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Open Land Trust Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3050
- 3) Section Numbers: Adopted Action:
3050.50 Amendment
3050.70 Amendment
3050.90 Amendment
- 4) Statutory Authority: Implementing and authorized by the Open Land Trust Act [525 ILCS 33]
- 5) Effective date of amendments: July 13, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including all material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: March 26, 2004; 28 Ill. Reg. 5160
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: This Part was amended to update the Department's address.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price, Legal Counsel

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTSPART 3050
OPEN LAND TRUST GRANT PROGRAM

Section

3050.10	Program Objectives
3050.20	Definitions
3050.30	Eligibility Requirements
3050.40	Assistance Formula for Grants
3050.50	General Procedures for Grant Applications and Awards
3050.60	Eligible Project Costs
3050.70	Project Evaluation Priorities
3050.80	Program Compliance Requirements
3050.90	Program Information/Contact

AUTHORITY: Implementing and authorized by the Open Land Trust Act [525 ILCS 33].

SOURCE: Adopted at 24 Ill. Reg. 3600, effective February 17, 2000; amended at 26 Ill. Reg. 3479, effective February 25, 2002; amended at 28 Ill. Reg. 10655, effective July 13, 2004.

Section 3050.50 General Procedures for Grant Applications and Awards

- a) Grant applications for assistance under this program must be submitted in accordance with a schedule publicly announced annually by the Department. Failure to submit a completed application to the Department by the specified application deadline date will result in project rejection for that particular year. Projects that are the subject of a specific appropriation shall not be subject to the schedule announced pursuant to this Section; however, all other eligibility and application requirements must be fulfilled.
- b) Necessary application material and instructions are available through the Department. Awarding of grants will be on a competitive basis (see Section 3050.70) and will be made under authority of the Director of the Department of Natural Resources.
- c) Project grant applications will consist of the following components:

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- 1) applicant's name, address and telephone number;
 - 2) information on the supply of existing public park and open space acreage located within the project sponsor's (applicant) jurisdiction;
 - 3) an itemized proposed project cost estimate;
 - 4) project narrative statement describing the project concept, location, need for and objectives of the project, anticipated benefits, proposed usages and method of financing or accomplishing the project;
 - 5) project location map, site plat map and proposed site development and/or restoration plans;
 - 6) project environmental evaluation;
 - 7) a document signed by the applicant verifying the applicant has the resources to initially finance and subsequently manage the project area and will comply with program regulations; and
 - 8) a commitment for title insurance in the name of the project sponsor for the property planned for acquisition or other Department approved means of title search.
- d) A program information packet may be obtained from the Division of Grant Administration, Illinois Department of Natural Resources, [One Natural Resources Way 524 S. Second Street](#), Springfield IL [62702-1271](#) ~~62701-1787~~, telephone 217/782-7481.

(Source: Amended at 28 Ill. Reg. 10655, effective July 13, 2004)

Section 3050.70 Project Evaluation Priorities

- a) The following factors shall be used by the Department in evaluating and recommending local project applications for funding assistance consideration:
 - 1) Statewide Natural Resource and Natural Resource Related Outdoor Recreation Priorities – 60%
 - A) Department Statewide Priorities – 67%

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NOTICE OF ADOPTED AMENDMENTS

Projects are evaluated in terms of their ability to address major outdoor natural resource related recreation and conservation purposes and issues identified by the Department in statewide or regional plans. These include, but are not limited to, the protection and stewardship of lakes, rivers, streams, open space, parks, natural lands, wetlands, prairies, forests, watersheds, resource-rich areas, greenways, significant fish and wildlife resources, and endangered or threatened species habitats; and the extent to which the project contributes to the ecological viability of a park, conservation area, forest preserve, nature preserve, land and water reserve, greenway and long distance trail corridors. These priorities are listed in the Department's OLT Local Participation Grant Manual, available from the Illinois Department of Natural Resources Division of Grant Administration, [One Natural Resources Way 524 South Second Street](#), Springfield IL [62702-1271 62701-1787](#).

- B) Statewide Local Needs Assessment – 33%
Determination of local need is based on a comparison of existing supply and distribution of open space and park land acreage, measured in acres/capita, to the statewide median and/or to locally adopted standards. Natural resource related recreation needs based on project service area are also given consideration.
- 2) Project Concept and Site Characteristics – 25%
The project proposal is evaluated in terms of the site's ecological resources and aesthetic qualities, including accessibility; soil, topographic and hydrologic characteristics; site vegetation; wildlife benefits; compatibility with adjacent land uses; environmental intrusion on the site; and demonstrated commitment to natural resource restoration and management of the site, sites threatened with development, impacts to cultural and natural resources, and the natural resources related recreation provided by the project.
- 3) Local Planning – 10%
The major consideration under this ~~critierion~~^{criteria} is public support and input into the project plan and existence of a comprehensive local open space plan identifying the proposed project as a priority. Consideration is also given for natural resource related recreation opportunities not

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

specifically identified in a local plan but having documented widespread public support.

- 4) Other Considerations – 5%
Relevant factors considered in evaluating the overall merits of a project and need for funding include projects located in inner-urban areas; involving private donations and match that leverages local funds; or from applicants not previously benefitting from OLT assistance.
 - 5) Penalty Factors – (deduct up to 15%)
Consideration is given to the applicant's past performance in completing OLT or other Department grant projects, restoration or development plans or unresolved project violations; ability to properly maintain the project site; and failure to participate with the Department in completing the "Illinois Recreation Facilities Inventory" (IRFI).
- b) Project Application Review and Grant Award
Department grant staff, in consultation with executive and appropriate resource staff, reviews all applications in accordance with the established evaluation criteria. Preliminary recommendations are then submitted to the Department's Natural Resource Advisory Board for consideration at a public hearing conducted by the Board, after which final recommendations are forwarded to the Director for OLT grant approval.

(Source: Amended at 28 Ill. Reg. 10655, effective July 13, 2004)

Section 3050.90 Program Information/Contact

For information on the OLT Grant Program, contact:

Illinois Department of Natural Resources
Division of Grant Administration
[One Natural Resources Way](#)~~524 South Second Street~~
Springfield IL ~~62702-1271~~[62701-1787](#)
Telephone: 217/782-7481
FAX: 217/782-9599

(Source: Amended at 28 Ill. Reg. 10655, effective July 13, 2004)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Sewer Discharge Criteria
- 2) Code citation: 35 Ill. Adm. Code 307
- 3)

<u>Section numbers:</u>	<u>Adopted action:</u>
307.4701	Amend
307.4702	Amend
307.4703	Amend
307.4704	Amend
- 4) Statutory authority: 415 ILCS 5/7.2, 13, 13.3 and 27
- 5) Effective date of amendments: July 13, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? Yes. The current amendments to Part 307 update existing incorporations by reference. The amendments update the versions of 40 C.F.R. 437.15, 437.16, 437.25, 437.26, 437.35, 437.36, 437.46, and 437.47 incorporated by reference in Sections 307.4701 through 307.4704 to include the December 22, 2003 federal amendments.
- 8) Statement of availability: The adopted amendments, a copy of the Board's opinion and order adopted July 8, 2004, and all materials incorporated by reference, are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of proposal published in Illinois Register: 28 Ill. Reg. 6532; April 30, 2004
- 10) Has JCAR issued a Statement of Objection to these amendments? No. Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] 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).
- 11) Differences between proposal and final version: None. The amendments as adopted on July 8, 2004 are identical to those proposed on April 15, 2004 in docket R04-18.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 13.3 of the Environmental Protection Act [415

POLLUTION CONTROL BOARD

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ILCS 5/13.3] 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 JCAR.

Since the Notices of Proposed Amendments appeared in the April 30, 2004 issue of the *Illinois Register*, the Board received no suggestions for revisions from JCAR.

- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and purpose of amendments: The following briefly describes the subjects and issues involved in the larger rulemaking of which the amendments to Part 307 are a single segment. Also affected is 35 Ill. Adm. Code 310, 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 July 8, 2004, adopting amendments in docket R04-18, which opinion and order is available from the address below.

The R04-18 proceeding updates Parts 307 and 310 of the Illinois wastewater pretreatment rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) which appeared in the *Federal Register* during the period July 1, 2003 through December 31, 2003. During this period, USEPA amended its regulations as follows:

<u>Federal Action</u>	<u>Summary</u>
July 21, 2003 (68 Fed. Reg. 43272)	New methods for microbiological analysis of water and wastewater.
September 19, 2003 (68 Fed. Reg. 54934)	Corrections to the July 21, 2003 approval of new methods.
December 22, 2003 (68 Fed. Reg. 71014)	Amended discharge limitations and pretreatment standards for the centralized waste treatment point source discharge category.

Specifically, the segment of the amendments involved in Part 307 implements the federal December 22, 2003 amendments to the pretreatment standards for the centralized waste treatment point source discharge category.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

A table appears in the Board's opinion and order of July 8, 2004 in docket R04-18 that list two corrections and clarifications that the Board made in the base text involved that are not based on current federal amendments. Persons interested in the details of those corrections and amendments should refer to the opinion and order.

Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] 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).

- 16) Information and questions regarding these adopted amendments shall be directed to:
Please reference consolidated Docket R04-18 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph, Ste. 11-500
Chicago IL 60601

312/814-6924

Request copies of the Board's opinion and order of July 8, 2004 at 312-814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 307
SEWER DISCHARGE CRITERIA

SUBPART A: GENERAL PROVISIONS

Section	
307.101	Preamble (Renumbered)
307.102	General Requirements (Renumbered)
307.103	Mercury (Renumbered)
307.104	Cyanide (STORET number 00720) (Renumbered)
307.105	Pretreatment Requirements (Repealed)
307.1001	Preamble
307.1002	Definitions
307.1003	Test Procedures for Measurement
307.1005	Toxic Pollutants

SUBPART B: GENERAL AND SPECIFIC PRETREATMENT REQUIREMENTS

Section	
307.1101	General and Specific Requirements
307.1102	Mercury
307.1103	Cyanide

SUBPART F: DAIRY PRODUCTS PROCESSING

Section	
307.1501	Receiving Stations
307.1502	Fluid Products
307.1503	Cultured Products
307.1504	Butter
307.1505	Cottage Cheese and Cultured Cream Cheese
307.1506	Natural and Processed Cheese
307.1507	Fluid Mix for Ice Cream and other Frozen Desserts
307.1508	Ice Cream, Frozen Desserts, Novelties, and Other Dairy Desserts
307.1509	Condensed Milk
307.1510	Dry Milk

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- 307.1511 Condensed Whey
- 307.1512 Dry Whey

SUBPART G: GRAIN MILLS

Section

- 307.1601 Corn Wet Milling
- 307.1602 Corn Dry Milling
- 307.1603 Normal Wheat Flour Milling
- 307.1604 Bulgur Wheat Flour Milling
- 307.1605 Normal Rice Milling
- 307.1606 Parboiled Rice Milling
- 307.1607 Animal Feed
- 307.1608 Hot Cereal
- 307.1609 Ready-to-Eat Cereal
- 307.1610 Wheat Starch and Gluten

SUBPART H: CANNED AND PRESERVED FRUITS AND VEGETABLES

Section

- 307.1700 General Provisions
- 307.1701 Apple Juice
- 307.1702 Apple Products
- 307.1703 Citrus Products
- 307.1704 Frozen Potato Products
- 307.1705 Dehydrated Potato Products
- 307.1706 Canned and Preserved Fruits
- 307.1707 Canned and Preserved Vegetables
- 307.1708 Canned and Miscellaneous Specialties

SUBPART I: CANNED AND PRESERVED SEAFOOD

Section

- 307.1801 Farm-Raised Catfish
- 307.1815 Fish Meal Processing Subcategory

SUBPART J: SUGAR PROCESSING

Section

- 307.1901 Beet Sugar Processing

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- 307.1902 Crystalline Cane Sugar Refining
307.1903 Liquid Cane Sugar Refining

SUBPART K: TEXTILE MILLS

- Section
307.2000 General Provisions
307.2001 Wool Scouring
307.2002 Wool Finishing
307.2003 Low Water Use Processing
307.2004 Woven Fabric Finishing
307.2005 Knit Fabric Finishing
307.2006 Carpet Finishing
307.2007 Stock and Yarn Finishing
307.2008 Nonwoven Manufacturing
307.2009 Felted Fabric Processing

SUBPART L: CEMENT MANUFACTURING

- Section
307.2101 Nonleaching
307.2102 Leaching
307.2103 Materials Storage Piles Runoff

SUBPART M: CONCENTRATED ANIMAL FEEDING OPERATIONS

- Section
307.2201 General
307.2202 Ducks

SUBPART N: ELECTROPLATING

- Section
307.2300 General Provisions
307.2301 Electroplating of Common Metals
307.2302 Electroplating of Precious Metals
307.2304 Anodizing
307.2305 Coatings
307.2306 Chemical Etching and Milling
307.2307 Electroless Plating

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307.2308 Printed Circuit Boards

SUBPART O: ORGANIC CHEMICALS, PLASTICS, AND SYNTHETIC FIBERS

Section

307.2400 General Provisions
307.2401 Rayon Fibers
307.2402 Other Fibers
307.2403 Thermoplastic Resins
307.2404 Thermosetting Resins
307.2405 Commodity Organic Chemicals
307.2406 Bulk Organic Chemicals
307.2407 Specialty Organic Chemicals
307.2410 Indirect Discharge Point Sources
307.2490 Non-Complexed Metal-Bearing and Cyanide-Bearing Waste Streams
307.2491 Complexed Metal-Bearing Waste Streams

SUBPART P: INORGANIC CHEMICALS MANUFACTURING

Section

307.2500 General Provisions
307.2501 Aluminum Chloride Production
307.2502 Aluminum Sulfate Production
307.2503 Calcium Carbide Production
307.2504 Calcium Chloride Production
307.2505 Calcium Oxide Production
307.2506 Chlor-Alkali Process (Chlorine and Sodium or Potassium Hydroxide Production)
307.2508 Hydrofluoric Acid Production
307.2509 Hydrogen Peroxide Production
307.2511 Potassium Metal Production
307.2512 Potassium Dichromate Production
307.2513 Potassium Sulfate Production
307.2514 Sodium Bicarbonate Production
307.2516 Sodium Chloride Production
307.2517 Sodium Dichromate and Sodium Sulfate Production
307.2520 Sodium Sulfite Production
307.2522 Titanium Dioxide Production
307.2523 Aluminum Fluoride Production
307.2524 Ammonium Chloride Production
307.2527 Borax Production

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307.2528	Boric Acid Production
307.2529	Bromine Production
307.2530	Calcium Carbonate Production
307.2531	Calcium Hydroxide Production
307.2533	Carbon Monoxide and Byproduct Hydrogen Production
307.2534	Chrome Pigments Production
307.2535	Chromic Acid Production
307.2536	Copper Salts Production
307.2538	Ferric Chloride Production
307.2540	Fluorine Production
307.2541	Hydrogen Production
307.2542	Hydrogen Cyanide Production
307.2543	Iodine Production
307.2544	Lead Monoxide Production
307.2545	Lithium Carbonate Production
307.2547	Nickel Salts Production
307.2549	Oxygen and Nitrogen Production
307.2550	Potassium Chloride Production
307.2551	Potassium Iodide Production
307.2553	Silver Nitrate Production
307.2554	Sodium Bisulfite Production
307.2555	Sodium Fluoride Production
307.2560	Stannic Oxide Production
307.2563	Zinc Sulfate Production
307.2564	Cadmium Pigments and Salts Production
307.2565	Cobalt Salts Production
307.2566	Sodium Chlorate Production
307.2567	Zinc Chloride Production

SUBPART R: SOAP AND DETERGENTS

Section	
307.2701	Soap Manufacturing by Batch Kettle
307.2702	Fatty Acid Manufacturing by Fat Splitting
307.2703	Soap Manufacturing by Fatty Acid Neutralization
307.2704	Glycerine Concentration
307.2705	Glycerine Distillation
307.2706	Manufacture of Soap Flakes and Powders
307.2707	Manufacture of Bar Soaps
307.2708	Manufacture of Liquid Soaps

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307.2709	Oleum Sulfonation and Sulfation
307.2710	Air-Sulfur Trioxide Sulfation and Sulfonation
307.2711	Sulfur Trioxide Solvent and Vacuum Sulfonation
307.2712	Sulfamic Acid Sulfation
307.2713	Chlorosulfonic Acid Sulfation
307.2714	Neutralization of Sulfuric Acid Esters and Sulfonic Acids
307.2715	Manufacture of Spray Dried Detergents
307.2716	Manufacture of Liquid Detergents
307.2717	Manufacturing of Detergents by Dry Blending
307.2718	Manufacture of Drum Dried Detergents
307.2719	Manufacture of Detergent Bars and Cakes

SUBPART S: FERTILIZER MANUFACTURING

Section	
307.2801	Phosphate
307.2802	Ammonia
307.2803	Urea
307.2804	Ammonium Nitrate
307.2805	Nitric Acid
307.2806	Ammonium Sulfate Production
307.2807	Mixed and Blend Fertilizer Production

SUBPART T: PETROLEUM REFINING

Section	
307.2901	Topping
307.2902	Cracking
307.2903	Petrochemical
307.2904	Lube
307.2905	Integrated

SUBPART U: IRON AND STEEL MANUFACTURING

Section	
307.3000	General Provisions
307.3001	Cokemaking
307.3002	Sintering
307.3003	Ironmaking
307.3004	Steelmaking

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307.3005	Vacuum Degassing
307.3006	Continuous Casting
307.3007	Hot Forming
307.3008	Salt Bath Descaling
307.3009	Acid Pickling
307.3010	Cold Forming
307.3011	Alkaline Cleaning
307.3012	Hot Coating
307.3013	Other Operations

SUBPART V: NONFERROUS METALS MANUFACTURING

Section

307.3100	General Provisions
307.3101	Bauxite Refining
307.3102	Primary Aluminum Smelting
307.3103	Secondary Aluminum Smelting
307.3104	Primary Copper Smelting
307.3105	Primary Electrolytic Copper Refining
307.3106	Secondary Copper
307.3107	Primary Lead
307.3108	Primary Zinc
307.3109	Metallurgical Acid Plants
307.3110	Primary Tungsten
307.3111	Primary Columbium-Tantalum
307.3112	Secondary Silver
307.3113	Secondary Lead
307.3114	Primary Antimony
307.3115	Primary Beryllium
307.3116	Primary and Secondary Germanium and Gallium
307.3117	Secondary Indium
307.3118	Secondary Mercury
307.3119	Primary Molybdenum and Rhenium
307.3120	Secondary Molybdenum and Vanadium
307.3121	Primary Nickel and Cobalt
307.3122	Secondary Nickel
307.3123	Primary Precious Metals and Mercury
307.3124	Secondary Precious Metals
307.3125	Primary Rare Earth Metals
307.3126	Secondary Tantalum

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307.3127	Secondary Tin
307.3128	Primary and Secondary Titanium
307.3129	Secondary Tungsten and Cobalt
307.3130	Secondary Uranium
307.3131	Primary Zirconium and Hafnium

SUBPART X: STEAM ELECTRIC POWER GENERATING

Section	
307.3301	Steam Electric Power Generating

SUBPART Y: FERROALLOY MANUFACTURING

Section	
307.3401	Open Electric Furnaces With Wet Air Pollution Control Devices
307.3402	Covered Electric Furnaces and Other Smelting Operations with Wet Air Pollution Control Devices
307.3403	Slag Processing
307.3404	Covered Calcium Carbide Furnaces With Wet Air Pollution Control Devices
307.3405	Other Calcium Carbide Furnaces
307.3406	Electrolytic Manganese Products
307.3407	Electrolytic Chromium

SUBPART Z: LEATHER TANNING AND FINISHING

Section	
307.3500	General Provisions
307.3501	Hair Pulp, Chrome Tan, Retan-Wet Finish
307.3502	Hair Save, Chrome Tan, Retan-Wet Finish
307.3503	Hair Save or Pulp, Non-Chrome Tan, Retan-Wet Finish
307.3504	Retan-Wet Finish-Sides
307.3505	No Beamhouse
307.3506	Through-the-Blue
307.3507	Shearling
307.3508	Pigskin
307.3509	Retan-Wet Finish-Splits
307.3590	Potassium Ferricyanide Titration Method

SUBPART BA: GLASS MANUFACTURING

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NOTICE OF ADOPTED AMENDMENTS

Section

307.3601	Insulation Fiberglass
307.3602	Sheet Glass Manufacturing
307.3603	Rolled Glass Manufacturing
307.3604	Plate Glass Manufacturing
307.3605	Float Glass Manufacturing
307.3606	Automotive Glass Tempering
307.3607	Automotive Glass Laminating
307.3608	Glass Container Manufacturing
307.3610	Glass Tubing (Danner) Manufacturing
307.3611	Television Picture Tube Envelope Manufacturing
307.3612	Incandescent Lamp Envelope Manufacturing
307.3613	Hand Pressed and Blown Glass Manufacturing

SUBPART BB: ASBESTOS MANUFACTURING

Section

307.3701	Asbestos-Cement Pipe
307.3702	Asbestos-Cement Sheet
307.3703	Asbestos Paper (Starch Binder)
307.3704	Asbestos Paper (Elastomeric Binder)
307.3705	Asbestos Millboard
307.3706	Asbestos Roofing
307.3707	Asbestos Floor Tile
307.3708	Coating or Finishing of Asbestos Textiles
307.3709	Solvent Recovery
307.3710	Vapor Absorption
307.3711	Wet Dust Collection

SUBPART BC: RUBBER MANUFACTURING

Section

307.3801	Tire and Inner Tube Plants
307.3802	Emulsion Crumb Rubber
307.3803	Solution Crumb Rubber
307.3804	Latex Rubber
307.3805	Small-Sized General Molded, Extruded, and Fabricated Rubber Plants
307.3806	Medium-Sized General Molded, Extruded, and Fabricated Rubber Plants
307.3807	Large-Sized General Molded, Extruded, and Fabricated Rubber Plants
307.3808	Wet Digestion Reclaimed Rubber

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- 307.3809 Pan, Dry Digestion, and Mechanical Reclaimed Rubber
307.3810 Latex-Dipped, Latex-Extruded, and Latex-Molded Rubber
307.3811 Latex Foam

SUBPART BD: TIMBER PRODUCTS PROCESSING

Section

- 307.3900 General Provisions
307.3901 Barking
307.3902 Veneer
307.3903 Plywood
307.3904 Dry Process Hardboard
307.3905 Wet Process Hardboard
307.3906 Wood Preserving – Water Borne or Nonpressure
307.3907 Wood Preserving – Steam
307.3908 Wood Preserving – Boulton
307.3909 Wet Storage
307.3910 Log Washing
307.3911 Sawmills and Planing Mills
307.3912 Finishing
307.3913 Particleboard Manufacturing
307.3914 Insulation Board
307.3915 Wood Furniture and Fixture Production without Water Wash Spray Booths or
without Laundry Facilities
307.3916 Wood Furniture and Fixture Production with Water Wash Spray Booths or with
Laundry Facilities

SUBPART BE: PULP, PAPER, AND PAPERBOARD

Section

- 307.4000 General Provisions
307.4001 Dissolving Kraft
307.4002 Bleached Papergrade Kraft and Soda
307.4003 Unbleached Kraft
307.4004 Dissolving Sulfite
307.4005 Papergrade Sulfite
307.4006 Semi-Chemical
307.4007 Mechanical Pulp
307.4008 Non-Wood Chemical Pulp
307.4009 Secondary Fiber Deink

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307.4010	Secondary Fiber Non-Deink
307.4011	Fine and Lightweight Papers from Purchased Pulp
307.4012	Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp
307.4013	Groundwood-Thermo-Mechanical (Repealed)
307.4014	Groundwood-CMN Papers (Repealed)
307.4015	Groundwood-Fine Papers (Repealed)
307.4016	Soda (Repealed)
307.4017	Deink (Repealed)
307.4018	Nonintegrated-Fine Papers (Repealed)
307.4019	Nonintegrated-Tissue Papers (Repealed)
307.4020	Tissue From Wastepaper (Repealed)
307.4021	Papergrade Sulfite (Drum Wash) (Repealed)
307.4022	Unbleached Kraft and Semi-Chemical (Repealed)
307.4023	Wastepaper-Molded Products (Repealed)
307.4024	Nonintegrated-Lightweight Papers (Repealed)
307.4025	Nonintegrated-Filter and Nonwoven Papers (Repealed)
307.4026	Nonintegrated-Paperboard (Repealed)

SUBPART BF: BUILDERS' PAPER AND BOARD MILLS

Section

307.4101	Builder's Paper and Roofing Felt (Repealed)
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SUBPART BG: MEAT PRODUCTS

Section

307.4201	Simple Slaughterhouse
307.4202	Complex Slaughterhouse
307.4203	Low-Processing Packinghouse
307.4204	High-Processing Packinghouse
307.4205	Small Processor
307.4206	Meat Cutter
307.4207	Sausage and Luncheon Meats Processor
307.4208	Ham Processor
307.4209	Canned Meats Processor
307.4210	Renderer

SUBPART BH: METAL FINISHING

Section

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NOTICE OF ADOPTED AMENDMENTS

307.4300 General Provisions
307.4301 Metal Finishing

SUBPART BL: CENTRALIZED WASTE TREATMENT

Section
307.4700 General Provisions
307.4701 Metals Treatment and Recovery
307.4702 Oils Treatment and Recovery
307.4703 Organics Treatment and Recovery
307.4704 Multiple Waste Streams

SUBPART BN: PHARMACEUTICAL MANUFACTURING

Section
307.4900 General Provisions
307.4901 Fermentation Products
307.4902 Extraction Products
307.4903 Chemical Synthesis Products
307.4904 Mixing/Compounding and Formulation
307.4905 Research (Repealed)

SUBPART BQ: TRANSPORTATION EQUIPMENT CLEANING

Section
307.5200 General Provisions
307.5201 Tank Trucks and Intermodal Tank Containers Transporting Chemical and Petroleum Cargos
307.5202 Rail Tank Cars Transporting Chemical and Petroleum Cargos
307.5203 Tank Barges and Ocean/Sea Tankers Transporting Chemical and Petroleum Cargos
307.5204 Tanks Transporting Food Grade Cargos

SUBPART BR: PAVING AND ROOFING MATERIALS (TARS AND ASPHALT)

Section
307.5301 Asphalt Emulsion
307.5302 Asphalt Concrete
307.5303 Asphalt Roofing
307.5304 Linoleum and Printed Asphalt Felt

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SUBPART BS: WASTE COMBUSTORS

Section
307.5401 Commercial Hazardous Waste Combustor

SUBPART BT: LANDFILLS

Section
307.5500 General Provisions
307.5501 RCRA Subtitle C Hazardous Waste Landfill
307.5502 RCRA Subtitle D Non-Hazardous Waste Landfill

SUBPART BU: PAINT FORMULATING

Section
307.5601 Oil-Base Solvent Wash Paint

SUBPART BV: INK FORMULATING

Section
307.5701 Oil-Base Solvent Wash Ink

SUBPART CD: PESTICIDE CHEMICALS

Section
307.6500 General Provisions
307.6501 Organic Pesticide Chemicals Manufacturing
307.6502 Metallo-Organic Pesticides Chemicals Manufacturing
307.6503 Pesticide Chemicals Formulating and Packaging
307.6505 Repackaging of Agricultural Pesticides Performed at Refilling Establishments

SUBPART CG: CARBON BLACK MANUFACTURING

Section
307.6801 Carbon Black Furnace Process
307.6802 Carbon Black Thermal Process
307.6803 Carbon Black Channel Process
307.6804 Carbon Black Lamp Process

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SUBPART CJ: BATTERY MANUFACTURING

Section

- 307.7100 General Provisions
- 307.7101 Cadmium
- 307.7102 Calcium
- 307.7103 Lead
- 307.7104 Leclanche
- 307.7105 Lithium
- 307.7106 Magnesium
- 307.7107 Zinc

SUBPART CL: PLASTICS MOLDING AND FORMING

Section

- 307.7300 General Provisions
- 307.7301 Contact Cooling and Heating Water
- 307.7302 Cleaning Water
- 307.7303 Finishing Water

SUBPART CM: METAL MOLDING AND CASTING

Section

- 307.7400 General Provisions
- 307.7401 Aluminum Casting
- 307.7402 Copper Casting
- 307.7403 Ferrous Casting
- 307.7404 Zinc Casting

SUBPART CN: COIL COATING

Section

- 307.7500 General Provisions
- 307.7501 Steel Basis Material
- 307.7502 Galvanized Basis Material
- 307.7503 Aluminum Basis Material
- 307.7504 Canmaking

SUBPART CO: PORCELAIN ENAMELING

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Section

307.7600	General Provisions
307.7601	Steel Basis Material
307.7602	Cast Iron Basis Material
307.7603	Aluminum Basis Material
307.7604	Copper Basis Material

SUBPART CP: ALUMINUM FORMING

Section

307.7700	General Provisions
307.7701	Rolling With Neat Oils
307.7702	Rolling With Emulsions
307.7703	Extrusion
307.7704	Forging
307.7705	Drawing With Neat Oils
307.7706	Drawing With Emulsions or Soaps

SUBPART CQ: COPPER FORMING

Section

307.7800	General Provisions
307.7801	Copper Forming
307.7802	Beryllium Copper Forming

SUBPART CR: ELECTRICAL AND ELECTRONIC COMPONENTS

Section

307.7901	Semiconductor
307.7902	Electronic Crystals
307.7903	Cathode Ray Tube
307.7904	Luminescent Materials

SUBPART CT: NONFERROUS METALS FORMING AND METAL POWDERS

Section

307.8100	General Provisions
307.8101	Lead-Tin-Bismuth Forming
307.8102	Magnesium Forming
307.8103	Nickel-Cobalt Forming

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307.8104	Precious Metals Forming
307.8105	Refractory Metals Forming
307.8106	Titanium Forming
307.8107	Uranium Forming
307.8108	Zinc Forming
307.8109	Zirconium-Hafnium Forming
307.8110	Metal Powders

307.APPENDIX A References to Previous Rules (Repealed)

AUTHORITY: Implementing Sections 7.2, 13, and 13.3 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3, and 27].

SOURCE: Adopted in R70-5, at 1 PCB 426, March 31, 1971; amended in R71-14, at 4 PCB 3, March 7, 1972; amended in R74-3, at 19 PCB 182, October 30, 1975; amended in R74-15, 16, at 31 PCB 405, at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended in R76-17, at 31 PCB 713, at 2 Ill. Reg. 45, p. 101, effective November 5, 1978; amended in R76-21, at 44 PCB 203, at 6 Ill. Reg. 563, effective December 24, 1981; codified at 6 Ill. Reg. 7818; amended in R82-5, 10, at 54 PCB 411, at 8 Ill. Reg. 1625, effective January 18, 1984; amended in R86-44 at 12 Ill. Reg. 2592, effective January 13, 1988; amended in R88-11 at 12 Ill. Reg. 13094, effective July 29, 1988; amended in R88-18 at 13 Ill. Reg. 1794, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19288, effective November 17, 1989; amended in R88-9 at 14 Ill. Reg. 3100, effective February 20, 1990; amended in R89-12 at 14 Ill. Reg. 7620, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7377, effective April 27, 1992; amended in R93-2 at 17 Ill. Reg. 19483, effective October 29, 1993; amended in R94-10 at 19 Ill. Reg. 9142, effective June 23, 1995; amended in R95-22 at 20 Ill. Reg. 5549, effective April 1, 1996; amended in R97-23 at 21 Ill. Reg. 11930, effective August 12, 1997; amended in R99-4 at 23 Ill. Reg. 4413, effective March 31, 1999; amended in R99-17 at 23 Ill. Reg. 8421, effective July 12, 1999; amended in R00-15 at 24 Ill. Reg. 11640, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1735, effective January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10867, effective August 14, 2001; amended in R03-13 at 27 Ill. Reg. 15095, effective September 10, 2003; amended in R04-1 at 28 Ill. Reg. 3076, effective February 6, 2004; amended in R04-18 at 28 Ill. Reg. 10661, effective July 13, 2004.

SUBPART BL: CENTRALIZED WASTE TREATMENT

Section 307.4701 Metals Treatment and Recovery

- a) Applicability. This Section applies to that portion of the discharge of wastewater

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from a centralized waste treatment facility that results from the treatment of, or recovery of metals from, both metal-bearing wastes received from off-site and other centralized waste treatment wastewater associated with the treatment of, or recovery of metal-bearing wastes. The Board incorporates by reference 40 CFR 437.10 (2003). This incorporation includes no later amendments or editions.

- b) Specialized definitions. None.
- c) Existing sources.
 - 1) The Board incorporates by reference 40 CFR 437.15 (2003), [as amended at 68 Fed. Reg. 71014 \(December 22, 2003\)](#). This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources.
 - 1) The Board incorporates by reference 40 CFR 437.16 (2003), [as amended at 68 Fed. Reg. 71014 \(December 22, 2003\)](#). This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.

(Source: Amended at 28 Ill. Reg. 10661, effective July 13, 2004)

Section 307.4702 Oils Treatment and Recovery

- a) Applicability. This Section applies to that portion of the discharge of wastewater from a centralized waste treatment facility that results from the treatment of, or recovery of oil from both oily wastes received from, off-site and other centralized waste treatment wastewater associated with the treatment of, or recovery of, oily wastes. The Board incorporates by reference 40 CFR 437.20 (2003). This incorporation includes no later amendments or editions.
- b) Specialized definitions. None.

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- c) Existing sources.
- 1) The Board incorporates by reference 40 CFR 437.25 (2003), [as amended at 68 Fed. Reg. 71014 \(December 22, 2003\)](#). This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources.
- 1) The Board incorporates by reference 40 CFR 437.26 (2003), [as amended at 68 Fed. Reg. 71014 \(December 22, 2003\)](#). This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.

(Source: Amended at 28 Ill. Reg. 10661, effective July 13, 2004)

Section 307.4703 Organics Treatment and Recovery

- a) Applicability. This Section applies to that portion of the discharge of wastewater from a centralized waste treatment facility that results from the treatment of, or recovery of organic material from both organic wastes received from, off-site and other centralized waste treatment wastewater associated with the treatment of, or recovery of, organic wastes. The Board incorporates by reference 40 CFR 437.30 (2003). This incorporation includes no later amendments or editions.
- b) Specialized definitions. None.
- c) Existing sources.
- 1) The Board incorporates by reference 40 CFR 437.35 (2003), [as amended at 68 Fed. Reg. 71014 \(December 22, 2003\)](#). This incorporation includes no later amendments or editions.

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- 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources.
 - 1) The Board incorporates by reference 40 CFR 437.36 (2003), [as amended at 68 Fed. Reg. 71014 \(December 22, 2003\)](#). This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.

(Source: Amended at 28 Ill. Reg. 10661, effective July 13, 2004)

Section 307.4704 Multiple Waste Streams

- a) Applicability. Facilities that treat wastes subject to more than one of the previous Sections in this Subpart BL must comply with either the provisions of this Section or the applicable provisions of Section 307.4701, 307.4702, or 307.4703. This Section applies to that portion of the discharge of wastewater from a centralized waste treatment facility that results from mixing any combination of treated or untreated waste otherwise subject to Section 307.4701, 307.4702, or 307.4703. The Board incorporates by reference 40 CFR 437.40 (2003). This incorporation includes no later amendments or editions.
- b) Specialized definitions. None.
- c) Existing sources.
 - 1) The Board incorporates by reference 40 CFR 437.46 (2003), [as amended at 68 Fed. Reg. 71014 \(December 22, 2003\)](#). This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources.

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- 1) The Board incorporates by reference 40 CFR 437.47 (2003), as amended at 68 Fed. Reg. 71014 (December 22, 2003). This incorporation includes no later amendments or editions.
- 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.

(Source: Amended at 28 Ill. Reg. 10661, effective July 13, 2004)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Pretreatment Programs
- 2) Code Citation: 35 Ill. Adm. Code 310
- 3) Section number: 310.107 Adopted action:
Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 13.3 and 27
- 5) Effective date of amendments: July 13, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes. The current amendments to Part 310 update existing incorporations by reference. The amendments update the version of 40 C.F.R. 136 incorporated by reference in Section 310.107(b) to include the July 21, 2003 federal amendments and September 19, 2003 corrections. Also updated are the versions of the federal Clean Water Act and the federal Resource Conservation and Recovery Act incorporated by reference in Section 310.107(c).
- 8) Statement of availability: The adopted amendments, a copy of the Board's opinion and order adopted July 8, 2004, and all materials incorporated by reference, are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of proposal published in Illinois Register: 28 Ill. Reg. 6555; April 30, 2004
- 10) Has JCAR issued a Statement of Objection to this amendment? No. Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] 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).
- 11) Differences between proposal and final version: None. The amendments as adopted on July 8, 2004 are identical to those proposed on April 15, 2004 in docket R04-18.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] 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

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Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the April 30, 2004 issue of the *Illinois Register*, the Board received no suggestions for revisions from JCAR.

- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and purpose of amendment: The amendments to Part 310 are a single segment of a larger rulemaking that also affects 35 Ill. Adm. Code 307, which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the larger rulemaking in this *Illinois Register* only in the answer to question 15 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 307. A comprehensive description is contained in the Board's opinion and order of July 8, 2004, adopting amendments in docket R04-18, which opinion and order is available from the address below.

Specifically, the segment of the amendments involved in Part 310 implements the federal July 21, 2003 new methods for microbiological analysis of water and wastewater and the September 19, 2003 corrections to the July 21, 2003 new methods. Further, the Board uses this opportunity to update the incorporation of two federal statutes by reference to include the latest versions of those statutes. Those two statutes are the Clean Water Act and the Resource Conservation and Recovery Act.

Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] 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).

- 16) Information and questions regarding this adopted amendment shall be directed to: Please reference consolidated Docket R04-18 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph, Ste. 11-500
Chicago IL 60601

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

312/814-6924

Request copies of the Board's opinion and order of July 8, 2004 at 312-814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARDPART 310
PRETREATMENT PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section	
310.101	Applicability
310.102	Objectives
310.103	Federal Law
310.104	State Law
310.105	Confidentiality
310.107	Incorporations by Reference
310.110	Definitions
310.111	New Source

SUBPART B: PRETREATMENT STANDARDS

Section	
310.201	General Prohibitions
310.202	Specific Prohibitions
310.210	Specific Limits Developed by POTW
310.211	Local Limits
310.220	Categorical Standards
310.221	Category Determination Request
310.222	Deadline for Compliance with Categorical Standards
310.230	Concentration and Mass Limits
310.232	Dilution
310.233	Combined Waste Stream Formula

SUBPART C: REMOVAL CREDITS

Section	
310.301	Special Definitions
310.302	Authority
310.303	Conditions for Authorization to Grant Removal Credits
310.310	Calculation of Revised Discharge Limits

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310.311	Demonstration of Consistent Removal
310.312	Provisional Credits
310.320	Compensation for Overflow
310.330	Exception to POTW Pretreatment Program
310.340	Application for Removal Credits Authorization
310.341	Agency Review
310.343	Assistance of POTW
310.350	Continuation of Authorization
310.351	Modification or Withdrawal of Removal Credits

SUBPART D: PRETREATMENT PERMITS

Section	
310.400	Preamble
310.401	Pretreatment Permits
310.402	Time to Apply
310.403	Imminent Endangerment
310.410	Application
310.411	Certification of Capacity
310.412	Signatures
310.413	Site Visit
310.414	Completeness
310.415	Time Limits
310.420	Standard for Issuance
310.421	Final Action
310.430	Conditions
310.431	Duration of Permits
310.432	Schedules of Compliance
310.441	Effect of a Permit
310.442	Modification
310.443	Revocation
310.444	Appeal

SUBPART E: POTW PRETREATMENT PROGRAMS

Section	
310.501	Pretreatment Programs Required
310.502	Deadline for Program Approval
310.503	Incorporation of Approved Programs in Permits
310.504	Incorporation of Compliance Schedules in Permits

POLLUTION CONTROL BOARD

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310.505	Reissuance or Modification of Permits
310.510	Pretreatment Program Requirements
310.521	Program Approval
310.522	Contents of Program Submission
310.524	Content of Removal Allowance Submission
310.531	Agency Action
310.532	Defective Submission
310.533	Water Quality Management
310.541	Deadline for Review
310.542	Public Notice and Hearing
310.543	Agency Decision
310.544	USEPA Objection
310.545	Notice of Decision
310.546	Public Access to Submission
310.547	Appeal

SUBPART F: REPORTING REQUIREMENTS

Section	
310.601	Definition of Control Authority
310.602	Baseline Report
310.603	Compliance Schedule
310.604	Report on Compliance with Deadline
310.605	Periodic Reports on Compliance
310.606	Notice of Potential Problems
310.610	Monitoring and Analysis
310.611	Requirements for Non-Categorical Standard Users
310.612	Annual POTW Reports
310.613	Notification of Changed Discharge
310.621	Compliance Schedule for POTWs
310.631	Signatory Requirements for Industrial User Reports
310.632	Signatory Requirements for POTW Reports
310.633	Fraud and False Statements
310.634	Recordkeeping Requirements
310.635	Notification of Discharge of Hazardous Waste

SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS

Section	
310.701	Definition of Requester
310.702	Purpose and Scope

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310.703	Criteria
310.704	Fundamentally Different Factors
310.705	Factors that are Not Fundamentally Different
310.706	More Stringent State Law
310.711	Application Deadline
310.712	Contents of FDF Request
310.713	Deficient Requests
310.714	Public Notice
310.721	Agency Review of FDF Requests
310.722	USEPA Review of FDF Requests

SUBPART H: ADJUSTMENTS FOR POLLUTANTS IN INTAKE

Section	
310.801	Net/Gross Calculation by USEPA

SUBPART I: UPSETS

Section	
310.901	Definition
310.902	Effect of an Upset
310.903	Conditions Necessary for an Upset
310.904	Burden of Proof
310.905	Reviewability of Claims of Upset
310.906	User Responsibility in Case of Upset

SUBPART J: BYPASS

Section	
310.910	Definitions
310.911	Bypass Not Violating Applicable Pretreatment Standards or Requirements
310.912	Notice
310.913	Prohibition of Bypass

SUBPART K: MODIFICATION OF POTW PRETREATMENT PROGRAMS

Section	
310.920	General
310.921	Substantial Modifications Defined
310.922	Approval Procedures for Substantial Modifications

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- 310.923 Approval Procedures for Non-Substantial Modifications
310.924 Incorporation of Modifications into the Permit

SUBPART L: FEDERAL PROJECT XL AGREEMENTS

Section

- 310.930 Federally Approved Pretreatment Program Reinvention Pilot Projects Under Project XL

AUTHORITY: Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3, and 27].

SOURCE: Adopted in R86-44 at 12 Ill. Reg. 2502, effective January 13, 1988; amended in R88-18 at 13 Ill. Reg. 2463, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19243, effective November 27, 1989; amended in R89-12 at 14 Ill. Reg. 7608, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7346, effective April 27, 1992; amended in R95-22 at 20 Ill. Reg. 5533, effective April 1, 1996; amended in R96-12 at 20 Ill. Reg. 10671, effective July 24, 1996; amended in R97-7 at 21 Ill. Reg. 5163, effective April 10, 1997; amended in R98-23 at 22 Ill. Reg. 11465, effective June 22, 1998; amended in R99-17 at 23 Ill. Reg. 8412, effective July 12, 1999; amended in R00-7 at 24 Ill. Reg. 2372, effective January 26, 2000; amended in R00-15 at 24 Ill. Reg. 11633, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1322, effective January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10860, effective August 14, 2001; amended in R02-3 at 26 Ill. Reg. 4008, effective February 28, 2002; amended in R02-9 at 26 Ill. Reg. 4653, effective March 18, 2002; amended in R03-13 at 27 Ill. Reg. 15137, effective September 10, 2003; amended in R04-1 at 28 Ill. Reg. 3390, effective February 6, 2004; amended in R04-18 at 28 Ill. Reg. 10684, effective July 13, 2004.

SUBPART A: GENERAL PROVISIONS

Section 310.107 Incorporations by Reference

- a) The following publications are incorporated by reference:
- 1) The consent decree in NRDC v. Costle, 1978 WL 23471, 12 Environment Reporter Cases 1833 (D.C. Cir. August 16, 1978).
 - 2) Standard Industrial Classification Manual (1987) (document no. PB87-100012), available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

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- b) The following provisions of the Code of Federal Regulations are incorporated by reference:

40 CFR 2.302 (2003)

40 CFR 25 (2003)

40 CFR 122, Appendix D, Tables II and III (2003)

40 CFR 128.140(b) (1977)

40 CFR 136 ~~(2003)(2002)~~, as amended at [68 Fed. Reg. 43272 \(July 21, 2003\)](#) and [68 Fed. Reg. 54934 \(September 19, 2003\)](#)~~67 Fed. Reg. 65220 (October 23, 2002)~~, [67 Fed. Reg. 65876 \(October 29, 2002\)](#), and [67 Fed. Reg. 69952 \(November 19, 2002\)](#).

40 CFR 403 (2003)

40 CFR 403, Appendix D (2003)

- c) The following federal statutes are incorporated by reference:

1) Section 1001 of federal Crimes and Criminal Procedure (18 USC 1001 (2000))

2) The federal Clean Water Act (33 USC 1251 et seq. ~~(2000)(1994)~~) as amended through [November 7, 2000](#)~~October 31, 1994~~

3) Subtitles C and D of the federal Resource Conservation and Recovery Act (42 USC 6901 et seq. ~~(2000)(1994)~~) as amended through March 26, 1996

- d) This Part incorporates no future editions or amendments.

(Source: Amended at 28 Ill. Reg. 10684, effective July 13, 2004)

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- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] 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 JCAR.

Since the Notices of Proposed Amendments appeared in the April 23, 2004 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of June 17, 2004 in docket R04-16, as indicated in item 11 above. See the June 17, 2004 opinion and order in docket R04-16 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and purpose of amendment: The following briefly describes the subjects and issues involved in the docket R04-16 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 June 17, 2004, adopting amendments in consolidated docket R04-16, which opinion and order is available from the address below.

This proceeding updates 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 following table briefly summarizes the federal action in the update period:

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July 30, 2003 (68 Fed. Reg. 44659)	USEPA adopted a number of corrective and clarifying amendments to the used oil management standards.
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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 R04-16 docket only on the USEPA amendments of July 30, 2003.

This proceeding updates the Illinois RCRA Subtitle C hazardous waste rules to correspond with amendments adopted by USEPA that appeared in the *Federal Register* during the update period of July 1, 2003 through December 31, 2003.

The R04-16 docket amends rules in Parts 721 and 739. The amendments implement the federal corrective and clarifying amendments to the used oil rules.

Tables appear in the Board's opinion and order of June 17, 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 State 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 June 17, 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).

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- 16) Information and questions regarding this adopted amendment shall be directed to: Please reference consolidated Docket R04-16 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph, Ste. 11-500
Chicago IL 60601

312/814-6924

Request copies of the Board's opinion and order of June 17, 2004 at 312-814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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

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SUBPART D: LISTS OF HAZARDOUS WASTE

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.

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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. 10693, effective July 13, 2004.

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

POLLUTION CONTROL BOARD

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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

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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.

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- 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

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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);

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- 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.

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- 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. 10693, effective July 13, 2004)

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

<u>Section numbers:</u>	<u>Adopted action:</u>
739.100, 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) Effective date of amendments: July 19, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these 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 incorporations at Sections 739.110(b)(1)(B), 739.144(c), 739.153(c), and 739.163(c) were replaced with a reference to the incorporation of SW-846 by reference at 35 Ill. Adm. Code 720.111.
- 8) Statement of availability: The adopted amendments, a copy of the Board's opinion and order adopted June 17, 2004, and all materials incorporated by reference, are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of proposal published in Illinois Register: April 23, 2004; 28 Ill. Reg. 6313

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- 10) Has JCAR issued a Statement of Objection to these amendments? No. Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] 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).
- 11) Differences between proposal and final version: A table that appears in the Board's opinion and order of June 17, 2004 in docket R04-16 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated June 17, 2004 in docket R04-16.

The differences are limited to minor corrections and stylistic revisions in the text, most of which were suggested by JCAR. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] 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 JCAR.

Since the Notices of Proposed Amendments appeared in the April 23, 2004 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of June 17, 2004 in docket R04-16, as indicated in item 11 above. See the June 17, 2004 opinion and order in docket R04-16 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No

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- 15) Summary and purpose of amendments: 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, a more detailed description of the subjects and issues involved in the docket R04-16 rulemaking in this *Illinois Register* only in the answer to question 15 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 721. A comprehensive description is contained in the Board's opinion and order of June 17, 2004, adopting amendments in consolidated docket R04-16.

This proceeding updates the Illinois RCRA Subtitle C hazardous waste rules to correspond with amendments adopted by USEPA that appeared in the *Federal Register* during the update period of July 1, 2003 through December 31, 2003.

The R04-16 docket amends rules in Parts 721 and 739. The amendments implement the federal corrective and clarifying amendments to the used oil rules.

Tables appear in the Board's opinion and order of June 17, 2004 in docket R04-16 that list numerous 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 June 17, 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).

- 16) Information and questions regarding these adopted amendments shall be directed to: Please reference consolidated Docket R04-16 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph, Ste. 11-500
Chicago IL 60601

312/814-6924

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Request copies of the Board's opinion and order of June 17, 2004 at 312-814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

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

PART 739
 STANDARDS FOR THE MANAGEMENT OF USED OIL

SUBPART A: DEFINITIONS

Section
 739.100 Definitions

SUBPART B: APPLICABILITY

Section
 739.110 Applicability
 739.111 Used Oil Specifications~~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~~

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER

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AND TRANSFER FACILITIES

Section

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

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section

739.150	Applicability
739.151	Notification
739.152	General <u>Facility Standards</u> facility standards
739.153	Rebuttable <u>Presumption</u> presumption for <u>Used Oil</u> used oil
739.154	Used <u>Oil Management</u> oil management
739.155	Analysis <u>Plan</u> plan
739.156	Tracking
739.157	Operating <u>Record and Reporting</u> record and reporting
739.158	<u>Off-Site Shipments</u> Off-site shipments of <u>Used Oil</u> used oil
739.159	Management of <u>Residues</u> 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 <u>Burning</u> burning
739.162	Notification
739.163	Rebuttable <u>Presumption</u> presumption for <u>Used Oil</u> used oil
739.164	Used <u>Oil Storage</u> oil storage
739.165	Tracking
739.166	Notices
739.167	Management of <u>Residues</u> residues

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SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

Section

739.170	Applicability
739.171	Prohibitions
739.172	<u>On-Specification Used Oil Fuel</u> 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 <u>Asas a Dust Suppressant</u> dust suppressant

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

SOURCE: Adopted in R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6931, effective April 26, 1994; amended in R94-17 at 18 Ill. Reg. 17616, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 10036, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 767, effective December 16, 1997; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2274, effective January 19, 1999; amended in R04-16 at 28 Ill. Reg. 10706, effective July 19, 2004.

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

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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

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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, 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.

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"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

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produce (or make more amenable for production of) used oil derived products or used oil fuel.

(Source: Amended at 28 Ill. Reg. 10706, effective July 19, 2004)

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~~).

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~~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

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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 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

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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 materialsMaterials 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 disposalare:
 - 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

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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

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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. 10706, effective July 19, 2004)

Section 739.111 Used Oil Specificationoil 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 Recovery¹

Constituent/property	Allowable level
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Arsenic	5 ppm maximum-
Cadmium	2 ppm maximum-
Chromium	10 ppm maximum-
Lead	100 ppm maximum-
Flash point	100 ° 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. 10706, effective July 19, 2004)

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(e).~~
- 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:

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- 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. 10706, effective July 19, 2004)

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

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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 Sectionbelow, 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 ~~USCU.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;

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- 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, ~~mustshall~~ 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 ~~mustshall~~ 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, ~~mustshall~~ also comply with ~~739~~.Subpart I of this Part.

(Source: Amended at 28 Ill. Reg. 10706, effective July 19, 2004)

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. 10706, effective July 19, 2004)

Section 739.122 Used ~~Oil Storage~~oil-storage

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~~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 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

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program in the authorized 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. 10706, effective July 19, 2004)

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. 10706, effective July 19, 2004)

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.

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- 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

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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. 10706, effective July 19, 2004)

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

Section 739.130 Do-It-Yourselfer Used Oil Collection Centers
~~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. 10706, effective July 19, 2004)

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

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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~~ register by written notification with the Agency to manage used oil. This notification ~~must~~ include information sufficient for the Agency to identify, locate and communicate with the facility. The notification ~~must~~ be submitted on forms provided by the Agency.

(Source: Amended at 28 Ill. Reg. 10706, effective July 19, 2004)

Section 739.132 Used Oil Aggregate 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. 10706, effective July 19, 2004)

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER
AND TRANSFER FACILITIES

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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 ~~transport~~ transport used oil, ~~a person~~ persons that ~~collect~~ collect used oil from more than one generator and 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 ~~transport~~ transport shipments of used oil ~~totaling~~ totaling 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 ~~transport~~ transport shipments of used oil ~~totaling~~ totaling 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

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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 ~~conduct~~conduct the following activities are also subject to other applicable provisions of this Part as indicated in subsections (d)(1) through ~~(d)~~(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 ~~claim~~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. 10706, effective July 19, 2004)

Section 739.141 Restrictions on ~~Transporter~~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

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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. 10706, effective July 19, 2004)

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;

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- 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](#) (telephone: 217-782-6761).

(Source: Amended at 28 Ill. Reg. 10706, effective July 19, 2004)

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.

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- b) U.S. DOT requirements. A used oil transporter mustshall 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 mustshall 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 mustshall 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 followingshall:
 - 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 mustshall give notice as required by federal 33 CFR 153.203.
 - 5) A transporter mustshall 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

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presents a hazard to human health or the environment.

(Source: Amended at 28 Ill. Reg. 10706, effective July 19, 2004)

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

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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~~ years.

(Source: Amended at 28 Ill. Reg. 10706, effective July 19, 2004)

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

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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

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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 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 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

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language. Had USEPA written something like "the effective date of the used oil program in the authorized 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. 10706, effective July 19, 2004)

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.

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- 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. 10706, effective July 19, 2004)

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).

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(Source: Amended at 28 Ill. Reg. 10706, effective July 19, 2004)

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 conduct~~conduct~~ incidental processing operations that occur during the normal course of transportation, as provided in Section 739.141; or
 - 2) A burner~~Burners~~ that conduct~~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:

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- 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 directs~~Processors 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 disposes~~Processors 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. 10706, effective July 19, 2004)

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 ~~must~~shall 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 processor or re-refiner 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:

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- 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. 10706, effective July 19, 2004)

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)

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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

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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.

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- b) Contingency plan and emergency procedures. ~~An owner or operator~~Owners and operators of a used oil ~~processing or refining facility must~~processors and 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

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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;

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- 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.

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- 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.

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- F) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator ~~must~~ 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~~ 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~~ ensure that the following occur, in the affected ~~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~~ 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 ~~area~~(s) of the facility.
- I) The owner or operator ~~must~~ 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~~ 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;

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- 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. 10706, effective July 19, 2004)

Section 739.153 Rebuttable ~~Presumption~~presumption for Used Oilused 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).~~

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- 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. 10706, effective July 19, 2004)

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.

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- 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

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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 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

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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 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 ~~mustshall~~ comply with the following requirements:
 - A) At closure of a tank system, the owner or operator ~~mustshall~~ 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 ~~mustshall~~ 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 ~~storesstore~~ used oil in containers ~~mustshall~~ comply with the following requirements:

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- A) At closure, containers holding used oils or residues of used oil must be removed from the site;
- B) The owner or operator ~~must~~ 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. 10706, effective July 19, 2004)

Section 739.155 Analysis plan

~~An owner or operator~~Owners or operators of a used oil processing ~~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

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- 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 must be specified:
 - 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. 10706, effective July 19, 2004)

Section 739.156 Tracking

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- 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;

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- 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. 10706, effective July 19, 2004)

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

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- 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. 10706, effective July 19, 2004)

Section 739.158 Off-Site Shipments of Used Oil~~Off-site shipments of used oil~~

~~A used~~Used oil processor~~s~~ 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 ~~an~~ USEPA~~U.S.~~ EPA identification number and Illinois special waste identification number.

(Source: Amended at 28 Ill. Reg. 10706, effective July 19, 2004)

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-refining of used oil must manage the residues as specified in Section 739.110(e).

(Source: Amended at 28 Ill. Reg. 10706, effective July 19, 2004)

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 ~~conduct~~conduct

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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 ~~transport~~~~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. 10706, effective July 19, 2004)

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

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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 or 35 Ill. Adm. Code 725.
- b) Restrictions.
- 1) With the following exception, a used oil burner may not process used oil unless it they also complies with the requirements of Subpart F of this Part.
 - 2) A used oil burner 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. 10706, effective July 19, 2004)

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 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 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

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- 2) A letter requesting ~~a an~~ ~~USEPA~~~~EPA~~ identification number. Call the RCRA/Superfund Hotline to determine where to send a letter requesting ~~aan~~ ~~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 ~~62794-9276~~~~62706~~ (telephone: 217-782-6761).

(Source: Amended at 28 Ill. Reg. 10706, effective July 19, 2004)

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

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- 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. 10706, effective July 19, 2004)

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

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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~~~~a~~ 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:

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- 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 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 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. 10706, effective July 19, 2004)

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:

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- 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. 10706, effective July 19, 2004)

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.

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(Source: Amended at 28 Ill. Reg. 10706, effective July 19, 2004)

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. 10706, effective July 19, 2004)

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 transport~~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~~incidentally~~ 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

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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. 10706, effective July 19, 2004)

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. 10706, effective July 19, 2004)

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.

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(Source: Amended at 28 Ill. Reg. 10706, effective July 19, 2004)

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 62794-9276~~62706~~ (telephone: 217-782-6761).

(Source: Amended at 28 Ill. Reg. 10706, effective July 19, 2004)

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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).

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- 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. 10706, effective July 19, 2004)

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~~ 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 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. 10706, effective July 19, 2004)

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. 10706, effective July 19, 2004)

Section 739.181 Disposal

- a) Disposal of hazardous used oils. Used ~~oils~~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.

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- b) Disposal of nonhazardous used oils. Used oil oils that isare not a hazardous wastewastes 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.

(Source: Amended at 28 Ill. Reg. 10706, effective July 19, 2004)

Section 739.182 Use Asas 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.~~
- e) ~~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. 10706, effective July 19, 2004)

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- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1030.81	Amendment
1030.82	Amendment
- 4) Statutory Authority: 625 ILCS 5/6-507
- 5) Effective date of amendments: July 13, 2004
- 6) Does this rulemaking 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 agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the Illinois Register: January 2, 2004; 28 Ill. Reg. 307
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: All stylistic and grammatical recommendations made by JCAR have been incorporated into this rulemaking.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes. The companion emergency rulemaking appeared in the 1/2/04 *Illinois Register* at 28 Ill. Reg. 384, effective 1/1/04, and expired on 5/29/04.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of amendments: To give the Secretary of State the authority to issue a Charter Bus Driver Endorsement with a Commercial Drivers License (CDL) to transport students Grade 12 or below to and from school-related functions.
- 16) Information and questions regarding these adopted amendments shall be directed to:

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Jo Ann Wilson
Secretary of State of Illinois
Administrative Rules Liaison
2701 S. Dirksen Parkway
Springfield IL 62723
217/785-1441

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1030
ISSUANCE OF LICENSES

Section	
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License
1030.12	Driver's License Medical Advisory Board
1030.13	Denial of License or Permit
1030.15	Cite for Re-examination
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers
1030.65	Instruction Permits
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lens(es)
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements
1030.82	Charter Bus Driver Endorsement Requirements
1030.84	Vehicle Inspection
1030.85	Driver's License Testing/Road Test
1030.86	Multiple Attempts – Written and/or Road Tests
1030.88	Exemption of Facility Administered Road Test
1030.89	Temporary Licenses
1030.90	Requirement for Photograph and Signature of Licensee on Driver's License
1030.91	Disabled Person/Handicapped Identification Card
1030.92	Restrictions
1030.93	Restricted Local Licenses
1030.94	Duplicate or Corrected Driver's License or Instruction Permit
1030.95	Consular Licenses

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- 1030.96 Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Commercial Driver's License
- 1030.100 Anatomical Gift Donor
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
- 1030.APPENDIX B Acceptable Identification Documents

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective

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May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4, 2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004.

Section 1030.81 Endorsements

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

"Commercial Driver's License (CDL)" – a driver's license issued by a stateState to a person, which authorizes that person to drive a certain class of commercial motor vehicle or vehicles (see 625 ILCS 5/6-500).

"Commercial Motor Vehicle" – a motor vehicle having a Gross Vehicle Weight Rating (GVWR) of 26,001 pounds or more, or such lesser GVWR as subsequently determined by Federal regulations or the Secretary of State; or any combination of vehicles with a Gross Combination Weight Rating (GCWR) of 26,001 pounds or more, provided the GVWR of any vehicles being towed is 10,001 pounds or more; or a vehicle designed to transport 16 or more persons; or a vehicle transporting hazardous materials that is required to be placarded. The definition does not include recreational vehicles when operated primarily for personal use,

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military vehicles being operated by non-civilian personnel or firefighting equipment owned or operated by or for a governmental entity.

"Endorsement" – an indication on the driver's license that the driver has qualified to operate certain types and/or combinations of vehicles, and/or carry specified cargo.

"Hazardous Material" – a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce. ([See](#) 49 USCA 1802.)

"Representative Vehicle" – a motor vehicle which represents the type that a driver applicant operates or expects to operate.

"Tanker-type Vehicle" – any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle. However, a tanker-type vehicle does not include any vehicle in which the tank, that is either permanently or temporarily attached, has a rated capacity of less than 1,000 gallons.

- b) To obtain any of the following endorsements, a commercial driver's license operator must correctly answer 80% of the questions comprising a written knowledge test based on the Illinois Vehicle Code and the Commercial Motor Vehicle Safety Act of 1986 (49 USC 2704):
- 1) (T) Double or triple trailers (20 questions).
 - 2) (P) Passenger carrying vehicles (16 or more passengers, including the driver). A skills test in a representative vehicle is required (20 questions).
 - 3) (N) Tank vehicles (20 questions).
 - 4) (H) Any vehicle carrying hazardous materials which requires placarding (30 questions).
 - 5) (X) Combination tank vehicle and hazardous materials endorsement. A knowledge test for tank vehicles (N) and hazardous materials (H) must both be successfully completed prior to obtaining this endorsement (20 questions).

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- 6) *(C) Charter bus driver endorsement. Successfully complete a knowledge test on transporting students Grade 12 or below to and from school related functions (20 questions).*

(Source: Amended at 28 Ill. Reg. 10776, effective July 13, 2004)

Section 1030.82 Charter Bus Driver Endorsement Requirements

- a) For purposes of this Part, the following definitions shall apply:

"Cancellation" – cancellation of a CDL holder with a charter bus driver endorsement – the annulment or termination by formal action of the Secretary of State of a person's charter bus driver endorsement because of some error or defect in the endorsement, because the endorsement holder is no longer entitled to such endorsement, refusal or neglect of the person to submit to an alcohol and drug evaluation or submit to or failure to successfully complete the examination, in accordance with Sections 1-110, 6-508 and 6-207 of the Illinois Vehicle Code [625 ILCS 5/1-110, 6-508 and 6-207].

"Charter Bus Driver Endorsement" – An indicator on the driver's license that the driver is qualified to transport a group of persons with a common purpose, under a single contract at a fixed rate for their exclusive use of that motor vehicle.

"Conviction" – a final adjudication of guilty by a court of competent jurisdiction after a bench trial, trial by jury, plea of guilty, order of forfeiture, or default.

"Denial" – to prohibit or disallow the privilege to obtain a charter bus driver endorsement and/or the privilege to operate a charter bus in accordance with Section 6-508 of the Illinois Vehicle Code [625 ILCS 5/6-508].

"Disqualification" – a withdrawal of the privilege to drive a commercial motor vehicle [625 ILCS 5/1-115.3].

"Employer" – any individual, corporation, partnership or association who employs charter bus drivers licensed pursuant to Section 6-508 of the Illinois Vehicle Code [625 ILCS 5/6-508].

"Employer Certification" – a form as prescribed by the Secretary of State submitted by the employer that certifies that an applicant has met all conditions

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for application, or that a driver who is no longer eligible for a charter bus driver endorsement has been removed from service.

"Fingerprint Process" – a method by which a person's fingerprints are taken for the purpose of certification of a criminal background investigation for a charter bus driver endorsement and submitted to the Illinois Department of State Police (ISP) and the Federal Bureau of Investigation (FBI).

"Miscellaneous Suspension" – a safety and financial responsibility violation suspension, unsatisfied judgment, auto emissions violation suspension, penalty for parking violation, failure to appear, failure to pay toll (Type Action 07, Reason Code 03), and all suspensions that are rescinded and are no longer in effect.

"Repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic" – for which an order has been entered to suspend or revoke the license or permit under the discretionary authority of Section 6-206(a)(3) of the Illinois Vehicle Code [625 ILCS 5/6-206(a)(3)].

"Repeatedly involved as a driver in motor vehicle collisions" – for which an order has been entered to suspend or revoke the license or permit under the discretionary authority of Section 6-206(a)(4) of the Illinois Vehicle Code [625 ILCS 5/6-206(a)(4)].

"Rescind Order" – a removal by formal action of an order canceling, suspending or denying issuance of a charter (CDL) bus endorsement to a person.

"Review of Driving Habits" – a review of the applicant's driving record maintained by the Office of the Secretary of State or documentation from another licensing jurisdiction that has been certified within 30 days prior to the date of application, to insure that the requirements pursuant to Sections 6-104 and 6-508 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-104 and 6-508].

"Serious Traffic Violation" – notwithstanding convictions that in and of themselves result in the immediate suspension or revocation of a driver's license and privilege, the following offenses or a similar violation of a law or local ordinance of any state relating to motor vehicle traffic control shall be considered a serious traffic violation: a violation relating to excessive speeding, involving a single speeding charge of 15 miles per hour or more above the legal speed limit; or a violation of any state law or local ordinance relating to motor vehicle traffic

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control (other than parking violations) arising in connection with a fatal traffic accident; or a violation of Section 6-104(d-5) of the Illinois Vehicle Code [625 ILCS 5/6-104(d-5)] relating to the possession of a valid charter bus driver endorsement, or a violation of the speed limit in a school zone as defined in Section 11-605 of the Illinois Vehicle Code [625 ILCS 5/11-605]; or a violation of passing a stopped school bus as defined in Section 11-1414 of the Illinois Vehicle Code [625 ILCS 5/11-1414]; or failure to stop at a railroad crossing as defined in Section 11-1202 of the Illinois Vehicle Code [625 ILCS 5/11-1202]; or a violation relating to improper or erratic lane changes; or a violation relating to following another vehicle too closely; or any other similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than a parking violation that the Secretary of State determines relevant pursuant to 92 Ill. Adm. Code 1040.20.

"State" – a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada [625 ILCS 5/1-195].

"Suspension of Driver's License" – the temporary withdrawal by formal action of the Secretary of a person's license or privilege to operate a motor vehicle on the public highways, for a period specifically designated by the Secretary as defined in Section 1-204 of the Illinois Vehicle Code [625 ILCS 5/1-204].

"Suspension of a CDL with a charter bus driver endorsement" – the temporary withdrawal by formal action by the Secretary of a person's endorsement that grants and specifies limited privileges to operate a charter bus on the public highways, for a period specifically designated by the Secretary.

b) Requirements of applicants for a charter bus driver endorsement
In order for the Secretary of State to issue a charter bus driver endorsement, all applicants must:

- 1) Be 21 years of age or older;
- 2) Possess a valid and properly classified driver's license issued by the Secretary of State;
- 3) Submit to and successfully pass an Illinois specific criminal background check and Federal Bureau of Investigation criminal background check with current and future information through an approved vendor. (A consent form must be signed by the applicant/CDL holder that allows the Illinois Secretary of State to release the applicant's fingerprint information

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- to his/her employer.);
- 4) Pass a written test on charter bus operation, charter bus safety, and special traffic laws relating to charter buses and submit to a review of the applicant's driving habits by the Secretary of State at the time the written test is given;
 - 5) Demonstrate the ability to exercise reasonable care in the operation of the charter bus pursuant to the requirements of Section 6-508 of the Illinois Vehicle Code [625 ILCS 5/6-508];
 - 6) Be physically able to safely operate a charter bus. An applicant for a charter bus driver endorsement must demonstrate physical fitness to operate charter buses by undergoing a medical examination in accordance with the provisions of Section 5/6-508 of the Illinois Vehicle Code [625 ILCS 5/6-508];
 - 7) Affirm under penalty of perjury that he/she has not made a false statement or knowingly concealed a material fact in any application for an endorsement;
 - 8) Not have been convicted of committing or attempting to commit any one or more of the following offenses:
 - A) those offenses defined in Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-6, 10-7, 11-6, 11-9, 11-9.1, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 11-22, 12-3.1, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-6, 12-6.2, 12-7.1, 12-7.3, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.2, 12-21.5, 12-21.6, 12-33, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1, 20-1.1, 20-2, 24-1, 24-1.1, 24-1.2, 24-3.3, 31A-1, 31A-1.1 and 33A-2, and in Section 12-4(a) and (b)(1) of the Criminal Code of 1961 [720 ILCS 5];
 - B) those offenses defined in the Cannabis Control Act except those offenses defined in Sections 4(a) and (b) and 5(a) of the Cannabis Control Act [720 ILCS 550/4(a) and (b) and 5(a)];
 - C) those offenses defined in the Illinois Controlled Substances Act [720 ILCS 570];
 - D) any offense committed or attempted in any other state or against the laws of the United States that if committed or attempted in Illinois could be punishable as one or more of the foregoing offenses;

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- E) the offenses defined in Sections 4.1 and 5.1 of the Wrongs to Children Act [720 ILCS 150/4.1 and 5.1]; and
 - F) those offenses defined in Section 6-16 of the Liquor Control Act of 1934 [235 ILCS 5/6-16].
 - c) Endorsement Application Process
 - 1) The CDL holder desiring employment as a charter bus driver must obtain from the prospective employer and complete the following:
 - A) Application/Certification for Illinois charter bus driver endorsement;
 - B) Fingerprint process.
 - 2) The applicant shall then submit the Charter Bus Application/Certification for the charter bus driver endorsement and the appropriate fee to the Secretary of State's driver's license or driver services facility.
 - 3) The Secretary of State shall review the applicant's driving history to determine if it is acceptable under the provisions of this Part and Sections 6-104 and 6-508 of the Illinois Vehicle Code [625 ILCS 5/6-104 and 6-508]. The applicant:
 - A) must pass a written examination administered by the Secretary of State's Office in accordance with Section 6-508(c-1)(2) of the Illinois Vehicle Code [625 ILCS 5/6-508(c-1)(2)].
 - B) must successfully complete a road test, if applicable, administered by the Secretary of State's Office or a licensed third-party tester in the class of vehicle to be used in accordance with Section 6-508(a)(1) of the Illinois Vehicle Code [625 ILCS 5/6-508(a)(1)].
These tests must be successfully completed in 3 attempts.
 - 4) On renewal/reapplication for a charter bus driver endorsement, the CDL holder shall be required to submit an Application/Certification form for the Illinois charter bus driver endorsement verifying the completion of all requirements. On renewal/reapplication for the charter bus driver endorsement, the CDL holder will not be subject to the fingerprint process.
 - d) Denial, Cancellation, or Suspension of a CDL Holder with a Charter Bus Driver Endorsement

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- 1) The Secretary of State shall deny or cancel a CDL holder's charter bus driver endorsement:
 - A) If the criminal background investigation discloses that he/she is not in compliance with any of the provisions of Section 6-104 or 6-508 of the Illinois Vehicle Code [625 ILCS 5/6-104 or 6-508];
 - B) Upon receiving notice that the endorsement holder fails to comply with any provision of this Part;
 - C) Upon receiving notice that the endorsement holder's restricted commercial driving permit or commercial driving privileges are withdrawn or otherwise invalidated.
 - 2) The Secretary of State shall deny an applicant or CDL holder for a charter bus driver endorsement upon an indication on a driving record that he/she has failed to pay any fines, costs or fees that deny the renewal or reissuance of a driver's license or any other indication on a driving record that denies the renewal or reissuance of a driver's license.
 - 3) A cancellation of a CDL with a charter bus driver endorsement shall remain in effect pending the outcome of a hearing pursuant to Section 2-118 of the Illinois Vehicle Code [625 ILCS 5/2-118].
 - 4) An order may be rescinded provided the cause is removed and the driver continues to meet the requirements as outlined in Sections 6-104 and 6-508 of the Illinois Vehicle Code [625 ILCS 5/6-104 and 6-508].
- e) Employer Responsibility
It shall be the responsibility of a prospective or current employer of an applicant or CDL holder of a charter bus driver endorsement to:
- 1) Request an employer seven digit assigned number by faxing to the Secretary of State's Office a request on company letterhead indicating a contact person and telephone/fax number.
 - 2) Distribute charter bus driver endorsement applications.
 - 3) Insure that applicants submit to a fingerprint based criminal background investigation.
 - 4) Certify in writing to the Secretary of State that an applicant has successfully completed all employment conditions.
 - 5) Notify, in writing, the Secretary of State that the employer has certified the removal from service of the CDL driver with the charter bus driver endorsement whose endorsement has been withdrawn by the Secretary of

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- State, prior to the start of that CDL driver's next work shift.
- 6) Notify, in writing, the Secretary of State that the employee is no longer employed as a charter bus driver by the reporting employer.
 - 7) Notify, in writing, the Secretary of State that, while holding a previously issued valid charter bus driver endorsement, the individual has now been accepted as a charter bus driver for the reporting employer.
 - 8) Immediately upon receipt of a positive drug test, notify, in writing, the Secretary of State of such result. This information shall be privileged and maintained for the use of the Office of the Secretary of State.
 - 9) Maintain records of certifications that must be available for inspection by the Secretary of State.

f) Notice

The Secretary of State shall notify in writing the CDL holder and his/her current employer that he/she:

- 1) is ineligible under this Part based on information provided by an ISP or FBI criminal background investigation; or
- 2) is no longer eligible for a charter bus driver endorsement; or
- 3) of any related cancellations, suspensions, or denials of the applicant's charter bus driver endorsement.

g) Hearings

- 1) The Secretary of State shall conduct a hearing pursuant to Section 2-118 of the Illinois Vehicle Code [625 ILCS 5/2-118] upon the request of an applicant or holder whose charter bus driver endorsement has been denied, canceled or suspended.
- 2) The petition requesting a hearing shall be in writing and shall contain the reason the individual feels he/she is entitled to a charter bus driver endorsement.
- 3) The scope of the hearing shall be limited to the issuance criteria contained in Sections 6-104 and 6-508 of the Illinois Vehicle Code [625 ILCS 5/6-104 and 6-508].

(Source: Added at 28 Ill. Reg. 10776, effective July 13, 2004)

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 July 13, 2004 through July 19, 2004 and have been scheduled for review by the Committee at its August 10, 2004 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
8/26/04	<u>Department of Natural Resources</u> , Illinois List of Endangered and Threatened Flora (17 Ill. Adm. Code 1050)	5/7/04 28 Ill. Reg. 6755	8/10/04
8/26/04	<u>Department of Natural Resources</u> , Illinois List of Endangered and Threatened Fauna (17 Ill. Adm. Code 1010)	5/7/04 28 Ill. Reg. 6746	8/10/04
8/27/04	<u>Department of Natural Resources</u> , Crow, Woodcock, Snipe, Rail and Teal Hunting (17 Ill. Adm. Code 740)	5/7/04 28 Ill. Reg. 6733	8/10/04

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Medicaid Community Mental Health Services Program

Code Citation: 59 Ill. Adm. Code 132

<u>Section Numbers:</u>	132.10	132.20	132.25	132.30	
		132.35	132.40	132.42	132.44
		132.45	132.50	132.55	132.60
		132.65	132.70	132.75	132.80
		132.85	132.90	132.91	132.95
		132.100	132.105	132.115	132.120
		132.125	132.130	132.135	132.140
		132.142	132.145	132.148	132.150
		132.155	132.160	132.165	132.170
		132.APPENDIX A		132.APPENDIX B Table A	
		132.APPENDIX B Table B		132.APPENDIX B Table C	

Date Originally Published in the Illinois Register: 3/5/04
28 Ill. Reg. 3954

At its meeting on July 13, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Departments of Children and Family Services (DCFS) and Corrections (DOC) clearly state in their own rules that they will be operating their mental health programs in accordance with these Department of Human Services (DHS) rules or that DHS repeal this Part and DHS, DCFS and DOC adopt a Joint Rule governing their activities as a Medicaid certifying agency.

The agency should respond to this Recommendation, in writing, within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF CORRECTIONS

Heading of the Part: Medicaid Community Mental Health Services Program

Code Citation: 59 Ill. Adm. Code 132

<u>Section Numbers:</u>	132.10	132.20	132.25	132.30	
		132.35	132.40	132.42	132.44
		132.45	132.50	132.55	132.60
		132.65	132.70	132.75	132.80
		132.85	132.90	132.91	132.95
		132.100	132.105	132.115	132.120
		132.125	132.130	132.135	132.140
		132.142	132.145	132.148	132.150
		132.155	132.160	132.165	132.170
		132.APPENDIX A		132.APPENDIX B Table A	
		132.APPENDIX B Table B		132.APPENDIX B Table C	

Date Originally Published in the Illinois Register: 3/5/04
28 Ill. Reg. 3954

At its meeting on July 13, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Departments of Corrections (DOC) and the Department of Children and Family Services (DCFS) clearly state in their own rules that they will be operating their mental health programs in accordance with these Department of Human Services (DHS) rules or that DHS repeal this Part and DHS, DOC and DCFS adopt a Joint Rule governing their activities as a Medicaid certifying agency.

The agency should respond to this Recommendation, in writing, within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF HUMAN SERVICES

Heading of the Part: Medicaid Community Mental Health Services Program

Code Citation: 59 Ill. Adm. Code 132

<u>Section Numbers:</u>	132.10	132.20	132.25	132.30	
		132.35	132.40	132.42	132.44
		132.45	132.50	132.55	132.60
		132.65	132.70	132.75	132.80
		132.85	132.90	132.91	132.95
		132.100	132.105	132.115	132.120
		132.125	132.130	132.135	132.140
		132.142	132.145	132.148	132.150
		132.155	132.160	132.165	132.170
		132.APPENDIX A		132.APPENDIX B Table A	
		132.APPENDIX B Table B		132.APPENDIX B Table C	

Date Originally Published in the Illinois Register: 3/5/04
28 Ill. Reg. 3954

At its meeting on July 13, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Departments of Children and Family Services (DCFS) and Corrections (DOC) clearly state in their own rules that they will be operating their mental health programs in accordance with these Department of Human Services (DHS) rules or that DHS repeal this Part and DHS, DCFS and DOC adopt a Joint Rule governing their activities as a Medicaid certifying agency.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION TO
EMERGENCY RULEMAKING

STATE EMPLOYEES RETIREMENT SYSTEM

Heading of the Part: The Administration and Operation of the State Employees' Retirement System of Illinois

Code Citation: 80 Ill. Adm. Code 1540

Section Numbers: 1540.80

Date Originally Published in the Illinois Register: 6/18/04
28 Ill. Reg. 8775

At its meeting on July 13, 2004, the Joint Committee on Administrative Rules objected to the State Employees' Retirement System filing its emergency rulemaking titled The Administration and Operation of the State Employees' Retirement System of Illinois (80 Ill. Adm. Code 1540; 28 Ill. Reg. 8775) more than 10 days prior to its effective date, contrary to Section 5-45 of the IAPA.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYOBJECTION AND FILING PROHIBITION

BOARD OF HIGHER EDUCATION

Heading of the Part: Health Services Education Grants Act

Code Citation: 23 Ill. Adm. Code 1020

Section Numbers: 1020.10 1020.30
1020.40 1020.50
1020.60 1020.70

Date Originally Published in the Illinois Register: 1/2/04
28 Ill. Reg. 284

At its meeting on July 13, 2004, the Joint Committee on Administrative Rules voted to object to the above proposed rulemaking and prohibit its filing with the Secretary of State. The Committee found that the adoption of this rulemaking would constitute a serious threat to the public interest. The reason for the objection and prohibition is as follows:

JCAR objects to, and prohibits the filing of, the Board of Higher Education's rulemaking titled Health Services Education Grants Act (23 Ill. Adm. Code 1020; 28 Ill. Reg. 284) because the Board is proposing grant qualifications that differ from the qualifications established by Section 4 of the Health Services Education Grants Act [110 ILCS 215]. The Board's lack of adherence to the statutorily established qualifications poses a threat to the public interest.

The proposed rule may not be filed with the Secretary of State or enforced by the Board of Higher Education for any reason for 180 days following receipt of this certification and statement by the Secretary of State.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 1) Heading of the Part: White-Tailed Deer Hunting By Use of Handguns
- 2) Code Citation: 17 Ill. Adm. Code 680
- 3)

Section Numbers:	Adopted Action:
680.10	Amendment
680.20	Amendment
680.30	Amendment
680.40	Amendment
680.50	Amendment
680.60	Amendment
680.70	Amendment
680.80	Amendment
- 4) Date Notice of Proposed Amendments Published in the Illinois Register: July 16, 2004, 28 Ill. Reg. 9835
- 5) Reason for Withdrawal: The amendments to this Part are being withdrawn because it was determined that additional amendments need to be made.

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF CORRECTIONS TO NOTICE ONLY

- 1) Heading of the Part: Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004
- 2) Code Citation: 68 Ill. Adm. Code 1240
- 3) The Notice of Proposed Rules being corrected appeared at: 28 Ill. Reg. 9886, dated July 16, 2004
- 4) The information being corrected is as follows: An error on this proposed rule's notice page appears in issue 29 (July 16, 2004) of the *Illinois Register*. On the notice page, the Department of Professional Regulation inadvertently omitted Sections 1240.310 and 1240.320 and included Section 1240.545 in the list of the sections contained in this rulemaking. The inaccuracies in the listing do not affect rule text in any way. DPR regrets any confusion these inadvertent errors may have caused.

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DEPARTMENT OF PUBLIC AID

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Register citation of proposed or adopted rulemaking and other pertinent action: 28 Ill. Reg. 9926 (Proposed) and 28 Ill. Reg. 10157 (Emergency) in the 7/16/04 *Illinois Register*
- 4) Explanation: In Section 148.140(b)(2)(D), an amendatory change was inadvertently not published even though the copy filed by the agency with the Secretary of State showed the change. The factor by which reimbursement rates are multiplied should be amendatorily changed from 2.72 to 2.856. JCAR regrets any confusion this omission may have caused. The corrected Section follows this notice.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF PUBLIC AID

Section 148.140 Hospital Outpatient and Clinic Services

EMERGENCY

- a) Fee-For-Service Reimbursement
 - 1) Reimbursement for hospital outpatient services shall be made on a fee-for-service basis, except for:
 - A) Those services that meet the definition of the Ambulatory Procedure Listing (APL) as described in subsection (b) of this Section.
 - B) End stage renal disease treatment (ESRDT) services, as described in subsection (c) of this Section.
 - C) Those services provided by a Certified Pediatric Ambulatory Care Center (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D).
 - D) Those services provided by a Critical Clinic Provider as described in subsection (e) of this Section.
 - 2) Except for the procedures under the APL groupings described in subsection (b) of this Section, fee-for-service reimbursement levels shall be at the lower of the hospital's usual and customary charge to the public or the Department's statewide maximum reimbursement screens. Hospitals will be required to bill the Department utilizing specific service codes. However, all specific client coverage policies (relating to client eligibility and scope of services available to those clients) which pertain to the service billed are applicable to hospitals in the same manner as to non-hospital providers who bill fee for service.
 - 3) With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rate described in subsection (a)(2) of this Section shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:
 - A) The reimbursement rates described in subsection (a)(2) of this

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Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

- B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.
- 4) Maternal and Child Health Program rates, as described in 89 Ill. Adm. Code 140 Table M, shall be paid to Certified Hospital Ambulatory Primary Care Centers (CHAPCC), as described in 89 Ill. Adm. Code 140.461(f)(1)(A) and Section 148.25(b)(5)(A), Certified Hospital Organized Satellite Clinics (CHOSC), as described in 89 Ill. Adm. Code 140.461(f)(1)(B) and Section 148.25(b)(5)(B), and Certified Obstetrical Ambulatory Care Centers (COBACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(C), and Section 148.25(b)(5)(C). Maternal and Child Health Program rates shall also be paid to Certified Pediatric Ambulatory Care Centers (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D), for covered services as described in 89 Ill. Adm. Code 140.462(e)(3), that are provided to non-assigned Maternal and Child Health Program clients, as described in 89 Ill. Adm. Code 140.464(b)(1).
- 5) Certified Pediatric Ambulatory Care Centers (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D), shall be reimbursed in accordance with 89 Ill. Adm. Code 140.464(b)(2) for assigned clients.
- 6) Hospitals described in Sections 148.25(b)(2)(A) and 148.25(b)(2)(B) shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year.
- 7) With the exception of the retrospective adjustment described in subsection (a)(3) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this Section.
- b) Ambulatory Procedure Listing (APL)

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Effective July 1, ~~20042002~~, the Department will reimburse hospitals for certain hospital outpatient procedures as described in subsection (b)(1) of this Section.

1) APL Groupings

Under the APL, a list was developed that defines those technical procedures that require the use of the hospital outpatient setting, its technical staff or equipment. These procedures are separated into separate groupings based upon the complexity and historical costs of the procedures. The groupings are as follows:

A) Surgical Groups

- i) Surgical group 1(a) consists of intense surgical procedures. Group 1(a) surgeries require an operating suite with continuous patient monitoring by anesthesia personnel. This level of service involves advanced specialized skills and highly technical operating room personnel using high technology equipment. The rate for this procedure shall be ~~\$1,794.00~~ \$1,709.00.
- ii) Surgical group 1(b) consists of moderately intense surgical procedures. Group 1(b) surgeries generally require the use of an operating room suite or an emergency room treatment suite, along with continuous monitoring by anesthesia personnel and some specialized equipment. The rate for this procedure shall be ~~\$1,049.00~~ \$999.00.
- iii) Surgical group 1(c) consists of low intensity surgical procedures. Group 1(c) surgeries may be done in an operating suite or an emergency room and require relatively brief operating times. Such procedures may be performed for evaluation or diagnostic reasons. The rate for this procedure shall be ~~\$752.00~~ \$716.00.
- iv) Surgical group 1(d) consists of surgical procedures of very low intensity. Group 1(d) surgeries may be done in an operating room or emergency room, have a low risk of complications, and include some physician-administered

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diagnostic and therapeutic procedures. The rate for this procedure shall be ~~\$273.00~~~~\$287.00~~.

- B) Diagnostic and Therapeutic Groups
- i) Diagnostic and therapeutic group 2(a) consists of advanced or evolving technologically complex diagnostic or therapeutic procedures. Group 2(a) procedures are typically invasive and must be administered by a physician. The rate for this procedure shall be ~~\$896.00~~~~\$941.00~~.
 - ii) Diagnostic and therapeutic group 2(b) consists of technologically complex diagnostic and therapeutic procedures that are typically non-invasive. Group 2(b) procedures typically include radiological consultation or a diagnostic study. The rate for this procedure shall be ~~\$290.00~~~~\$304.00~~.
 - iii) Diagnostic and therapeutic group 2(c) consists of other diagnostic tests. Group 2(c) procedures are generally non-invasive and may be administered by a technician and monitored by a physician. The rate for this procedure shall be ~~\$168.00~~~~\$176.00~~.
 - iv) Diagnostic and therapeutic group 2(d) consists of therapeutic procedures. Group 2(d) procedures typically involve parenterally administered therapeutic agents. Either a nurse or a physician is likely to perform such procedures. The rate for this procedure shall be ~~\$130.00~~~~\$136.00~~.
- C) Group 3 reimbursement for services provided in a hospital emergency department will be made in accordance with one of the three levels described in this Section. Emergency Services mean those services that are for a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, possessing an average knowledge of medicine and health, could reasonably expect that the absence of

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immediate attention would result in placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part. The determination of the level of service reimbursable by the Department shall be based upon the circumstances at the time of the initial examination, not upon the final determination of the client's actual condition, unless the actual condition is more severe.

- i) Emergency Level I refers to Emergency Services provided in the hospital's emergency department for the alleviation of severe pain or for immediate diagnosis and/or treatment of conditions or injuries that pose an immediate significant threat to life or physiologic function or requires an intense level of physician or nursing intervention. An "intense level" is defined as more than two hours of documented one-on-one nursing care or interactive treatment. The rate for this service shall be ~~\$172.00~~\$181.00.
 - ii) Emergency Level II refers to Emergency Services that do not meet the definition in this Section of Emergency Level I care, but that are provided in the hospital emergency department for a medical condition manifesting itself by acute symptoms of sufficient severity. The rate for this service shall be ~~\$64.00~~\$67.00.
 - iii) Non-Emergency/Screening Level means those services provided in the hospital emergency department that do not meet the requirements of Emergency Level I or II stated in this Section. For such care, the Department will reimburse the hospital either applicable current FFS rates for the services provided or a screening fee, but not both. The rate for this service shall be ~~\$25.00~~\$26.00.
- D) Group 4 for observation services is established to reimburse such services that are provided when a patient's current condition does not warrant an inpatient admission but does require an extended

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period of observation in order to evaluate and treat the patient in a setting that provides ancillary resources for diagnosis or treatment with appropriate medical and skilled nursing care. The hospital may bill for both observation and other APL procedures but will be reimbursed only for the procedure (group) with the highest reimbursement rate. Observation services will be reimbursed under one of three categories:

- i) for at least 60 minutes but less than six hours and 31 minutes of services, the rate shall be ~~\$70.00~~\$74.00;
 - ii) for at least six hours and 31 minutes but less than 12 hours and 31 minutes of services, the rate shall be ~~\$211.00~~\$222.00; or
 - iii) for at least 12 hours and 31 minutes or more of services, the rate shall be ~~\$422.00~~\$443.00.
- E) Group 5 for psychiatric treatment services is established to reimburse for certain outpatient treatment psychiatric services that are provided by a hospital that is enrolled with the Department to provide inpatient psychiatric services. Under this group, the Department will reimburse, at different rates, Type A and Type B Psychiatric Clinic Services, as defined in Section 148.40(d)(1). A different rate will also be reimbursed to children's hospitals as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).
- i) The rate for Type A psychiatric clinic services shall be \$68.00.
 - ii) The rate for Type A psychiatric clinic services provided by a Children's Hospital shall be \$102.00.
 - iii) The rate for Type B psychiatric clinic services shall be \$101.00.
 - iv) The rate for Type B psychiatric clinic services provided by a Children's Hospital shall be \$102.00.

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- F) Group 6 for physical rehabilitation services is established to reimburse for certain outpatient physical rehabilitation services. Under this group, the Department will reimburse for services provided by a hospital enrolled with the Department to provide outpatient-physical rehabilitation services at a different rate than will be reimbursed for physical rehabilitation services provided by a hospital that is not enrolled with the Department to provide physical rehabilitation services. A different rate will also be reimbursed to children's hospitals as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).
- i) The rate for rehabilitation services provided by a hospital enrolled with the Department to provide outpatient physical rehabilitation shall be \$130.00.
 - ii) The rate for rehabilitation services provided by a hospital that is not enrolled with the Department to provide physical rehabilitation shall be \$115.00.
 - iii) The rate for rehabilitation services provided by Children's Hospitals shall be \$130.00.
- 2) Each of the groups described in subsection (b)(1) of this Section will be reimbursed by the Department considering the following:
- A) The Department will provide cost outlier payments for specific devices and drugs associated with specific APL procedures. Such payments will be made if:
 - i) The device or drug is on an approved list maintained by the Department. In order to be approved, the Department will consider requests from medical providers and shall base its decision on medical appropriateness of the device or drug and the costs of such device or drug; and
 - ii) The provision of such devices or drugs is deemed to be medically appropriate for a specific client, as determined

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by the Department's physician consultants.

- B) Additional payment for such devices or drugs, as described in subsection (b)(2)(A) of this Section, will require prior authorization by the Department unless it is determined by the Department's professional medical staff that prior authorization is not warranted for a specific device or drug. When such prior authorization has been denied for a specific device or drug, the decision may be appealed as allowed by 89 Ill. Adm. Code 102.80(a)(7) and in accordance with the provisions for assistance appeals at 89 Ill. Adm. Code 104.
- C) The amount of additional payment for devices or drugs, as described in subsection (b)(2)(A) of this Section, will be based on the following methodology:
- i) The product of a cost to charge ratio that, in the case of cost reporting hospitals as described in Section 148.130(d), or in the case of other non-cost reporting providers, equals 0.5 multiplied by the provider's total covered charges on the qualifying claim, less the APL payment rate multiplied by four;
 - ii) If the result of subsection (b)(2)(C)(i) of this Section is less than or equal to zero, no additional payment will be made. If the result is greater than zero, the additional payment will equal the result of subsection (b)(2)(C)(i) of this Section, multiplied by 80 percent. In such cases, the provider will receive the sum of the APL payment and the additional payment for such high cost devices or drugs.
- D) For county-owned hospitals located in an Illinois county with a population greater than three million, reimbursement rates for each of the reimbursement groups shall be equal to the amounts described in subsection (b)(1) of this Section multiplied by a factor of ~~2.8562-72~~, except that physical rehabilitation services provided by a general care hospital not enrolled with the Department to provide outpatient physical rehabilitation services shall be

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reimbursed at a rate of \$230.00 and the reimbursement rate for Type B psychiatric clinic services shall be \$224.00.

- E) Reimbursement rates for hospitals not required to file an annual cost report with the Department may be lower than those listed in this Section.
 - F) Reimbursement for each APL group described in this subsection (b) shall be all-inclusive for all services provided by the hospital, regardless of the amount charged by a hospital. No separate reimbursement will be made for ancillary services or the services of hospital personnel. Exceptions to this provision are that hospitals shall be allowed to bill separately, on a fee-for-service basis, for professional outpatient services of a physician providing direct patient care who is salaried by the hospital, and occupational or speech therapy services provided in conjunction with rehabilitation services as described in subsection (b)(1)(F) of this Section. For the purposes of this Section, a salaried physician is a physician who is salaried by the hospital; a physician who is reimbursed by the hospital through a contractual arrangement to provide direct patient care; or a group of physicians with a financial contract to provide emergency department care. Under APL reimbursement, salaried physicians do not include radiologists, pathologists, nurse practitioners, or certified registered nurse anesthetists and no separate reimbursement will be allowed for such providers.
- 3) The assignment of procedure codes to each of the reimbursement groups in subsection (b)(1) of this Section are detailed in the Department's Hospital Handbook and in notices to providers.
 - 4) A one-time fiscal year 2000 payment will be made to hospitals. Payment will be based upon the services, specified in this Section, provided on or after July 1, 1998, and before July 1, 1999, which were submitted to the Department and determined eligible for payment (adjudicated) by the Department on or prior to April 30, 2000, excluding services for Medicare/Medicaid crossover claims and claims which resulted in a zero payment by the Department. A one-time amount of:

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- A) \$27.75 will be paid for each service for procedure code W7183 (Psychiatric clinic Type A for adults).
 - B) \$24.00 will be paid for each service for APL Group 5 (Psychiatric clinic Type A only) provided by a children's hospital as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).
 - C) \$15.00 will be paid for each service for APL Group 6 (Physical rehabilitation services) provided by a children's hospital as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).
- 5) County Facility Outpatient Adjustment
- A) Effective for services provided on or after July 1, 1995, county owned hospitals in an Illinois county with a population of over three million shall be eligible for a county facility outpatient adjustment payment. This adjustment payment shall be in addition to the amounts calculated under this Section and are calculated as follows:
 - i) Beginning with July 1, 1995, hospitals under this subsection shall receive an annual adjustment payment equal to total base year hospital outpatient costs trended forward to the rate year minus total estimated rate year hospital outpatient payments, multiplied by the resulting ratio derived when the value 200 is divided by the quotient of the difference between total base year hospital outpatient costs trended forward to the rate year and total estimated rate year hospital outpatient payments divided by one million.
 - ii) The payment calculated under this subsection (b)(5)(A) may be adjusted by the Department to ensure compliance with aggregate and hospital specific federal payment limitations.
 - iii) The county facility outpatient adjustment under this

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subsection shall be made on a quarterly basis.

- B) County Facility Outpatient Adjustment Definition. The definitions of terms used with reference to calculation of the county facility outpatient adjustment are as follows:
- i) "Base Year" means the most recently completed State fiscal year.
 - ii) "Rate Year" means the State fiscal year during which the county facility adjustment payments are made.
 - iii) "Total Estimated Rate Year Hospital Outpatient Payments" means the Department's total estimated outpatient date of service liability, projected for the upcoming rate year.
 - iv) "Total Hospital Outpatient Costs" means the statewide sum of all hospital outpatient costs derived by summing each hospital's outpatient charges derived from actual paid claims data multiplied by the hospital's cost-to-charge ratio.
- 6) No Year-End Reconciliation
With the exception of the retrospective rate adjustment described in subsection (b)(8) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this subsection (b).
- 7) Rate Adjustments
With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rates described in subsection (b)(5) of this Section shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:
- A) The reimbursement rates described in subsection (b)(5) of this Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

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- B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.
- 8) Services are available to all clients in geographic areas in which an encounter rate hospital or a county-operated outpatient facility is located. All specific client coverage policies (relating to client eligibility and scope of services available to those clients) which pertain to the service billed are applicable to hospitals reimbursed under the Ambulatory Care Program in the same manner as to encounter rate hospitals and to non-hospital and hospital providers who bill and receive reimbursement on a fee-for-service basis.
- 9) Hospitals described in Section 148.25(b)(2)(A) and (b)(2)(B) shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year.
- c) Payment for outpatient end-stage renal disease treatment (ESRDT) services provided pursuant to Section 148.40(c) shall be made at the Department's payment rates, as follows:
- 1) For inpatient hospital services provided pursuant to Section 148.40(c)(1), the Department shall reimburse hospitals pursuant to Sections 148.240 through 148.300 and 89 Ill. Adm. Code 149.
 - 2) For outpatient services or home dialysis treatments provided pursuant to Section 148.40(c)(2) or (c)(3), the Department will reimburse hospitals and clinics for ESRDT services at a rate which will reimburse the provider for the dialysis treatment and all related supplies and equipment, as defined in 42 CFR 405.2163 (1994). This rate will be that rate established by Medicare pursuant to 42 CFR 405.2124 and 413.170 (1994).
 - 3) Payment for non-routine services. For services which are provided during outpatient or home dialysis treatment pursuant to Section 148.40(c)(2) or (c)(3) but are not defined as a routine service under 42 CFR 405.2163 (1994), separate payment will be made to independent laboratories, pharmacies, and medical supply providers pursuant to 89 Ill. Adm. Code

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140.430 through 140.434, 140.440 through 140.450, and 140.475 through 140.481, respectively.

- 4) Payment for physician services relating to ESRDT will be made separately to physicians, pursuant to 89 Ill. Adm. Code 140.400.
 - 5) With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rates described in this subsection (c) shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:
 - A) The reimbursement rates described in this subsection (c) shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.
 - B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.
 - 6) With the exception of the retrospective rate adjustment described in subsection (c)(5) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this subsection (c).
 - 7) Hospitals described in Section 148.25(b)(2)(A) and (b)(2)(B) of this Section shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year.
- d) Non Hospital-Based Clinic Reimbursement
- 1) County-Operated Outpatient Facility Reimbursement
- Reimbursement for all services provided by county-operated outpatient facilities, as described in Section 148.25(b)(2)(C), that do not qualify as either a Maternal and Child Health Program managed care clinics, as described in 89 Ill. Adm. Code 140.461(f), or as a Critical Clinic Provider,

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as described in subsection (e) of this Section, shall be on an all-inclusive per encounter rate basis as follows:

- A) Base Rate. The per encounter base rate shall be calculated as follows:
- i) Allowable direct costs shall be divided by the number of direct encounters to determine an allowable cost per encounter delivered by direct staff.
 - ii) The resulting quotient, as calculated in subsection (d)(1)(A)(i) of this Section, shall be multiplied by the Medicare allowable overhead rate factor to calculate the overhead cost per encounter.
 - iii) The resulting product, as calculated in subsection (d)(1)(A)(ii) of this Section, shall be added to the resulting quotient, as calculated in subsection (d)(1)(A)(i) of this Section to determine the per encounter base rate.
 - iv) The resulting sum, as calculated in subsection (d)(1)(A)(iii) of this Section, shall be the per encounter base rate.
- B) Supplemental Rate
- i) The supplemental service cost shall be divided by the total number of direct staff encounters to determine the direct supplemental service cost per encounter.
 - ii) The supplemental service cost shall be multiplied by the allowable overhead rate factor to calculate the supplemental overhead cost per encounter.
 - iii) The quotient derived in subsection (d)(1)(B)(i) of this Section, shall be added to the product derived in subsection (d)(1)(B)(ii) of this Section, to determine the per encounter supplemental rate.

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- iv) The resulting sum, as described in subsection (d)(1)(B)(iii) of this Section, shall be the per encounter supplemental rate.
- C) Final Rate
- i) The per encounter base rate, as described in subsection (d)(1)(A)(iv) of this Section, shall be added to the per encounter supplemental rate, as described in subsection (d)(1)(B)(iv) of this Section, to determine the per encounter final rate.
 - ii) The resulting sum, as determined in subsection (d)(1)(C)(i) of this Section, shall be the per encounter final rate.
 - iii) The per encounter final rate, as described in subsection (d)(1)(C)(ii) of this Section, shall be adjusted in accordance with subsection (d)(2) of this Section.
- 2) Rate Adjustments
- Rate adjustments to the per encounter final rate, as described in subsection (d)(1)(C)(iii) of this Section, shall be calculated as follows:
- A) The reimbursement rates described in subsections (d)(1)(A) through (d)(1)(C) and (e)(2) of this Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.
 - B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.
 - C) The final rate described in subsection (d)(1)(C) of this Section

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shall be no less than \$147.09 per encounter.

- 3) County-operated outpatient facilities, as described in Section 148.25(b)(2)(C), shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year. No year-end reconciliation is made to the reimbursement calculated under this subsection (d).
 - 4) Services are available to all clients in geographic areas in which an encounter rate hospital or a county-operated outpatient facility is located. All specific client coverage policies (relating to client eligibility and scope of services available to those clients) which pertain to the service billed are applicable to encounter rate hospitals in the same manner as to hospitals reimbursed under the Ambulatory Care Program and to non-hospital and hospital providers who bill and receive reimbursement on a fee-for-service basis.
- e) Critical Clinic Providers
- 1) Effective for services provided on or after September 27, 1997, a clinic owned or operated by a county with a population of over three million, that is within or adjacent to a hospital, shall qualify as a Critical Clinic Provider if the facility meets the efficiency standards established by the Department. The Department's efficiency standards under this subsection (e) require that the quotient of total encounters per facility fiscal year for the Critical Clinic Provider divided by total full time equivalent physicians providing services at the Critical Clinic Provider shall be greater than:
 - A) 2700 for reimbursement provided during the facility's cost reporting year ending during 1998,
 - B) 2900 for reimbursement provided during the facility's cost reporting year ending during 1999,
 - C) 3100 for reimbursement provided during the facility's cost reporting year ending during 2000,
 - D) 3600 for reimbursement provided during the facility's cost

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reporting year ending during 2001, and

- E) 4200 for reimbursement provided during the facility's cost reporting year ending during 2002.
- 2) Reimbursement for all services provided by any Critical Clinic Provider shall be on an all-inclusive per-encounter rate which shall equal reported direct costs of Critical Clinic Providers for each facility's cost reporting period ending in 1995, and available to the Department as of September 1, 1997, divided by the number of Medicaid services provided during that cost reporting period as adjudicated by the Department through July 31, 1997.
- 3) Critical Clinic Providers, as described in this subsection (e), shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year. No year-end reconciliation is made to the reimbursement calculated under this subsection (e).
- 4) The reimbursement rates described in this subsection (e) shall be no less than the reimbursement rates in effect on July 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.
- f) Critical Clinic Provider Pharmacies
Prescribed drugs, dispensed by a pharmacy that is a Critical Clinic Provider, that are not part of an encounter reimbursable under subsection (e) of this Section shall be reimbursed at the rate described in subsection (e)(2) of this Section.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days)

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- 1) Heading of the Parts: Hospital Services
Long Term Care Reimbursement Changes
Child Support Enforcement
- 2) Code Citations: 89 Ill. Adm. Code 148
89 Ill. Adm. Code 153
89 Ill. Adm. Code 160
- 3) Register citations of proposed or adopted rulemakings and other pertinent action:

28 Ill. Reg. 10157; 7/16/04 *Illinois Register*
28 Ill. Reg. 10218; 7/16/04 *Illinois Register*
28 Ill. Reg. 10225; 7/16/04 *Illinois Register*
- 4) Explanation: The Table of Contents for issue 29 (July 16, 2004) of the *Illinois Register* correctly printed the page numbers for the emergency rulemakings listed above as well as their companion, identical proposed rulemakings. However, the page number in the last line of each proposed rulemaking notice page that cross-referenced the above-referenced emergency amendments was incorrectly printed. The page numbers were also misprinted in the main source note and section source notes within the text of the emergency rulemakings listed above. Below are the correct page numbers as they should have appeared in this *Illinois Register*. The Joint Committee on Administrative Rules regrets any confusion this inadvertent error may have caused.

The last line in each of the corresponding proposed notice pages of the proposed rulemakings identical to the emergency rulemakings above should have read:

For 89 Ill. Adm. Code 148 (Hospital Services):

The full text of the proposed amendments is identical to the text of the emergency amendments that appears in this issue of the *Illinois Register* on page 10157:

For 89 Ill. Adm. Code 153 (Long Term Care Reimbursement Changes):

The full text of the proposed amendments is identical to the text of the emergency amendments that appears in this issue of the *Illinois Register* on page 10218:

For 89 Ill. Adm. Code 160 (Child Support Enforcement):

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The full text of the proposed amendments is identical to the text of the emergency amendments that appears in this issue of the *Illinois Register* on page 10225:

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- a) Part (Heading and Code Citation): Lottery, 11 Ill. Adm. Code 1770
- 1) Rulemaking:
- A) Description: Lottery anticipates promulgating 4 new regulations, which are described below.
1. The Illinois Lottery has a long-standing practice of utilizing lottery tickets for promotional purposes. Pursuant to input from the Office of Internal Audits, Lottery plans to memorialize this practice in administrative rule.
 2. The Illinois Lottery has a long-standing practice of distributing Lottery logo items for promotional purposes, while also periodically offering such items for sale. Pursuant to input from the Office of Internal Audits, Lottery plans to clarify this practice in administrative rule, as the current rule could be interpreted to permit only the sale of these items.
 3. Assignment of Lottery prizes was authorized effective January 1, 2004 by P.A. 93-465. As petitions for assignment have been received and processed, Lottery staff has identified certain procedural matters that require clarification, such as which parties in a group/partnership claim situation have the ability to assign all or part of the group/partnership prize and whether a company entering into assignment contracts with Illinois Lottery winners must be registered to do business in Illinois. Lottery intends to promulgate rules to address these issues.
 4. The January 2004 Regulatory Agenda indicated that Lottery would promulgate a rule increasing the application and renewal fees for Lottery licenses to the maximum permitted by the Illinois Lottery Law (\$10 per annum). It is our understanding that revenue enhancement legislation has been proposed for fiscal year 2005 that increases initial application and renewal fees for Lottery licenses beyond the amounts set forth in the January 2004 Agenda. Should that legislation pass, Section 1770.20 of the Lottery's General Rules will be amended accordingly.

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- B) Statutory Authority: Section 7.1 of the Illinois Lottery Law [20 ILCS 1605/7.1]
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated.
- D) Date agency anticipates First Notice: The Lottery anticipates First Notice in October 2004.
- E) Effect on small business, small municipalities or not for profit corporations: The first two regulations contemplated by the Lottery, concerning promotional tickets and premium items, will have no effect on small businesses, small municipalities or not-for-profit corporations. The third regulation, concerning assignment of Lottery prizes, may affect small businesses entering into assignment transactions by requiring them to pay a nominal registration fee to the Illinois Secretary of State's office. The fourth regulation described above will increase by an unknown amount the fees paid by small businesses, small municipalities and not for profit corporations to hold a Lottery license, depending upon the final form of the legislation. As proposed, the increase would amount to \$20 or less per license year, which should have a negligible effect on current or potential licensees.
- F) Agency contact person for information:
- Lisa A. Crites
Illinois Dept. of Revenue
Lottery Program
101 W. Jefferson, MC 5-950
Springfield IL 62702
217/524-5253
- G) Related rulemakings and other pertinent information: There are no related rulemakings.

b) Part (Heading and Code Citation): Income Tax, 86 Ill. Adm. Code 100

1) Rulemaking:

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- A) Description: New rules will be added to Part 100 concerning the tax credit for Tech Prep Youth Vocational Programs (IITA Section 209); the Dependent Care Assistance Credit (IITA Section 210); the Employee Child Care Tax Credit (IITA Section 210.5); the Film Production Services Credit (IITA Section 213); the Affordable Housing Credit (IITA Section 214); the transportation employee credit (IITA Section 215); the reallocation of items under IITA Section 404; pass-through of investment credits from partnerships and Subchapter S corporations to their partners and shareholders; the earned income credit (IITA Section 212); filing of refund claims, offsets of refunds against other liabilities and other collection matters, statutes of limitations, and interest computations.

Part 100 will be amended by adding rules and amending existing rules governing the allocation and apportionment of income under Article 3 of the IITA.

Part 100 will be amended to update the provisions defining unitary business groups and computing the combined tax liability of unitary business groups.

Part 100 will be amended by adding rules providing guidance on the addition and subtraction modifications allowed in IITA Section 203, on the credit for residential property taxes paid in IITA Section 208, on the acceptance of substitute W-2s and on the issue of when a taxpayer is subject to tax in another state under IITA Section 303(f).

Part 100 will be amended to provide guidance for payment of estimated taxes during short taxable years, during years in which marital status changes, and for computation of penalties for late payment of estimated taxes.

Part 100 will be amended to clarify definitions of terms in IITA Section 1501(a).

Part 100 will be amended to implement legislation enacted in 2004.

Finally, the Department will continue the updating and correction of Part 100.

- B) Statutory Authority: 35 ILCS 5/101 and 35 ILCS 5/1401

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- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 100 over the next six months. We anticipate filing rulemakings amending Part 100 on a regular basis during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs an income tax filing obligation.
- F) Agency contact person for information:

Paul S. Caselton
Deputy General Counsel - Income Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL 62794
217/782-7055

- G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): Property Tax Code, 86 Ill. Adm. Code 110

1) Rulemaking:

A) Description: Part 110 will be amended:

- 1) to update rules as a result of legislative amendments enacted by Public Acts 90-323, 91-377, 91-393, 91-425, 91-732, 92-278, 92-333, 92-658, 92-859, 93-533, 93-606, and 93-643;
- 2) to extend the filing deadline and clarify trending procedures for the assessor bonus, and
- 3) to update an illustration showing education requirements for board of review members.

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- B) Statutory Authority: 35 ILCS 200/Arts. 4, 5, 6, 8, 10, 11, 12, 14, 15, 16, 18, and 20
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing these rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: These rulemakings will affect local assessing officials, taxing districts subject to the Property Tax Extension Limitation Law in counties that classify property for purposes of taxation in accordance with Section 4 of Article IX of the Illinois Constitution of 1970, and owners of exempt property and certain categories of property entitled to preferential assessments.
- F) Agency contact person for information:
- Karen Alice Kloppe
Associate Counsel – Property Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL 62794
217/782-2844
- G) Related rulemakings and other pertinent information: None
- d) Part (Heading and Code Citation): Retailers' Occupation Tax, 86 Ill. Adm. Code 130
- 1) Rulemaking:
- A) Description: Amendments will be made to update the Retailers' Occupation Tax regulations to reflect new statutory developments, decisional law and Department policies. Rulemakings are also promulgated as part of the Department's continuing effort to codify policies contained in various letter rulings. Some of the highlights of these changes include:

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1. Revision of Section 130.340 governing the rolling stock exemption, in response to anticipated statutory changes (numerous bills are pending that modify the rolling stock exemption, e.g., amendments to HB 714).
2. Promulgation of regulations governing administration of the Commercial Distribution Fee sales tax exemption, in response to PA 93-23 and anticipated statutory changes (e.g., amendments to HB 714).
3. Amendment of Section 130.331 governing the Manufacturer's Purchase Credit in response to anticipated statutory changes that reinstate the Manufacturer's Purchase Credit (e.g., amendments to HB 864).
4. Amendment of Section 130.325 in response to anticipated statutory changes reinstating the graphic arts machinery and equipment exemption (e.g., amendments to HB 868).
5. Amendment of Section 130.552 to implement the anticipated changes of SB 2290. Senate Bill 2290 allows liquor distributors and manufacturers to provide a retailer with monthly sales statements by electronic means, unless the retailer is unable to receive the statement by electronic means.
6. Amendment of regulations to change the definition of the term, "gasohol" pursuant to the provisions of anticipated SB 2370.
7. Revision of Section 130.415 (transportation and delivery charges) to add examples and to clarify the requirement of a separate agreement between seller and purchaser, particularly in the case of Internet, mail order, telephone and television orders.
8. Promulgation of a regulation explaining the taxation of seminar materials.
9. Promulgation of a regulation that explains the tax liability of hotels for room rental charges made in connection with events during which food is provided by the hotels, such as conferences and weddings.

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10. Amendment of Section 130.310 governing taxation of food, drugs and medical appliances to clarify the manner in which the tax rate on food is determined.
 11. Amendment of Section 130.111 regarding the tax due when persons engaged in the business of leasing aircraft and watercraft sell any used aircraft or watercraft to purchasers. These changes are in response to the anticipated enactment of the Watercraft Use Tax and the recent enactment of the Aircraft Use Tax.
- B) Statutory Authority: 35 ILCS 120
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 130 over the next six months. We anticipate filing rulemakings amending Part 130 on a regular basis during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Small businesses that sell tangible personal property at retail will be affected by these regulations. Transportation companies will be affected by the rolling stock and CDF regulations. Liquor distributors and manufacturers, as well as liquor retailers, will be affected by regulations governing liquor reporting requirements. Manufacturers and persons engaged in graphic arts production will be affected by the MPC and graphic arts exemption regulations, respectively. Restaurants, grocers and other establishments selling food products will be affected by changes to Section 130.310.
- F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales & Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL 62794
217/782-2844

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G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Service Occupation Tax, 86 Ill. Adm. Code 140

1) Rulemaking:

A) Description: Amendments will be made as part of a general update to clarify application of the Service Occupation Tax and to reflect recent decisional law, statutory changes and Department policy.

B) Statutory Authority: 35 ILCS 115

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 140 over the next six months. We anticipate filing rulemakings amending Part 140 on a regular basis during the next six months of this year.

E) Effect on small business, small municipalities or not-for-profit corporations: Servicemen transferring tangible personal property incident to service will be affected by these rules.

F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL 62794
217/782-2844

G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Use Tax, 86 Ill. Adm. Code 150

1. Rulemaking:

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- A) Description: Amendments will be made to update the Use Tax regulations to reflect new statutory developments, decisional law and Department policies. Examples include regulations that set forth the Department's policies regarding the types of activities and relationships that establish nexus for Use Tax collection.
- B) Statutory Authority: 35 ILCS 105
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 150 during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Use Tax.
- F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL 62794
217/782-2844

- G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citation): Service Use Tax, 86 Ill. Adm. Code 160

1) Rulemaking:

- A) Description: Amendments will be made to update the Service Use Tax regulations to reflect new statutory developments, decisional law and Department policies.
- B) Statutory Authority: 35 ILCS 110
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.

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- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 160 during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Service Use Tax.
- F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL 62794
217/782-2844

- G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Bingo License and Tax Act, 86 Ill. Adm. Code 430

1) Rulemaking:

- A) Description: Regulations will be updated to reflect the provisions of anticipated HB 3865, which authorizes the Department to issue 3-year bingo licenses, including a regular license, limited license or senior citizen restricted license.
- B) Statutory Authority: 230 ILCS 25/1
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Entities eligible for bingo licenses will be affected by this rulemaking.
- F) Agency contact person for information:

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Jerilynn Gorden
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Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL 62794
217/782-2844

- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- i) Part (Heading and Code Citation): Metro East Mass Transit District ROT, 86 Ill. Adm. Code 470
- 1) Rulemaking:
- A) Description: Regulations will be updated to reflect the provisions of anticipated SB 1946, which requires the Department to administer the fee which may be imposed under Section 5.01 of the Local Mass Transit District Act on property that is titled or registered with an agency of this State.
- B) Statutory Authority: 70 ILCS 3610/5.01
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Small businesses subject to the fee under Section 5.01 of the Local Mass Transit District Act may be affected by this rulemaking.
- F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL 62794

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- G) Related rulemakings and other pertinent information: The provisions of Part 480 will be similarly amended to implement these policies.
- j) Part (Heading and Code Citation): Metro East Mass Transit District Service Occupation Tax, 86 Ill. Adm. Code 480
- 1) Rulemaking:
- A) Description: Regulations will be updated to reflect the provisions of anticipated SB 1946, which requires the Department to administer the fee which may be imposed under Section 5.01 of the Local Mass Transit District Act on property that is titled or registered with an agency of this State.
- B) Statutory Authority: 70 ILCS 3610/5.01
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Small businesses subject to the fee under Section 5.01 of the Local Mass Transit District Act may be affected by this rulemaking.
- F) Agency contact person for information:
- Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL 62794
217/782-2844
- G) Related rulemakings and other pertinent information: The regulations of Part 470 will be similarly amended to implement these policies.

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k) Part (heading and Code Citation): Telecommunications Excise Tax, 86 Ill. Adm. Code 495

1) Rulemaking:

A) Description: Regulations will be updated to reflect new statutory provisions, decisional law and Department policy. Examples include:

1. Regulations that explain the manner in which DSL services are taxed.
2. Regulations that explain the taxation of telecommunications that are provided by cable and satellite television companies as part of internet access services.
3. Regulations which reflect the provisions of the Simplified Telecommunications Tax Act (92-526, 92-878, 92-602 and 93-286) and the Mobile Telecommunications Sourcing Conformity Act. (92-474).

B) Statutory Authority: 35 ILCS 630; Public Acts 92-526; 92-0602; 92-878 and 93-286.

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings to Par 495 during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Retailers of telecommunications and their telecom-munications customers will be affected by these regulations.

F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500

DEPARTMENT OF REVENUE

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Springfield IL 62794
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- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- l) Part (Heading and Code Citation): New Part governing Department's administration of Raffles Pursuant to anticipated HB 4283
- 1) Rulemaking:
- 2)
- A) Description: HB 4283 requires the Department to issue statewide raffle licenses to certain charitable institutions, and provides that the Department shall promulgate rules regarding limits on prize values, raffle prices and the duration of raffle sales, as well as procedures governing suspensions and revocations.
- B) Statutory Authority: The Raffles Act, 230 ILCS 15/8.2 (anticipated HB 4283)
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Not-for-profit charitable institutions exempt from federal income tax under Section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(8), 501(c)(10) and 501(c)(19) may be affected by these regulations.
- F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL 62794
217/782-2844

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- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- m) Part (Heading and Code Citation): New Part governing the Watercraft Use Tax
- 1) Rulemaking:
- A) Description: Regulations will be promulgated to implement the provisions of the anticipated Watercraft Use Tax, a tax imposed upon the non-retail purchase of watercraft that are used in Illinois.
- B) Statutory Authority: Anticipated SB 0035
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Persons purchasing watercraft subject to tax under the act will be affected by these rules.
- F) Agency contact person for information:
- Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL 62794
217/782-2844
- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- n) Part (Heading and Code Citation): Informal Conference Board, 86 Ill. Adm. Code 215
- 1) Rulemaking:

DEPARTMENT OF REVENUE

JULY 2004 REGULATORY AGENDA

- A) Description: Part 215 will be amended to update the guidelines for operation of the Department of Revenue's Informal Conference Board, and add a new rule which will limit a taxpayer's ability to request informal review within the Office of Administrative Hearings under Reg. Sec. 200.135 if the taxpayer has received an Informal Conference Board Decision which addresses the merits of the proposed audit adjustments.
- B) Statutory Authority: 20 ILCS 2505/2505-510
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing these rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: These rulemakings will affect any taxpayer that has been audited by the Department of Revenue.
- F) Agency contact person for information:
- Louise Calvert
Administrator, Informal Conference Board
Illinois Department of Revenue
100 W. Randolph St., 7-341
Chicago, Illinois 60601
312/814-1722
- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF FINANCIAL AND PROFESSION REGULATION

NOTICE OF FINE IMPOSED
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") and [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$500.00 against Omega Mortgage Mall, Inc., License No. 4711 of Chicago, IL, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective June 24, 2004. For further reference link to: <http://www.obre.state.il.us/>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF 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") and [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$500.00 against Neighborhood Lending, Inc., License No. 5246 of Rolling Meadows, IL, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective June 24, 2004. For further reference link to: <http://www.obre.state.il.us/>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF 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") and [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$1,000.00 against Best Mortgage & Financial Services, Inc., License No. 5302 of Oak Brook, IL, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective June 24, 2004. For further reference link to: <http://www.obre.state.il.us/>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF 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") and [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$500.00 against American Funding, Inc., License No. 5849 of Chicago, IL, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective June 24, 2004. For further reference link to: <http://www.obre.state.il.us/>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF 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") and [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$500.00 against Bissam Financial Services, Inc., License No. 6254 of Chicago, IL, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective June 24, 2004. For further reference link to: <http://www.obre.state.il.us/>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF 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") and [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$1,500.00 against Evantis, License No. 5899 of Chicago, IL, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective June 24, 2004. For further reference link to: <http://www.obre.state.il.us/>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") and [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$500.00 against PinPoint Mortgage Corp., License No. 6344 of Shorewood, IL, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective June 24, 2004. For further reference link to: <http://www.obre.state.il.us/>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF 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") and [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$500.00 against D R Funding of Illinois, Inc., License No. 6323 of Skokie, IL, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective June 24, 2004. For further reference link to: <http://www.obre.state.il.us/>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF 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") and [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has suspended the license of Gomez & Steider Bancorp, License No. 6302 of Chicago, IL, and issued a fine of \$5,000.00 against Licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective June 24, 2004.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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 Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has rescinded the suspension and fine against Pacific Phoenix Group, Inc., License No. 4708 of Wheaton, IL, a Licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective June 24, 2004. For further reference link to: <http://www.obre.state.il.us/>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PENALTY FEE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE 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 Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a penalty fee of \$1,950.00 against Neighborhood Lending Services, Inc., License No. 0661 of Chicago, IL, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective June 24, 2004. For further reference link to: <http://www.obre.state.il.us/>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PENALTY FEE IMPOSED UNDER
THE RESIDENTIAL 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 Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a penalty fee of \$3,700.00 against A-Pan American Mortgage Group, Inc., License No. 4915 of Chicago, IL, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective June 24, 2004. For further reference link to: <http://www.obre.state.il.us/>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PENALTY FEE 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 Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a penalty fee of \$2,750.00 against Marquis Financial & Associates, Inc., License No. 6210 of Chicago, IL, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective June 24, 2004. For further reference link to: <http://www.obre.state.il.us/>

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2004 SECOND QUARTER SUNSHINE INDEX

1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the Second Quarter of 2004. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Allocation	Penalties – Failure to Pay Estimated Tax
Compensation	(ITA § 804)
Confidentiality	Public Law 86-272/Nexus
Credits – Education Expense	Refunds – Statute of Limitations
Credits – Foreign Tax	Withholding
Credits – Property Tax	Withholding – Exemptions
Credits – Replacement Tax Investment	
Enterprise Zone Investment	

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2004 SECOND QUARTER SUNSHINE INDEX

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50 cents per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.revenue.state.il.us.

The indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002 and 2003 are available for \$3.00. A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for \$4.00.

3. Name and address of person to contact concerning this information:

Linda Settle
Illinois Department of Revenue
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794
217/782-7055

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2004 SECOND QUARTER SUNSHINE INDEX

ALLOCATION

IT 04-0021-GIL 05/21/2004 Nonresident trust is taxable on rental income from Illinois real estate.

COMPENSATION

IT 04-0025-GIL 06/11/2004 Compensation of a nonresident is taxable by Illinois if it is "paid in this State" under IITA Section 304(a)(2)(B).

IT 04-0027-GIL 06/23/2004 Compensation of a nonresident is taxable by Illinois if it is "paid in this State" under IITA Section 304(a)(2)(B).

CONFIDENTIALITY

IT 04-0015-GIL 04/15/2004 The Department may not disclose taxpayer information to the public.

CREDITS – EDUCATION EXPENSE

IT 04-0014-GIL 04/08/2004 Credit is allowed for costs of trade school classes taken through a public high school and for which credit toward graduation was given.

IT 04-0017-GIL 04/30/2004 A day care that provides kindergarten classes, but not first grade or higher classes for children subject to mandatory school attendance under Section 26-1, is not a qualified school for purposes of the education expense credit.

CREDITS – FOREIGN TAX

IT 04-0020-GIL 05/19/2004 Explanation of the computation of double-taxed Missouri income.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2004 SECOND QUARTER SUNSHINE INDEX

IT 04-0023-GIL 05/28/2004 Explanation of the computation of double-taxed Minnesota and North Dakota income.

CREDITS – PROPERTY TAX

IT 04-0018-GIL 05/14/2004 The property tax credit is not allowed for taxes paid on property outside Illinois.

CREDITS – REPLACEMENT TAX INVESTMENT – ENTERPRISE ZONE INVESTMENT

IT 04-0016-GIL 04/27/2004 Replacement tax investment credit is allowed for property placed in service prior to January 1, 2004, but enterprise zone investment credit is allowed for current investments.

PENALTIES – FAILURE TO PAY ESTIMATED TAX (IITA § 804)

IT 04-0022-GIL 05/27/2004 Taxpayer who failed to make timely payment of first estimated tax installment is subject to penalty even if subsequent payments exceed the tax liability.

PUBLIC LAW 86-272/NEXUS

IT 04-0024-GIL 06/09/2004 Partnership described in the request would not be subject to replacement tax.

REFUNDS – STATUTE OF LIMITATIONS

IT 04-0026-GIL 06/17/2004 A Kentucky resident who mistakenly paid Illinois income tax on compensation generally has three years from the date the return was filed in order to claim a refund.

WITHHOLDING

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2004 SECOND QUARTER SUNSHINE INDEX

IT 04-0028-GIL 06/25/2004 Withholding is required at a flat rate on all income in excess of exemptions allowed, so no determination of marital status is required to make the computation.

WITHHOLDING – EXEMPTIONS

IT 04-0019-GIL 05/17/2004 If an employee has no valid W-4 on file, the employer must withhold without allowing any exemptions.

PROCLAMATIONS

2004-204**SPECIAL SESSION PROCLAMATION**

WHEREAS, the Illinois Constitution requires the General Assembly to make appropriations for the expenditure of public funds for the fiscal year for State departments, authorities, and public agencies; and

WHEREAS, the General Assembly has not made appropriations for fiscal year 2005 for the expenditure of public funds for the Children's Place Program within the Department of Human Services; and

WHEREAS, there are currently many children and families throughout the State of Illinois who are affected by HIV/AIDS; and

WHEREAS, the Children's Place Program provides day care and other services for children and families throughout the State who are affected by HIV/AIDS;

THEREFORE, pursuant to Article IV, Section 5 (b) of the Illinois Constitution of 1970, I hereby call and convene the 93rd General Assembly in a special session to commence on July 12, 2004, at 4:00 p.m., to consider any legislation (new or pending), which will address directly the budget of the Department of Human Services for the Children's Place Program for fiscal year 2005.

Issued by the Governor July 9, 2004

Filed by the Secretary of State July 9, 2004

2004-205**SPECIAL SESSION PROCLAMATION**

WHEREAS, the Illinois Constitution requires the General Assembly to make appropriations for the expenditure of public funds for the fiscal year for State departments, authorities, and public agencies; and

WHEREAS, the General Assembly has not made appropriations for fiscal year 2005 for the expenditure of public funds for the Family Care Fund within the Department of Public Aid; and

WHEREAS, there are currently many indigent families without health care coverage throughout the State of Illinois; and

WHEREAS, the Family Care Fund provides basic medical coverage to indigent families throughout the State;

THEREFORE, pursuant to Article IV, Section 5 (b) of the Illinois Constitution of 1970, I hereby call and convene the 93rd General Assembly in a special session to commence on July 13, 2004, at 12:00 p.m., to consider any legislation (new or pending), which will address directly the budget of the Department of Public Aid for the Family Care Fund for fiscal year 2005.

Issued by the Governor July 12, 2004

Filed by the Secretary of State July 12, 2004

2004-206

PROCLAMATIONS

SPECIAL SESSION PROCLAMATION

WHEREAS, the Illinois Constitution requires the General Assembly to make appropriations for the expenditure of public funds for the fiscal year for State departments, authorities, and public agencies; and

WHEREAS, the General Assembly has not made appropriations for fiscal year 2005 for the expenditure of public funds for the Team Illinois Program within the Department of Human Services; and

WHEREAS, there are currently many economically depressed communities throughout the State of Illinois; and

WHEREAS, the Team Illinois Program provides infrastructure, technical assistance, and resources to the most economically depressed communities in the State;

THEREFORE, pursuant to Article IV, Section 5 (b) of the Illinois Constitution of 1970, I hereby call and convene the 93rd General Assembly in a special session to commence on July 14, 2004, at 12:00 p.m., to consider any legislation (new or pending), which will address directly the budget of the Department of Human Services for the Team Illinois Program for fiscal year 2005.

Issued by the Governor July 13, 2004

Filed by the Secretary of State July 13, 2004

2004-207**Helping Citizens with Developmental Disabilities Days**

WHEREAS, a “developmental disability” is defined as a disorder caused by mental retardation, cerebral palsy, epilepsy, autism, or any other condition which results in impairment similar to that of mental retardation. A developmental disability originates before the age of 18 and is expected to continue indefinitely; and,

WHEREAS, approximately 1.5 percent of the U.S. population is afflicted with a developmental disability or mental retardation. Due to the early onset and debilitating nature of these disorders, many more children are affected than adults; and

WHEREAS, one of the main purposes of the Knights of Columbus, a fraternal order with 1.6 million members around the world, is to support various charitable causes that seek to make our families and communities stronger. It has donated \$1 billion and volunteered 400 million hours of service in the past decade; and

WHEREAS, the Illinois State Council of the Knights of Columbus will hold their 35th Annual Fund Drive for the Mental Retardation / Learning Disabilities Program from September 17-19, 2004, distributing the funds they raise to more than 300 organizations throughout Illinois:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim September 17-19, 2004 as HELPING CITIZENS WITH DEVELOPMENTAL DISABILITIES DAYS in Illinois, and encourage all citizens to contribute what they can to assist the people that are afflicted with these terrible disorders.

Issued by the Governor July 13, 2004

Filed by the Secretary of State July 14, 2004

PROCLAMATIONS

2004-208**Yellow Ribbon Suicide Awareness and Prevention Week**

WHEREAS, suicide is a tragic but preventable action that is typically a cry for help from people suffering from depression; and

WHEREAS, each year, over 30,000 people in the United States die from suicide, 50 percent more deaths than are caused by homicide. Overall, it is the 11th leading cause of death in the country; and

WHEREAS, nationally, suicide is the third leading cause of death among young people ages 15-24; and

WHEREAS, a person who talks about suicide, makes statements about hopelessness or helplessness, has a preoccupation with death, feels a sudden happiness or calmness in the midst of depression, experiences a loss of interest in things they care about, begins setting their affairs in order, visits or calls loved ones, and gives away possessions can all be warning signs that they are contemplating suicide; and

WHEREAS, it is imperative that those who know someone that may be suicidal makes certain that the person immediately seeks help from a doctor or psychiatrist; and

WHEREAS, research shows that suicide education does indeed save lives. In fact, 80 percent of people that seek treatment for depression are treated successfully; and

WHEREAS, the yellow ribbon is rapidly becoming the international symbol for the awareness and prevention of suicide. It is recognized and used by suicide prevention groups, crisis centers, schools, churches, youth centers/hospitals, counselors, teachers, parents, and youth:

THEREFORE I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim September 19-25, 2004 as YELLOW RIBBON SUICIDE AWARENESS AND PREVENTION WEEK in Illinois, and encourage all citizens to recognize the prevalence of suicide and to take immediate action if they suspect someone is suicidal.

Issued by the Governor July 13, 2004

Filed by the Secretary of State July 14, 2004

2004-209**National Osteopathic Medicine Month**

WHEREAS, osteopathic medicine has been a recognized part of the medical profession for 130 years. Developed by physician A.T. Still, osteopathic medicine is emerging as one of the fastest growing healthcare professions in the United States; and

WHEREAS, osteopathic medicine combines the basic principles of medicine with the philosophy of total body care, emphasizing disease prevention and treatment of the total person, rather than treatment of the disease alone; and

WHEREAS, there are only two types of complete physicians licensed to perform surgery and prescribe medication in the United States, osteopathic physicians, or D.O.s as they are also known, and allopathic physicians, or M.D.s. The philosophy of total body care is just one unique difference that exists between D.O.s and M.D.s; and

PROCLAMATIONS

WHEREAS, in addition to four years of medical school, D.O.s receive extra training in the musculoskeletal system – your body’s interconnected system of nerves, muscles and bones that make up two-thirds of its body mass. This training provides osteopathic physicians with a better understanding of the ways that an injury or illness in one part of the body can affect another; and

WHEREAS, in the U. S., there are more than 52,000 practicing osteopathic physicians of which, more than 2,000 are in the state of Illinois. In addition, Downers Grove, Illinois is home to one of only 20 colleges of osteopathic medicine nationwide:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim September 2004 as NATIONAL OSTEOPATHIC MEDICINE MONTH in Illinois, and encourage all citizens to become aware of osteopathic medicine as a viable option in their quest for healthy living.

Issued by the Governor July 13, 2004

Filed by the Secretary of State July 14, 2004

2004-210**National Payroll Week**

WHEREAS, it is important that American workers are well educated about their own payroll systems, and that they maintain an open line of communication with the payroll professionals that manage them. This includes being aware of their companies’ wage policies, and how critical government programs such as social security, Medicare, fair labor standards, and child support can come into play; and

WHEREAS, education about the payroll withholding system, direct deposit options, and other electives allows workers to maximize their paycheck’s bottom-line; and

WHEREAS, the American Payroll Association (APA) and its Diamond Sponsor, Automatic Data Processing, have launched a nationwide public awareness campaign that pays tribute to the more than 142 million people who work in the United States and the payroll professionals who support the American system by paying wages, reporting worker earnings, and withholding federal employment taxes; and

WHEREAS, payroll professionals play a key role in our government. Through payroll withholding, they collect and transfer as much as 66% of U.S. Treasury revenue from the working public; and

WHEREAS, the Chicago Chapter of the APA is planning various activities during the week of September 6-10, 2004 to increase awareness and educate others on payroll issues. As a part of this week, local school and community groups will attend forums and presentations to help them learn about paychecks and saving strategies; and

WHEREAS, September 6, 2004 is Labor Day, a national holiday dedicated to the contributions American workers have made to the strength, prosperity, and well-being of our country:

THEREFORE I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim September 6-10, 2004 as NATIONAL PAYROLL WEEK in Illinois, and encourage all citizens

PROCLAMATIONS

to recognize the important role that payroll professionals play in educating the working public about their paychecks.

Issued by the Governor July 13, 2004

Filed by the Secretary of State July 14, 2004

2004-211**SPECIAL SESSION PROCLAMATION**

WHEREAS, the Illinois Constitution requires the General Assembly to make appropriations for the expenditure of public funds for the fiscal year for State departments, authorities, and public agencies; and

WHEREAS, the General Assembly has not made appropriations for fiscal year 2005 for the expenditure of public funds for Adjustment Payments to Trauma Centers within the Department of Public Aid; and

WHEREAS, there are currently many trauma centers that provide care to Medicaid patients throughout the State of Illinois; and

WHEREAS, Adjustment Payments to Trauma Centers provide financial support to trauma centers throughout the State that provide care to Medicaid patients;

THEREFORE, pursuant to Article IV, Section 5 (b) of the Illinois Constitution of 1970, I hereby call and convene the 93rd General Assembly in a special session to commence on July 15, 2004, at 4:00 p.m., to consider any legislation (new or pending), which will address directly the budget of the Department of Public Aid for Adjustment Payments to Trauma Centers for fiscal year 2005.

Issued by the Governor July 14, 2004

Filed by the Secretary of State July 14, 2004

2004-212**SPECIAL SESSION PROCLAMATION**

WHEREAS, the Illinois Constitution requires the General Assembly to make appropriations for the expenditure of public funds for the fiscal year for State departments, authorities, and public agencies; and

WHEREAS, the General Assembly has not made appropriations for fiscal year 2005 for the expenditure of public funds for the New Americans Initiative within the Department of Human Services; and

WHEREAS, many foreign nationals immigrate to the State of Illinois and need assistance integrating into American society and the economy; and

WHEREAS, the New Americans Initiative provides assistance to immigrants throughout the State in order to facilitate their integration into American society and the economy;

THEREFORE, pursuant to Article IV, Section 5 (b) of the Illinois Constitution of 1970, I hereby call and convene the 93rd General Assembly in a special session to commence on July 16,

PROCLAMATIONS

2004, at 2:00 p.m., to consider any legislation (new or pending), which will address directly the budget of the Department of Human Services for the New Americans Initiative for fiscal year 2005.

Issued by the Governor July 15, 2004

Filed by the Secretary of State July 15, 2004

2004-213**SPECIAL SESSION PROCLAMATION**

WHEREAS, the Illinois Constitution requires the General Assembly to make appropriations for the expenditure of public funds for the fiscal year for State departments, authorities, and public agencies; and

WHEREAS, the General Assembly has not made appropriations for fiscal year 2005 for the expenditure of public funds for the Teen Parent Services Program within the Department of Human Services; and

WHEREAS, many Illinois teens throughout the State prematurely become parents without the necessary education and experience; and

WHEREAS, the Teen Parent Services Program provides affirmative guidance and education to teen parents throughout the State;

THEREFORE, pursuant to Article IV, Section 5 (b) of the Illinois Constitution of 1970, I hereby call and convene the 93rd General Assembly in a special session to commence on July 19, 2004, at 4:00 p.m., to consider any legislation (new or pending), which will address directly the budget of the Department of Human Services for the Teen Parent Services Program for fiscal year 2005.

Issued by the Governor July 16, 2004

Filed by the Secretary of State July 16, 2004

ILLINOIS ADMINISTRATIVE CODE

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